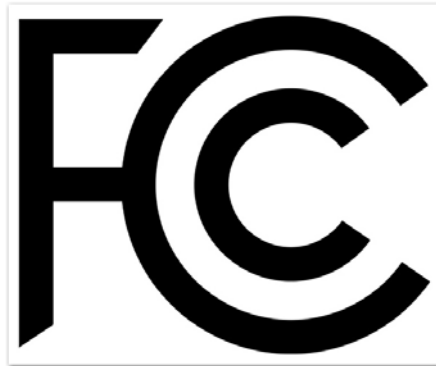


2014 FCC Updates for Closed Captioning of Online Video: Are You Compliant?

Overview

Throughout 2014, the FCC worked hard to build upon their closed captioning rules for IP video programming. A flurry of updates and regulations marked the first half of the year, many of which may have flown under your radar. This brief will provide you with a compilation of all the FCC's recent updates, as well as resources for compliance.

It is also important to note that on March 30, 2014, the next requirement of the CVAA was phased in. As of now, any video in a distributor or provider's library that previously appeared on TV with captions must be captioned within 45 days. On March 30, 2015, videos must be captioned within 30 days; and on March 30th, 2016, videos must be captioned within 15 days of being placed online.



The following regulations are FCC updates that will apply to all online video programming that previously aired on television with captions, in accordance with the CVAA. We will also take you through the FCC's exemptions for closed captioning.

FCC's New Quality Standards for Closed Captioning



As of February 20, 2014, the FCC has released a new declaratory ruling regarding content quality for closed captioning of video programming. This is a much-needed clarification for many about quality standards across platforms, although the FCC ruling applies specifically to television.

However, as the FCC states in their report, quality standards for television closed captioning are of increasing importance because they dictate the standard for online video, as well: the passage of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) requires that

online video that previously aired on television have captioning “of at least the same quality as when such programs are shown on television.” Particularly with the CVAA’s deadline on March 30th 2014 recently passed (which requires archived video to be captioned within 45 days), the FCC’s new content quality standards will have a notable impact not just on television programs, but also on online video.

So what are the new quality standards? Basically, the new rules address four aspects of quality: accuracy, synchronicity, program completeness, and placement. The FCC believes that these components are essential in ensuring accessibility. Let's take a look at each of these more carefully.

FCC Rules for Caption Accuracy

The FCC states, "In order to be accurate, captions must match the spoken words in the dialogue, in their original language (English or Spanish), to the fullest extent possible and include full lyrics when provided on the audio track." More specifically, they require captions to include all words spoken in the order spoken (i.e., no paraphrasing). This also means that the captions must use proper spelling, spacing between words, capitalization, and punctuation.

Further, they differentiate that accurate captions must convey the tone of the speaker's voice and intent of the content. The goal here is for captions to maintain the impact of the performance so that the overall message is not lost on the viewer.

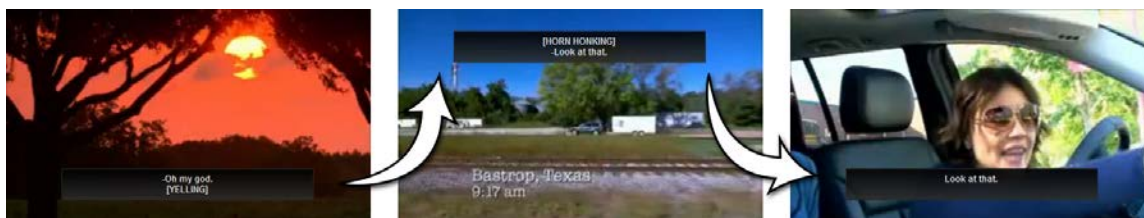
The FCC also includes that captions of nonverbal information (sound effects, music playing, audience reactions, who is speaking) must be provided if they are to be considered accurate.

FCC Rules for Caption Synchronicity

The FCC states, "In order to be synchronous, captions must coincide with their corresponding spoken words and sounds to the greatest extent possible." It also denotes that the captions must occur at a speed that can be read by viewers. And, if a program is edited for rebroadcast, it requires that captions be reformatted to provide accurate synchronization.

