

The Telecommunications Act of 1996

[Editor's note: This article was originally written in 2004 and may have outdated content. Please refer to the DCMP's Clearinghouse of Information for updated information regarding laws, or check out the Web sites listed in this article for updated e-mail addresses as necessary.]

WHAT'S THE BASIC PURPOSE OF THE TC ACT?

Signed on February 8, 1996, by then-President Clinton, this legislation--the first major overhaul of telecommunications law in 62 years--is intended to encourage new competition, create greater choices in telephone and cable services, and ensure that every classroom in the United States is connected to the "information superhighway."

HOW DOES THE TC ACT AFFECT CAPTIONING?

The Telecommunications Act generally requires the closed-captioning of video programming. This means that all newly exhibited video programming must be accessible through captions, unless the providers or owners of such video programming can prove that providing closed captions would result in their suffering an "undue burden." For previously published video programming, video programming providers or owners must maximize the accessibility through captions.

WHAT IS THE FEDERAL COMMUNICATIONS COMMISSION?

The Federal Communications Commission (FCC) is an independent U.S. government agency and is directly responsible to Congress. The FCC was established by the Communications Act of 1934 and is charged with regulating interstate and international communications by radio, television, wire, satellite and cable. The FCC's jurisdiction covers the 50 states, the District of Columbia, and U.S. possessions.

WHAT'S THE ROLE OF THE FCC?

- Establish rules requiring that new television and cable programming be closed-captioned for the hearing-impaired.
- Establish timetables for implementing those captioning obligations.
- Ensure that video programming providers or owners "maximize the accessibility" of older programs by captioning them.
- Establish other relevant factors for captioning.

These rules took effect January 1, 1998.

WHAT ARE THE OTHER PROVISIONS OF THE TC ACT?

Manufacturers of telecommunications equipment and providers of telecommunications services are required to ensure that their equipment is designed and manufactured to be accessible to individuals with disabilities, if doing so would be readily achievable.

WHO'S RESPONSIBLE FOR CAPTIONING?

Legal responsibility for complying with the new captioning requirements generally falls on video programming distributors, which are defined as all entities who provide video programming directly to a customer's home, regardless of the distribution technologies that they employ.

While they will be legally responsible for compliance in most situations, the FCC anticipates that they will incorporate their own captioning requirements into contracts with program producers and owners

since it is generally most cost-effective to caption at the production stage. Program producers and owners are expected to cooperate in the process, and distributors will be able to rely on certifications from such programming sources “that expressly state that the programming is either captioned or exempt” from the FCC’s rules. Video programming distributors will not be responsible for circumstances in which the source provided a false certification if the distributor did not know it was false; the FCC indicated it will “take appropriate action if there were deliberate falsifications.”

WHAT ARE THE CAPTIONING RULES?

For NEW Programming

The rules require that 100% of all non-exempt, “new” programming of existing (analog) television be captioned after 8 years--by 2006--on a phased-in basis. “New” programming is defined as that first published or exhibited after January 1, 1998.

As Outlined

Between January 1, 2000, and December 31, 2001--at least 450 hours of captioned programming. If the distributor provides less than 450 hours of new, non-exempt programming, then 95% of such programming must be provided with captions. In addition, the major network affiliates must provide captioning of local news in the top 25 markets.

Status: Broadcast stations have gone beyond this requirement. Cable has not.

Between January 1, 2002, and December 31, 2003--at least 900 hours of captioned programming. If the distributor provides less than 900 hours of new, non-exempt programming, then 95% of such programming must be provided with captions.

Between January 1, 2004, and December 31, 2005--at least an average of 1350 hours of captioned programming. If the distributor provides less than 1350 hours of new, non-exempt programming, then 95% of such programming must be provided with captions.

By January 1, 2006, and after--100% of all new, non-exempt programming must be provided with captions, with some exemptions.

DTV

By January 1, 2006, and after--rules for Digital Television (DTV) captioning specify that consumers be able to control caption size, font, placement, and other features. The completion date may be extended, partly because DTV is not catching on as fast as expected. The rules ensure that when DTV happens, so will captioning. These rules also specify that viewers can choose from multiple streams of captions containing foreign languages or simplified captions for kids.

Spanish

By January 1, 2010, and after--100% of all new, non-exempt programming must be provided with Spanish captions, with some exemptions.

For OLD Programming

The rules require that 75% of pre-rule, non-exempt programs must be captioned over a 10-year period by 2008. Pre-rule programming, or “old” programming, is defined as programs first shown before January 1, 1998.

