How the FCC is Implementing the CVAA

Hearing Loss Association of America

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Closed Captioning on Video Programming Delivered via Internet Protocol – Section 202

- Past: Closed captioning rules for television – adopted in 1997 – 12-year compliance schedule
- Present: Closed Captioning Mandates
  - All new, non-exempt Spanish and English language programming must be captioned
  - 75% of pre-rule (older) non-exempt programming must be captioned
- Future (CVAA):
  - Television shows with closed captions must contain those captions when delivered using Internet protocol
  - Rules adopted January 2012

Closed Captioning on Video Programming Delivered via Internet Protocol – Section 202

What's covered?

- Full length programming first exhibited on TV in the U.S.
- No outtakes or video clips (but segments covered if full length programming divided for the Internet)
- No consumer generated media
- No unauthorized (pirated) postings

Internet Protocol Closed Captioning Implementation Deadlines

The following deadlines apply to programming distributed on the Internet after being shown on television with captions. These programs must contain captions as soon as they are posted by the Internet distributor:

- September 30, 2012 – pre-recorded programming not edited for Internet distribution
- March 30, 2013 – live and near-live programming (programming performed and recorded < 24 hours prior to first showing on television)
- September 30, 2013 – pre-recorded programming edited for Internet distribution

Internet Protocol Closed Captioning Implementation Deadlines Archival Programming

These deadlines apply to any program that already has been shown somewhere on the Internet before being shown on TV with captions. After the program is shown on TV with captions, the Internet distributor that already had posted it has extra time to re-post with captions, as follows:

- Captioned programs shown on television on or after March 30, 2014 – distributor has 45 days to re-post with captions
- Captioned programs shown on television on or after March 30, 2015 – distributor has 30 days to re-post with captions
- Captioned programs shown on television on or after March 30, 2016 – distributor has 15 days to re-post with captions

VPO and VPD Definitions and Obligations

- Video programming owners (entities that license video programming) must send program files to video programming distributors with required captions.
- After getting the program from the owner, the distributor must render or pass through captions to viewers.
  - Includes obligation to ensure that any application on smartphones, set top boxes, websites, plug-ins, software provided to or directed for download to consumer can render or pass through captions
  - Includes physical hardware from the distributor (but not where distributor has no control – e.g., third party services or hardware).

Video Programming Apparatus – Section 203

- Past: Regulations for built-in closed captioning television decoder capabilities in analog (1991) and digital TVs (2000). Mostly limited to apparatus with screens 13 inches or larger.

- CVAA:
  - As of January 1, 2014, if **technically feasible**, covers apparatus designed to *receive or play back* video programming that uses a picture screen of any size.

  - Apparatus with screens less than 13 inches in size must meet these requirements only if doing so is **achievable**.

  - As of January 1, 2014, if **achievable**, apparatus designed to *record* video programming, must enable the rendering or pass through of closed captions in a manner that enables viewers to activate and de-activate closed captions when played back on a screen of any size.

Technically Feasible and Achievable

- **Technically Feasible**: not technically possible
  - Manufacturers have the burden to demonstrate that compliance is not technically feasible.
- **Achievable**:
  - Standard applies to apparatus that use a picture screen of less than 13 inches
  - Consider:
    - Nature and cost of steps needed to achieve accessibility
    - Technical and economic impact on company
    - Type of operation of company
    - The company's product line
  - Device functions are considered separately for this purpose – e.g., font feature may be achievable, while colors may not be achievable

Video Programming Apparatus – Section 203

- Covered apparatus includes:
  - All physical devices designed to receive and play back video programming, including smartphones, tablets, personal computers, and television set-top boxes;
  - All integrated software in covered devices (that is, software installed in the device by the manufacturer before sale or that the manufacturer requires the consumer to install after sale); and
  - All recording devices and removable media players (such as DVD and Blu-ray players).
- Excludes: separate monitors that that have no playback capability
  - FCC rejected proposals to exclude the following classes: mobile devices, smartphones, game consoles, cellular telephones, and tablets. Will consider individual waivers.

