

ALERT

FCC Seeks Input Concerning Extension of Closed Captioning Requirements to Internet Protocol-Delivered Programming

September 29, 2011

On September 19, 2011, the Federal Communications Commission (FCC or Commission) issued a Notice of Proposed Rulemaking (NPRM) seeking comments concerning the extension of closed captioning requirements to IP-delivered programming. Comments and reply comments in response to NPRM are due October 18, 2011 and October 28, 2011, respectively.

Pursuant to requirements set forth in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), the FCC must issue regulations requiring the closed captioning of IP-delivered programming, and provide necessary technical standards, protocols and procedures, by January 12, 2012. To help the agency comply with this requirement, the NPRM seeks comment on changes to the Commission's rules, that would accomplish the following:

- Require video programming owners (entities that hold the copyright for video programming) to send caption files for IP-delivered video programming to video programming distributors and providers (entities that distribute video programming to end users).
- Mandate that video programming distributors and providers ensure that captions are transmitted appropriately to end users.
- Require captioning of IP-delivered video programming to be of at least the same quality as the captioning of the same programming on TV.

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Practice Areas

Media
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- Establish the following deadlines:
 - All prerecorded programming that is not edited for Internet distribution and is subject to the new requirements must be captioned within six months of publication of the rules in the Federal Register.
 - All live and near-live programming subject to the new requirements must be captioned within 12 months of Federal Register publication.
 - All prerecorded programming that is edited for Internet distribution and is subject to the new requirements must be captioned within 18 months of Federal Register publication.
- Create procedures for video programming owners and providers to petition the FCC for exemptions from the new requirements based on economic burden.
- Require video programming owners to provide programming for IP delivery either with captions or with a certification that captions are not required.
- Decline to adopt particular technical standards for IP-delivered video programming.
- Decline to treat a *de minimis* failure to comply with the new rules as a violation.
- Provide flexibility for entities to comply with the new requirements by alternate means where technical and other limitations exist.
- Adopt procedures for complaints alleging a violation of the new requirements.
- Establish requirements for devices subject to the CVAA's closed captioning requirements.

The full text of the NPRM can be accessed by clicking the link at the beginning of this Alert.