As Outlined

At least 30% of a channel’s pre-rule programming during each calendar quarter must be captioned beginning on January 1, 2003.

Beginning January 1, 2008, distributors must provide captions for 75% of the pre-rule, non-exempt programs they distribute on each channel during each calendar quarter.

Spanish

By January 1, 2012, and after--75% of pre-rule, non-exempt programs must be provided with captions per channel per quarter.

RECORD-KEEPING

The FCC will monitor captioning efforts and if there is not sufficient progress after four years, reconsider imposing specific requirements for the remaining four years of the transition period. However, the FCC stated:

... we will not adopt any specific recordkeeping requirements. In response to a complaint, however, a video programming provider is obligated to provide the Commission with sufficient records and documentation to demonstrate that it is in compliance with the rules.

ARE THERE ANY EXEMPTIONS TO THE CAPTIONING RULES?

Yes. Exemptions to the captioning rules--for both English- and Spanish-language programming are as follows:

Programs which are shown between 2 a.m. and 6 a.m. local time.

Locally produced and distributed non-news programming with no repeat value (e.g., parades and school sports).

Commercials that are no more than five minutes long.

Instructional programming that is locally produced by public television stations for use in grades K-12 and postsecondary schools (only covers programming narrowly distributed to individual educational institutions).

Programs in languages other than English or Spanish.

Programs shown on new networks for the first four years of the network’s operation.

Public service announcements under ten minutes, unless they are federally funded or produced.

Video programming providers with annual gross revenues under \$3 million (although such programs must pass through video programming that has already been captioned).

Also, the FCC may exempt programs or classes of programs for which it is determined that the provision of closed-captioning would be an “undue burden.” These undue burdens include the:

- Nature and cost of captioning for the program(s).
- Impact on the program provider’s or owner’s operations.
- Provider’s or owner’s financial resources.
- Provider’s or owner’s type of operations.

This is why the Department of Education (ED) continues to pay for captioning when networks and stations do not pay for it. The ED set this up many years ago, hence the reason there is so much captioning on TV. However, this system is still being phased out, and the money is being diverted to other uses.

WHAT ABOUT CAPTIONING QUALITY?

The FCC requires that all programming with captions be delivered intact and complete to viewers. However, no requirements were made regarding the quality or accuracy of captions, such as spelling, grammar, placement, or the like.

HOW DO I FILE A CAPTIONING COMPLAINT?

The person needs to go to the provider first for formal complaints. For informal complaints, they can send them to the FCC. The FCC does not have the authority to bring sanctions, but the stations normally comply when the FCC gets involved.

The complaint should include:

The name of the video programming distributor against whom the complaint is alleged.

The date and time of the alleged violation.

Details about the problem so that the distributor may correct or otherwise respond to the complaint.

Include the name of the programmer (e.g., News Channel 13) in addition to the name of the distributor (e.g., ACME Cable of Maplewood). The FCC can provide informal dispute resolution to obtain compliance with the rules. However, the Media Bureau is responsible for handling formal actions needed to enforce the closed-captioning rules. FCC rules require formal complaints for violations of the captioning rules to be sent first to the video program provider (the local television station, cable operator or satellite service) before they may be brought to the FCC.

Although you are encouraged to bring formal complaints for violations of the emergency rules to the video program provider, you are not required to do so. If you do wish to file a formal complaint for a violation of either the captioning rules or the emergency programming rules, send it to:

FCC, Media Bureau
445 12th Street, SW
Washington, DC 20554
Voice: 202-418-7096
TTY: 202-418-7172
Fax: 202-418-1195
E-Mail:

HOW DO I CONTACT THE FCC?

E-Mail

Interested persons may send in their views, opinions, and importance on captioning to Chairman Michael Powell by clicking on the “E-mail the Chairman” link in the left column on his homepage at <http://www.fcc.gov/commissioners/powell/>.

Telephone

VOICE 888-Call-FCC (1-888-225-5322) toll-free
TTY 888-Tell-FCC (1-888-835-5322)
FAX (202) 418-0232
E-MAIL fccinfo@fcc.gov

Internet Addresses

<http://www.fcc.gov>
(FCC homepage)

<http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>

(Fact sheet on the background of captioning; benefits of captions; rules for new, pre-rule, and Spanish-language programming; exemptions; real-time vs. electronic newsroom captioning technique; emergency programming; digital captioning; and how to file a complaint.)

<http://ftp.fcc.gov/cgb/dro/dtftele.html>

(Gives an explanation of disability access provisions; how the FCC develops regulations; how you can participate; and how you can stay informed on these issues relating to the TC Act.)

Mailing Address

Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554