Caption Display Choices

- Captions must be functionally equivalent or better than TV captioning (using CEA-608 and CEA-708 as guidelines).
- Users must be able to:
  - Choose presentation, color, opacity, size, font, background, edge control, window color, language (where applicable),
  - Set (retain) these features
- Interconnection mechanisms must permit or render closed captions

Petitions for Reconsideration

- TV Guardian
  - Ensure synchronized timing of closed caption data
  - Require HDMI cables to pass through closed captions
- Consumer Groups
  - Require video clips to be captioned
  - Extend timing (synchronization) obligations to device manufacturers

Petitions for Reconsideration

- Consumer Electronics Association
  - Narrow the scope of covered apparatus to include only “video programming” players (e.g., not camcorders);
  - Do not treat “removable media players” as apparatus covered by the closed captioning rules
  - Specify that the January 1, 2014 compliance deadline refers only to the date of manufacture.

- Digital Media Association (2 separate petitions)
  - Waive requirements for VPD-provided applications, plug-ins, or devices to provide 708 caption control features (size, font, color, etc.) until January 1, 2014
  - Waive the requirement to render captions for VPD-provided applications, plug-ins, or devices that do not already provide captioning until January 1, 2014

CVAA Video Programming Timeline

- January 13, 2011 – First meeting of CVAA-established Video Programming Accessibility Advisory Committee (VPAAC)
- July 12, 2011 – VPAAC delivers first report on closed captioning
- August 24, 2011 – FCC adopts rules on video description
- January 12, 2012 – FCC adopts rules on IP-based closed captioning and apparatus closed captioning requirements
- April 9, 2012 – VPAAC delivers second report on video description, accessible emergency information, user interfaces, programming guides, and menus
- April 24, 2012 – FCC Public Notices seeking comment on VPAAC second report; comments due June 4 and replies June 19, 2012
- April 8, 2013 – Rules due on providing accessible emergency programming
- October 8, 2013 – Rules due on apparatus requirements for video description and accessible emergency information; accessible user interfaces, programming guides, and menus

Video Description

- Narrated descriptions of a TV's programs key visual elements into natural pauses of dialogue
- Required for:
  - 4 national broadcast networks (ABC, CBS, NBC, Fox) and their affiliates in top 25 markets as of 1/1/11
  - Top 5 cable channels – USA, Disney, TNT, TBS Nickelodeon/Nick at Nite
  - MVPDs with more than 50,000 subscribers
- 4 hours of prime time or children's programming per week (50 hours/calendar quarter)
- FCC to conduct additional inquires on availability, benefits, uses, and costs: 1 year after rule phase-in
- CVAA authorizes expansion to 7 hours of video description per week and eventually all market areas

Emergency Information
Section 202

- 1 year after VPAAC submits report, the FCC shall issue rules requiring video programming providers and distributors and program owners to convey such information in a manner accessible to people who are blind or visually impaired.

- 18 months after VPAAC issues its report, the FCC must adopt rules for apparatus to decode and make available emergency information in a manner accessible to people who are blind or visually impaired.

Video Apparatus – User Interfaces Section 204

- User Interfaces on digital video apparatus (including for use with the Internet) must be accessible if achievable.
- If on-screen text menus or visual indicators are used to access the apparatus functions, requires audio output that is integrated or peripheral to the device.
- Requires built-in access to closed captioning and video description through a mechanism reasonably comparable to a button, key, or icon.

Video Apparatus - Section 205 Programming Guides and Navigation Devices (Set top or Converter boxes)

- If has built-in closed captioning capability, must provide access through a mechanism reasonably comparable to a button, key, or icon.
- If achievable, on-screen text menus and programming guides provided by navigation devices must be audibly accessible in real-time upon request by individuals who are blind or visually impaired.
- Compliance may be through the use of software, peripheral device, or other solution, and must be provided free to the requesting individual within a reasonable time.
- FCC may exempt cable systems serving 20,000 or fewer subscribers.

