

ALERT

Effective Date of IP-Captioning Rules and Associated Benchmarks Set

April 3, 2012

As indicated in a previous Client Alert, the Federal Communications Commission (FCC or Commission) recently released a Report and Order (Order) that revised its regulations to require closed captioning of IP-delivered video programming that is published or exhibited on television with captions.

The Federal Register publication of the Order on March 30, 2012 indicated that the effective date for the rules is April 30, 2012, except for the following rules which require Office of Management and Budget approval:

- The requirement for Video Programming Owners (VPOs) and Video Programming Distributor or Providers (VPDs) to agree upon a mechanism to make available to VPDs on an ongoing basis information about video programming that is subject to the IP closed captioning requirements;
- The requirement for VPOs to make a good faith effort to identify video programming subject to the IP closed captioning requirements, including providing certification that a program need not be captioned;
- The rules governing the procedures for VPOs and VPDs to petition the FCC for full or partial exemption from the IP closed captioning requirements due to economic burden;
- The rules governing the procedures for filing complaints for alleged violations of IP closed captioning requirements;
- The rules governing the procedures for manufacturers of apparatus with a picture screen of less than 13 inches in size to petition the FCC for full or partial exemption from the IP closed captioning requirements due to the requirements not being

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achievable; and

- The rules governing procedures for manufacturers to seek waiver from the requirements based on an apparatus' designed use.

In addition, the Order's publication in the Federal Register triggered several benchmarks:

- **September 30, 2012:** All prerecorded programming that is not edited for Internet distribution and is subject to the new requirements must be captioned if it is shown on television with captions.
- **March 30, 2013:** All live and near-live programming subject to the new requirements must be captioned if it is shown on television with captions.
- **September 30, 2013:** All prerecorded programming that is edited for Internet distribution and is subject to the new requirements must be captioned if it is shown on television with captions.
- Archival content must be captioned as follows:
 - Beginning **March 30, 2014**, all programming that is subject to the requirements and is already in the VPD's library before it is shown on television with captions must be captioned within 45 days after it is shown on television with captions and before **March 30, 2015**.
 - Beginning **March 30, 2015**, such programming must be captioned within 30 days after it is shown on television with captions and before **March 30, 2016**.
 - Beginning **March 30, 2016**, such programming must be captioned within 15 days after it is shown on television with captions.