



The FCC's Rules for Closed Captioning and Video Description

Since 1996, the Federal Communications Commission (FCC) has adopted several mandates that enable American audiences with hearing or visual disabilities to enjoy access to television that was once unavailable to them. And because portions of the rules have yet to take effect, these viewers can look forward to an increased frequency of access in the coming years. If you are a viewer who is deaf or hard of hearing, blind or visually impaired – or the parent, guardian, or teacher of someone who is – these mandates, and how they affect you, may seem very complicated. That's why the Media Access Group at WGBH – developers and providers of both closed captioning and video description – has prepared the following summaries of the FCC rules regarding these services. We hope you find them helpful!

The full Report and Orders on closed captioning (FCC #97-279, adopted 8/7/97, updated 9/17/98) and video description (FCC #00-258, adopted 7/11/00) are both available on the FCC's web site at www.fcc.gov. For general information and inquiries, contact fccinfo@fcc.gov.

Summary of FCC Report and Order on Closed Captioning

On August 7, 1997, the FCC published its Report and Order on closed captioning, and on September 17, 1998, issued a reconsideration order following petitions from programming interests and groups representing people with hearing disabilities. The rules, which will be phased in over an eight-year period, are as follows:

As of January 1, 2000, all program distributors that provide television programming for residential use directly to consumers' homes must comply with the closed-captioning mandate, though the responsibility for captioning may be shared by distributors, providers, and program owners. Program distributors are defined as:

- television broadcasters
- cable operators
- wireless cable operators



- instructional television fixed services (ITFS) or local multi-point distribution services (LMDS)
- satellite master antenna television (SMATV) operators
- direct broadcast (DBS) providers
- direct-to-home (DTH) providers
- home satellite dish (HSD) providers
- open video system (OVS) operators

Schedule for Closed-Captioning Requirements

The following phase-in schedule applies to the captioning and broadcasting of all new programming. It is measured on a calendar-quarter basis and a 20-hour broadcast day, as programming between 2 a.m. and 6 a.m. does not have to be captioned.

- Between January 1, 2000, and December 31, 2001, program distributors must provide at least 450 hours of captioned programming per calendar quarter, which is approximately five hours per day. If the program distributor provides less than 450 hours of new programming, then 95 percent of its new programming must be captioned.
- Between January 1, 2002, and December 31, 2003, program distributors must provide at least 900 hours of captioned video programming per calendar quarter, or 10 hours per day. If the programming distributor provides less than 900 hours of new programming, then 95 percent of its new programming must be captioned.
- Between January 1, 2004, and December 31, 2005, program distributors must provide at least an average of 1,350 hours of captioned video programming per calendar quarter, or 15 hours per day. If the program distributor provides less than 1,350 hours of new programming, then 95 percent of its new programming must be captioned.
- As of January 1, 2006, and thereafter, 100 percent of the program distributors' new programming must be captioned.

Programs produced or aired before January 1, 1998, are considered pre-rule programming. The closed-captioning order requires that 75 percent of pre-rule, nonexempt programming be captioned by the end of the transition period, with compliance by 2008. The FCC will review program distributors' progress in 2002, and has established that at least 30 percent of a channel's pre-rule, nonexempt programming must be captioned as of January 1, 2003.



Exemptions from Closed-Captioning Requirements

In the following cases, program distributors and/or programming are exempt from the closed-captioning requirements:

- Late-night programming that is distributed between 2 a.m. and 6 a.m. local time is exempt.
- Programming bound by a contract in effect on or before February 8, 1996, in which closed captioning is prohibited by the contract, is exempt. No further extension or renewal of such a contract is permitted.
- Non-English-language programming, with the exception of programs that are produced using an electronic newsroom system, are exempt. Those programs must be captioned using an electronic newsroom captioning system.
- Programming that is primarily textual, including channels dedicated to onscreen program schedules or guides, community calendars, etc., is exempt.
- Interstitials, promotional announcements, and public service announcements that are 10 minutes or less in duration are exempt.
- Advertising of less than five minutes (short-form advertising) in duration is exempt.
- Instructional television fixed service (ITFS) programming that is intended for specific receive sites, but not for general distribution to residential viewers, is exempt.
- Music programming that is primarily non-vocal in nature, such as a symphony or ballet, is exempt.
- If a program service covers more than one time zone, the distributor providing the channel will be exempt for any four-hour period they choose, commencing no earlier than 12 a.m. local time and ending no later than 7 a.m. local time in any location where the service is delivered.
- Locally produced and distributed non-news programming that has no repeat value or is of local public interest, for which the electronic newsroom technique of captioning is unavailable, is exempt. The programming must be locally created and unavailable outside of the broadcast station or cable system operator's local service area or market. Examples include local parades, high school and nonprofessional sports, unscripted talk shows, and community theater productions.
- In recognition of the significant start-up costs faced by new networks, programming on new broadcast or non-broadcast national or regional networks are exempt for four years from their launch date. A network must



comply with the closed-captioning rules at the end of the four-year exemption period.

- No program distributor will be required to spend more than 2 percent of its gross annual revenues, based on the previous year's revenues, on captioning. The provider must spend up to 2 percent of gross annual revenues on captioning whether or not this brings the distributor into compliance with the established benchmarks.
- Providers with less than \$3 million in gross annual revenues will not be required to spend any money to caption programming. They will, however, be required to pass through programming that has already been captioned with those captions complete and intact.
- Program distributors that will not be required to provide closed captioning for programming that is (by law) not subject to their editorial control. This includes programming for candidates for public office, commercial leased access, public access, governmental and educational access, as well as programming distributed by direct broadcast satellite (DBS) services in compliance with the noncommercial programming requirement and programming distributed by a common carrier or on an open video system. If the programming is not otherwise exempt from captioning, the entity that contracts for its distribution must comply with the closed-captioning requirements.