National Deaf-Blind Equipment Distribution Program (NDBEDP)

- Authorizes $10 million annually from the Interstate TRS Fund for local programs approved by the FCC to distribute equipment to low income people who are deaf-blind
- Covers equipment to make telecommunications service, Internet access service, and advanced communications, services accessible
- Rules adopted April 2011
- Program to begin July 2012

NDBEDP (continued)

- Commission will certify and provide funding to one entity in each state (funds divided based on population size)
- $500,000 set aside each year of pilot program for national outreach: Awarded to Perkins School for the Blind/Helen Keller National Center/FableVision
- Specialized and off-the-shelf equipment covered
- Funding will also cover reasonable costs of assessments, training, equipment warranties, maintenance, repairs, and outreach

Advanced Communications Services (ACS): Rules Adopted October 2011

- Expansion of Section 255's requirements for access to services and equipment
- Section 255: access to telecommunications
- Section 716: access to advanced communications
- Where access is not achievable, equipment must be compatible with peripheral devices commonly used, if achievable.

Advanced Communications Services - Scope

- Interconnected and non-interconnected voice over IP
- Electronic messaging – provides real-time or near real-time non-voice messages in text: e-mail, SMS, text messaging (not on-line posts or blogging)
- Interoperable video conferencing

Advanced Communications Services

- Must be accessible to and usable if “achievable”
- Manufacturers must identify barriers during design stages, as early as possible
- Must ensure access to information and documentation about product and its accessibility features, including user guides, bills, product support information in alternate formats at no extra cost
- Must file points of contact with FCC (for complaints)
- Does not apply to customized equipment not offered directly to the public (e.g. business use)
- Flexibility: access may be built-in or rely on 3rd party solutions (but must support solutions for the life of the product/service or up to 2 years after solution is discontinued – whichever comes first)

Further Notice on ACS

- Whether to adopt permanent exemption for small entities
- Address accessibility of Internet browsers for people who are blind or visually impaired
- Define “interoperable” as this pertains to video conferencing services

ACS Enforcement

First request consumer dispute assistance from Consumer and Governmental Affairs Bureau

- Provides opportunity to settle dispute before an informal complaint is filed
- CGB will work with consumer and company on resolving dispute
- Must wait at least 30 days before filing an informal complaint
- Consumer may request additional time in 30 day increments to resolve concerns before filing complaint

ACS Recordkeeping Requirement

- Companies must keep records on efforts to make products and services accessible. Records must include:
  - Efforts to consult with individuals with disabilities
  - Descriptions of the accessibility features of products and services
  - Compatibility of products and services with peripheral devices or specialized equipment commonly used by individuals with disabilities to achieve access
- Must be ready to produce additional documentation if use achievability defense to complaints
- Records must be maintained for at least 2 years after the product is no longer offered
- First certification due to FCC on April 1, 2013
- Companies must designate a contact for complaints

ACS Complaints

- Informal complaints: FCC must issue an order within 180 days explaining its result
- Formal complaints: akin to litigation
- Remedies:
  - Up to $100,000 for each violation or each day of continuing violation
  - Maximum of $1,000,000 for any continuing violation
  - May require compliance in the next generation of equipment within a reasonable time
  - Damages against common carriers available

Next Generation 911 Access

- Emergency Access Advisory Committee (EAAC)
  - Met monthly throughout 2011; still convening
  - Competed survey of people with disabilities – Spring 2011
  - Produced report on survey – July 2011
  - Submitted recommendations on reliable, interoperable communication to enable people with disabilities to access next generation (NG) 9-1-1 services to FCC – December 2011
- FCC may adopt rules based on EAAC's recommendations where achievable and technically feasible.
- September 2011 Proceeding on NG 911 – looking at text to 911: PS Docket Nos. 10-255; 11-153
- Verizon/AT&T roll out of text-to-911 in 2013

FCC Implementation of CVAA

- Creation of Advisory Committees (directed by CVAA to achieve consumer-industry balance)
  - Emergency Access Advisory Committee
  - Video Programming Accessibility Advisory Committee
- Adoption of Rules
- Creation of Accessibility Clearinghouse: http://apps.fcc.gov/accessibilityclearinghouse/
- Biennial Reports to Congress
- Handling of Complaints

New HAC Standard – April 9, 2012

- ANSI C63.19 - updated
- Consensus driven: consumers & industry
- Will apply to new multi-band and multi-mode handsets
- 12 month transition
- Will greatly improve measurement of potential hearing aid interference in newer devices using newer technologies

More Information

http://transition.fcc.gov/cgb/dro/cvaa.html

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