



Learning Arena Session: Updated FCC Regulations Related to Broadcast and Internet Closed Captioning



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Closed Captioning & FCC

Closed captioning on television programming in the US is required by law with a few of the following exceptions:

- Promos & PSAs less than 10 minutes in length.
- Late night programming (2am-6am).
- Languages other than English or Spanish.
- Station with revenue less than \$3M or in the first 4 years of operation.

Who's Who?

The Closed Captioning Quality Order (February 2014) defined **Video Programmers (VP)** as “entities that provide video programming that is intended for distribution to residential households including, but not limited to, broadcast or non-broadcast television networks and the owners of such programming.” Video Programmers naturally are the entities with the most direct control over the quality of closed captioning of their programming. Also, sometimes referred to Video Programming Owners (VPOs). Producers and owners of content, this is *you*.

Television stations and broadcast systems fall in to the other category. In the 1997 Closed Captioning Report and Order, a **Video Programming Distributor (VPD)** is defined as:

- Any television broadcast station licensed by the Commission;
- Any multichannel video programming distributor (MVPD) as defined in Section 76.1000(e);
- And, any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the authority of the Commission.

Allocation of Responsibilities

Video programmers will be responsible for providing and confirming the compliance of their captioning work for non-exempt programming up to the point of delivery to the VPDs. VPs will be responsible ensuring the quality of closed captioning, certifying that it follows the FCC's four required areas of quality standards: accuracy, synchronization, completeness, and placement. They will also be responsible for delivering the content to the VPDs (via their preferred physical or file-based method) with the captions intact.

Video program distributors will be responsible thereafter. It will be the VPDs responsibility to ensure the successful pass-through of the captions; meaning, proper maintenance and delivery of captioning work through the broadcast air-chain distribution. VPDs will still serve as the principle points of contact for consumer captioning complaints. It will only be after the VPD determines the problem is not within its control that the responsibilities will shift to the VPs.

The FCC also established a “compliance ladder” to encourage VPDs and VPs to promptly (within 30 days) resolve any reported issues through corrective actions and bypass the need for the Commission's involvement. However, the Commission will reserve the right to sidestep that ladder and move directly to an enforcement action if it is deemed necessary in any particular case. FCC Complaint Website: https://consumercomplaints.fcc.gov/hc/en-us/requests/new?ticket_form_id=33794.

Quality Standards

As a review, the quality standards put in place by the FCC in 2014 focus on four key areas:

- Accuracy. Closed captioning must match the spoken words in the original language without paraphrasing. Song lyrics and nonverbal information, such as the identity of the speaker and any sound effects or audience reactions present in the program, will be captioned.
- Synchronization. Captions need to be accurately synchronized to match the video and audio content displayed at a readable speed.
- Completeness. Captions are required to be complete and present through the full length of the program.
- Placement. Proper placement dictates that captions cannot block important visual content such as speaker's faces and any graphics or text on the screen.

The Problem with "99% Accurate"

Now that video producers will be directly responsible for answering any complaints made to the FCC, the days of seeking out the cheapest possible captioning service without regard for quality are over.

Low cost providers, means low-quality providers.

The offering of "99% accurate" sounds great and about as near to perfect as you can get. However, if that was the goal of the FCC, the Closed Captioning Quality Report and Order, Declaratory Ruling, FNPRM would state "99%" as being acceptable. They don't. The Commission expects the captions to be perfect with maybe only a few de minimis errors. There's time to review them, edit them, and make them perfect.

To put "99%" into perspective in regards to closed captioning, consider the average individual speaking at 160-200 words-per-minute. Ninety-nine percent would allow two errors per minute, translating to up to 60 errors in a 30-minute television program.

Imagine if the Bible had one error every 100 words.

Registering Certificates of Closed Captioning Compliance

Video programmers will now be required to submit annual certifications of closed captioning compliance *directly* to the FCC ensuring their compliance with the captioning rules, their commitment to following best practices, or that their program is exempt. It will no longer be the obligation of the VPDs to collect the certificates of captioning compliance as it has been for the past year. Per Eliot Greenwald at the FCC, the registration website is scheduled to be up and running sometime in 2017.

We defined the roles and responsibilities of each the VPs and VPDs in our blog post: [FCC Shared Responsibilities: Defining the Roles](#).

Video programmers will need to assign a person within their organization responsible for confirming their compliance and have them register with the FCC along with their certification. Much like VPDs already do with the FCC's database, this new contact will need to submit their name, title, telephone number, mailing address, and email address.

This video programmer's registration area of the FCC's online portal is forthcoming, with July of 2017 the projected date. VPs must continue to provide widely available certifications on their websites and through other means, as is required under the rules adopted in 2014.

Online Video – Closed Captioning Requirements

Main Requirement: Video must have aired on television in the US with closed captions.

If so, then...

- Clips of any length up to the full-length program must be captioned when played out over the Internet.
- Montages of clips must also be closed captioned as of Jan 1, 2017.
- Clips of Live Video as of July 1, 2017 must have closed captions (up to 12-hour delay allowed).