Compliance with Closed-Captioning Requirements

- Compliance to the closed-captioning rules is calculated on a per-channel, calendar-quarter basis. The following special cases are considered in compliance with the FCC rules:
 - Open captioning or subtitles in the language of the target audience may be used in lieu of closed captioning.
 - Live programs or repeats of programs originally transmitted live that are captioned with the electronic newsroom (ENR) technique (commonly used for live programming, ENR creates captions from a news script computer or teleprompter) are considered captioned.
 - Live portions of PBS pledge fundraising activities that utilize automated software to create a continuous captioned message will be considered captioned.
 - Programming produced solely for closed-circuit or private distribution is not subject to these rules.



- Programming that is exempt but which actually contains captions can count toward compliance up to January 1, 2006, except for those programs aired between 2 a.m. and 6 a.m.
- If two or more networks or sources of programming share a single channel, each network or source must be in compliance with the rules on an individual basis.
- Spanish-language programming must be closed captioned, but it has a 12-year transition for new, nonexempt programming and a 14-year transition for pre-rule, nonexempt language programming.

Summary of FCC Rules Regarding Video Description

On July 21, 2000, the Federal Communications Commission (FCC) adopted an initial set of video-description rules designed to increase the accessibility of both television and televised emergency information to viewers with visual disabilities. While these rules will be of significant benefit to audiences who are blind or visually impaired, they will not impose an undue burden, financial or otherwise, on producers and distributors of television programming. This move by the FCC took place in conjunction with the 10th anniversary of the Americans with Disabilities Act, which was enacted by the FCC on July 26, 1990. The rules, which take effect between April and June 2002, are as follows:

Affiliates of the top four commercial broadcast networks (ABC, CBS, Fox, NBC) in the top 25 television markets will be required to provide 50 hours of described prime-time or children's programming per calendar quarter, which is approximately four hours per week. PBS stations already air approximately 10 hours of described programming per week and are therefore exempt from the new rule.

The following are the top 25 television markets affected by this video description rule:

New York
Los Angeles
Chicago
Philadelphia
San Francisco/Oakland/San Jose
Boston
Dallas/Fort Worth
Washington, D.C.
Detroit



Atlanta
Houston
Seattle
Tampa/St. Petersburg/Sarasota
Minneapolis/St. Paul
Cleveland
Miami/Ft. Lauderdale
Phoenix
Denver
Sacramento/Stockton/Modesto
Pittsburgh
St. Louis
Orlando/Daytona Beach/Melbourne
Portland (OR)
Baltimore
San Diego

Multi-channel video programming distributors (MVPDs) with at least 50,000 subscribers will follow the same guidelines (see above) for each of the top five national, non-broadcast networks (as determined by national audience share) they carry. These include approximately 275 cable systems, as well as two direct broadcast satellite (DBS) systems that, together, serve 12 million customers. The top five cable networks affected by this FCC video description rule are Nickelodeon, USA, Lifetime, TNT, and TBS. These five cable networks had the largest audience share in the Nielsen prime-time ratings between October 1, 1999, and September 30, 2000. All broadcast stations and MVPDs, regardless of market size or number of subscribers, will be required to “pass through” any video description they receive from a programming provider if they have the technical capability to do so, making it available to their viewers via the SAP channel. This rule applies unless another program-related use of the SAP, such as language translation, would conflict with providing video description.

Description of Emergency Information

All television stations and MVPDs, regardless of market size or number of subscribers, must make the crucial details of local emergency information (e.g., storm warnings, school closings, civil disorders) accessible to blind and visually impaired viewers in the affected local area through aural presentation. When a “crawl” or “scroll” is used, an aural tone must accompany the message to alert



those with visual disabilities to turn on a radio, SAP channel, or designated digital channel. These rules apply equally to all emergency announcements made during regularly scheduled newscasts, unscheduled newscasts that preempt regular programming, and continuing coverage of existing situations.

Rebroadcasts of Described Programming

Broadcast stations and MVPDs may count previously aired described programming toward their quarterly minimum requirement one additional time during either the same or a subsequent quarter. In addition, once a commercial broadcast station or MVPD has aired a particular program with description, all subsequent broadcasts of that program on the same network or channel must contain video description. The “subsequent airing” rule may be waived if the SAP channel is being used for another service related to that program, such as language translation.

Filing a Complaint Regarding Closed Captioning or Video Description

Should your local participating station or program distributor fail to abide by the above rules for providing closed captioning or video description, you should first file a written complaint with that program distributor. Complaints must be filed by the end of the calendar quarter following the quarter in which the violation occurred; they must be resolved within 45 days following the end of the calendar quarter in which the violation occurred or within 45 days following the receipt of the complaint, whichever is later.

If an attempt to resolve any disputes directly with the program distributor fails, you may then file a formal complaint with the FCC’s Consumer Information Bureau (CIB), certifying that you have tried in good faith to resolve the dispute. You may also contact the CIB to file informal complaints or to obtain information about how (1-800-225-5322/voice) or 1-888-TELL-FCC (1-888-835-5322/TTY). Complete complaint procedures can be found in the FCC documents or on the FCC’s web site at <http://www.fcc.gov>

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