FCC Rules for Program Completeness

Here, the FCC states, "In order for a program's captions to be complete, captions must run from the beginning to the end of the program, to the fullest extent possible." Many people have complained that captions drop off in the middle or before the end of programming, despite efforts on the part of the Commission to minimize this issue. Now, any program that does not include captions up to its conclusion will be in violation of these standards.



FCC Rules for Caption Placement

In response to complaints that some captions obscure important information, the FCC states that "captions should not block other important visual content on the screen including, but not limited to, character faces, featured text (e.g., weather or other news updates, graphics and credits), and other information that is essential to understanding a program's content when the closed captioning feature is activated." As an example, if you are watching a documentary and there is text in the bottom of the

screen that states who the speaker is and what their profession is, closed captioning cannot be placed over this text, as it would obscure the information.

The new guidelines go on to require that captions not run off the edge of the screen and that the text be sized appropriately for legibility.

How Accurate Is Accurate?

Most vendors that provide pre-recorded programming (when a program is produced in advance and then captioned before airing) propose caption accuracy rates that are almost perfect. At 3Play Media, our average measured accuracy is 99.6%, and we guarantee over 99%, even in cases of poor audio quality, multiple speakers, difficult content, and accents.

The FCC's standards do allow some leniency for captioning live programming: "Although we recognize the need for a slight delay in the delivery of captions for live programming, the delay in the presentation of live captions should be kept to a minimum, consistent with an accurate presentation of what is being said and the overall goal of ensuring that captions enable viewers to follow the program."

It is important to note that even before these new standards, it was possible for live programming to be captioned at a high rate of accuracy. For instance, the U.S. House of Representatives provides real-time verbatim closed-captioning of televised proceedings. Their requirements? The contractor should provide 98.6% accuracy of verbatim captioning.

The new FCC quality rules should compel live programming to be captioned universally at this high of an accuracy rate.

Implications for Online Video

Because captions for video programming must adhere to the FCC's new guidelines, there will be an improvement in quality. And, because online video of previously aired content must have captions of at least the same quality, the quality of online captioning will inherently improve, as well. More directly, if we are looking at pre-recorded programming to be placed online, accuracy rates should be almost perfect.

The new guidelines leave little room for error, and will hopefully lead to a noted improvement in captioning quality across both video and online programming.

FCC Mandate on User Control for Online Video Closed Captions

An FCC deadline that involves user control in online video closed captioning passed surprisingly silently, but it's an important mandate to be aware of - and it's been a long time coming. Think of it as the next generation of closed captioning capability! It's pretty cool, and it should improve accessibility and user experience significantly.

The FCC mandate sets new user control requirements for online video closed captioning. Note that it applies only to online full-length programming that previously appeared with captions on television in the

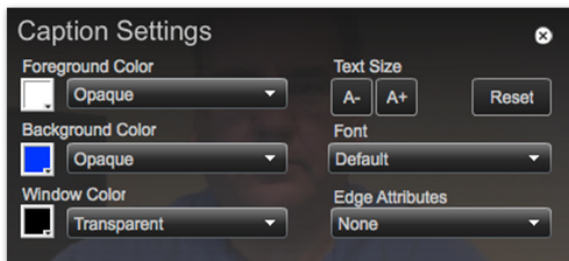
United States. As of January 1, 2014, all online video programming distributors (VPDs) must comply with the advanced closed captioning standard CEA-708.

This mandate was supposed to have a deadline of September 30, 2012, but the Digital Media Association (DiMA) filed a petition requesting a waiver due to the technological challenge of designing, testing, and implementing the new, higher standards that CEA-708 required. The waiver was approved, and the deadline was extended to January 1, 2014.

So now that that date has passed, the FCC requires online video of full-length programming that previously aired on television to implement the standards of more advanced user controls. When looking at this FCC decision in conjunction with the most recent phase of the 21st Century Video Accessibility Act (CVAA), you might notice that as of March 30th, 2014, captions are required for all archived video within 45 days of going online. This is going to make for a large influx of captioned videos that now *also* require this new user control interface.

