

[Further Details on the New Closed Captioning Rules for IP-Delivered Video Programming](#)

January 18, 2012 by [Brendan Holland](#)

As we [reported last week](#), the FCC has adopted a Report and Order establishing rules for the closed captioning of video programming delivered via Internet protocol (*i.e.*, IP video), as required by the 21st Century Communications and Video Accessibility Act (CVAA). DWT has now released an [advisory](#) with further details about the new rules, which is available [here](#). The new rules govern TV stations, cable systems, broadcast and cable networks and virtually every other professional video program producer who is now, or will be in the future, making programming available online. The rules also impose new requirements on hardware (such as set-top boxes, PCs, smartphones DVD players, Blu-ray and tablets) designed to receive or play back video programming transmitted simultaneously with sound and integrated software.

With rules that are so wide-reaching, everyone involved in these businesses needs to understand what the new rules entail. A summary of the Commission's Order follows below, and please see our [advisory](#) for complete details about the new rules. Consistent with CVAA's mandate, the FCC has adopted rules that:

- Extend to all full-length video programming previously distributed on television with captions to require that captioning appears when such programming is displayed online via IP;
- Establish a two-year transition for uncaptioned, archival IP-delivered content that is shown on TV with captions after the new rules' effective date;
- Require video programming owners to send caption files for covered IP video to video programming distributors and video programming providers along with the program files, or alternatively, inform the distributors—using a mechanism agreed to by the parties—that captions are not required for a particular program;
- Require video programming distributors and video programming providers to enable the rendering or pass-through of all required captions to the end user;
- Require captioning of covered IP video to be of at least the same quality as the captioning that the programming had when it appeared on TV;
- Establish deadlines by which categories of covered IP video must be captioned, as follows:
 - Programming that is prerecorded and unedited for online distribution, when subject to the new requirements, must be captioned within 6 months of the rules' effective date;
 - Programming that is aired live or “near-live” on TV, when subject to the new requirements, must be captioned within 12 months of the rules' effective date;
 - Programming that is prerecorded and edited for online distribution, when subject to the new requirements, must be captioned within 18 months of the rules' effective date;

- Adopt the Society of Motion Picture and Television Engineers (SMPTE) Timed Text format (SMPTE ST 2052-1:2010: "Time Text Format (SMPTE-TT)" 2010 as a safe-harbor interchange and delivery format, but stop short of requiring all covered entities to use this standard;
- Decline to adopt categorical exemptions other than that mandated by the CVAA (i.e., consumer generated programming, which is statutorily exempt);
- Establish procedures by which video programming providers and video programming owners may petition for exemptions from the new requirements based on economic burden;
- Accommodate *de minimis* failures to comply with the new captioning obligations;
- Adopt procedures for complaints alleging violations of the new rules;
- Decline to adopt specific forfeiture amounts, opting instead to penalize violations based upon the facts and circumstances of each case;
- Permit entities to comply with the new requirements by alternate means; and
- Impose requirements for devices subject to the closed captioning requirements.

Given the scope of the new rules, there will undoubtedly be questions and requests for clarification that arise along the way. We will continue to track these new rules and provide further updates on this important issue.

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