

FCC Releases IP Video Closed Captioning Rules

February 2012

On January 13, 2012, the Federal Communications Commission (FCC) released a *Report and Order* governing the closed captioning requirements for video programming delivered using Internet Protocol (IP). The wide-ranging rules fulfill the FCC's obligations under the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) and cover virtually all video programming producers that make content available online—including television stations, broadcast and cable networks and cable systems.

In short, the rules provide that all full-length video programming previously distributed on television with captions must contain captions when it is displayed online via IP. As a result, the captioning rules do not pertain to video clips, which the Commission defined as “[e]xcerpts of full-length video programming.” The rules also impose new requirements on hardware that receives or plays back video programming (e.g., smartphones, tablets, DVD players, PCs), so that the apparatus is capable of rendering, passing through or otherwise permitting display of captions.

The FCC's requirements speak in terms of video programming owners (VPOs) and video programming distributors or providers (VPDs). The rules define VPDs as any entity that makes video programming available directly to end users via distribution methods that use IP. VPOs include any person or entity that either (i) licenses the video programming to a VPD that makes the video programming available directly to the end user through an IP-distribution method; or (ii) acts as the VPD, and also possesses the right to license the video programming to a VPD that makes the video programming available directly to the end user through an IP-distribution method.

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The rules also require: VPOs to send required caption files for IP-delivered video programming to VPDs along with program files; VPDs to enable the rendering or pass through of all required captions to the end user, including through the hardware or software that a distributor or provider makes available for this purpose; VPOs and VPDs to agree upon a mechanism to make available to VPDs on an ongoing basis information about video programming that is subject to the IP closed captioning requirements; and VPOs to provide VPDs with captions of at least the same quality as the television captions for the same programming; and VPDs to maintain the quality of the captions provided.

The rules phase in with deadlines triggered by publication of the rules in the *Federal Register*. Within six months, prerecorded programming not edited for Internet distribution must be captioned. Within 12 months, live and near-live programming that was recorded within 24 hours of broadcast on television must be captioned. Within 18 months, prerecorded programming that is edited for Internet distribution must be captioned. Rules governing archival programming begin to phase in within two years of publication.