What Does This New User Control Interface Look Like?

Well, what it looks like is a much cooler and more effective way of viewing closed captioning. Now, if the VPD uses an application or plug-in to display programming, users should have the ability to control font type, font size, font and background color, opacity, window color, and character edge style (drop shadow, raised, depressed). You can customize your captions to your own preferences: now, there is a fun factor involved. And, the ability to change these integral aspects of captions can make content much more accessible, especially for users with partial vision impairment.



To see how it works in action, go to a YouTube video that has closed captions ([here's an example](#)). When you press the CC button to turn on closed captions, click on "Options". Then, play around with all the different possibilities! Here's an idea of what it looks like:

FCC Ruling: Closed Captioning Requirements Extended to Online Video Clips

On July 11, 2014, the FCC ruled that closed captioning requirements for IP delivered video content will extend to video clips. This decision was postponed from the January 2012 ruling, which stated that all full-length online programming that previously aired on television with captions must have closed captions when it is put online. Their decision not to include video clips in this ruling was petitioned for

reconsideration, and the FCC sought further comment on the issue. The FCC and the Media Bureau determined that the response received supported the addition of captioning requirements for video clips.

Deadlines for Closed Captioning of IP Delivered Video Clips

In the ruling this morning, the Media Bureau stated, "A commission requirement for captioning IP delivered video clips will ensure that content will be accessible to individuals who are deaf or hard of hearing. Consistent with the CVAA, the commission's IP rules will apply to video clips only if the associated video programming was shown on television with captions."



This new requirement will have a series of three deadlines:

- ▶ January 1, 2016: Single excerpt clips from captioned television programs must be captioned.
- ▶ January 1, 2017: Montages from captioned television programs must be captioned.
- ▶ July 1, 2017: Time sensitive video clips must be captioned, including live and near-live programming. Live programming will have a 12 hour grace period after the clip appears on television before the clip must be captioned if placed online; near-live programming will have an 8 hour grace period.

The ruling does not extend to video clips that are in distributors' online video libraries before the applicable compliance deadline. It does, however, impose the same quality standards that apply to full-length programming.

Issues for Consideration Regarding Captioning of Video Clips

The ruling also lays forth four issues related to captioning IP delivered video clips, which may require further discussion:

- ▶ The commission considers the application of the IP closed captioning rules to the delivery of video clips by third party distributors.
- ▶ The commission asks whether the grace periods for time sensitive video clips should be decreased or eliminated as technological advancements render the grace periods unnecessary.
- ▶ The commission seeks comment on whether the requirements should be extended to mashups of multiple programs.
- ▶ The commission considers how these rules should be applied to video clips that appear online before appearing on television with captions.

The Commission's Decision to Require Closed Captions for Video Clips

In response to the Media Bureau's report on IP delivered video clips, the commissioners unanimously concurred with the ruling. Chairman Tom Wheeler stated, "For far too long, individuals with special needs have been sitting at the back of the innovation train. They've been told they have to wait until technology catches up with them. 'Wait until we get around to it' is no longer good enough. It is time to challenge technology to solve problems up front."

This ruling marks a victory for the accessibility community. It shows that as technology evolves, the commission is devoted to modernizing rulings and updating policies to reflect such advances. The

commission's decision to require closed captioning for IP delivered video clips represents yet another step towards full implementation of the CVAA and greater accessibility for the deaf and hard of hearing community.

FCC Extends Closed Captioning Laws to Churches and Religious Broadcasters

Although this FCC ruling passed on October 20, 2011, we have still included it briefly in this paper because it is a significant change from previous legal requirements. Until 2011, churches and religious broadcasters had been exempt from closed captioning requirements that would normally apply to TV shows, recorded sermons and church services, educational videos, and other video or audio programming. Religious organizations were sheltered by a blanket FCC exemption granted in 2006 after the Anglers for Christ Ministries successfully argued that closed captioning was an undue economic hardship.



On October 20, 2011 the FCC's Consumer and Governmental Affairs Bureau overturned that decision, requiring religious organizations to comply with the same accessibility laws as other media publishers. Churches can still individually apply for an exemption if they can prove that they can't afford closed captioning.

The Bureau's rescindment was instigated by a coalition of advocacy groups for the deaf and hard of hearing. The coalition argued that the order "improperly and unilaterally established a new class of exempt programming." While advocates for the deaf are pleased that more programming will become accessible, some religious broadcasters are concerned that this move could shut down some programming because of the additional costs involved with captioning.

FCC Exemptions for Closed Captioning

With the CVAA and FCC imposing stricter guidelines, both in terms of what online video material must be captioned and also in terms of the quality required for those captions, you might be wondering, *who is exempt from the FCC's captioning rules?* There are basically two types of exemptions: self-implementing and economically burdensome.

Economically Burdensome Exemption

The Commission can be petitioned for an economically burdensome exemption from closed captioning rules if compliance with the rules would be economically burdensome. The petition must be supported by sufficient evidence. The guidelines for filing an FCC petition for an exemption from closed captioning require the petitioner to provide the details of the program they are requesting exemption from closed captioning for, including the cost of closed captioning and the impact of captioning their programming, as

well as a detailed explanation of the petitioner's financial resources (including proof of having sought programming distributor assistance and additional sponsorships).

Self-Implementing Exemption

To qualify for a self-implementing exemption, the provider does not need to file a petition; the provider must simply meet one or more of the FCC's thirteen criteria:

- ▶ Programming is subject to contractual captioning restrictions
- ▶ Captioning requirement has been waived due to economically burdensome exemption
- ▶ Programming is in a language other than English or Spanish
- ▶ Programming is primarily textual
- ▶ Programming is distributed between 2 a.m. and 6 a.m. local time
- ▶ Interstitials, promotional announcements, and public service announcements that are 10 minutes or less in duration
- ▶ EBS (Educational Broadband Service) programming
- ▶ Locally produced and distributed non-news programming with no repeat value
- ▶ Programming on new networks for the first four years (although the new guidelines are re-evaluating this exemption)
- ▶ Primarily non-vocal musical programming
- ▶ Captioning expense in excess of 2% of gross revenues
- ▶ Channels producing revenues under \$3,000,000
- ▶ Locally produced educational programming

Conclusion

With all of the FCC updates of the last year, as well as the CVAA regulations, it is important to keep up to date with closed captioning requirements for the digital distribution of television and film. The largest burden on most broadcasters will be the new FCC requirement to caption online video clips. While the first phase of this regulation will not come into effect until January, 2016, it is important to start preparing and developing a workflow that you can implement when the time comes. The FCC's quality standards also require that broadcasters pay more attention to the accuracy and overall quality of closed captions. These updates are an attempt to make online video, as it becomes more and more prevalent, accessible to everyone. Developing high quality captioning processes and folding them into your workflow is key for FCC and CVAA compliance, and will help you more easily comply with any future regulations.

Resources

CVAA

[CVAA](#) Requirements

FCC's Quality Standards

[Standards](#) for Closed Captioning

FCC's [Declaratory Ruling](#) on Quality Standards

User Control

FCC's Requirements for [User Control](#)

FCC's [Mandate](#) on User Control

[CEA-708](#) Standards

Video Clips

[FCC's Deadlines](#) for Captioning Online Video Clips

FCC's [Declaratory Ruling](#) on Closed Captioning of IP-Delivered Video Clips

Religious Broadcasters

[FCC Revokes Exemption](#) for Religious Broadcasters

Exemptions

[FCC's Exemptions](#) for Closed Captioning

Closed Captioning Exemption [Petition](#)

[FCC's Criteria](#) for Exemptions

About 3Play Media

3Play Media provides cost-effective, premium quality captioning, transcription, and translation solutions to hundreds of customers in media & entertainment, higher education, and government. Our mission is to simplify the process by providing a user-friendly account system, flexible API's, and integrations with a multitude of video players and platforms. 3Play Media is based in Cambridge, MA and has been operating since 2007.

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