



PUBLIC NOTICE

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DA 07-3759

August 28, 2007

REMINDER TO VIDEO PROGRAMMING DISTRIBUTORS AND THE PUBLIC OF THE JANUARY 1, 2008, REQUIREMENTS FOR THE CLOSED CAPTIONING OF ENGLISH “PRE-RULE” NONEXEMPT VIDEO PROGRAMMING

This *Public Notice* is to remind video programming distributors – including broadcasters, cable operators, and satellite television services¹ – and the public of the upcoming closed captioning benchmark for “pre-rule” English language nonexempt video programming.² Pre-rule video programming is programming that was first published or exhibited *before* January 1, 1998 (for analog programming)³ or *before* July 1, 2002 (for digital programming).⁴

As of January 1, 2008, 75% of all nonexempt pre-rule English language programming must be captioned per channel, per calendar quarter.⁵ This benchmark applies to both analog pre-rule video programming and digital pre-rule video programming.

Closed captioning benchmarks and rules were established to ensure that video programming is accessible to persons who are deaf or hard of hearing in accordance with the mandate of Congress as set forth in Section 713 of the Telecommunications Act of 1996.⁶ For more information regarding the Commission’s closed captioning rules and benchmarks, please see our closed captioning Factsheet, available at <http://www.fcc.gov/cgb/consumerfacts/closedcaption.html>.

¹ See 47 C.F.R. § 79.1(a)(2).

² Nonexempt programming is video programming that is not exempt pursuant to a self-implementing exemption found in 47 C.F.R. § 79.1(d), or pursuant to an exemption based on the undue burden standard found in 47 C.F.R. § 79.1(f), and, accordingly, is subject to closed captioning requirements. See 47 C.F.R. § 79.1(a)(7).

³ See 47 C.F.R. § 79.1(a)(6)(i).

⁴ See 47 C.F.R. § 79.1(a)(6)(ii); see also *Closed Captioning Requirements for Digital Television Receivers: Closed Captioning and Video Description of Video Programming, Implementation of Section 305 of the Telecommunications Act of 1996, Video Programming Accessibility*, Report and Order, ET Docket No. 99-254, MM Docket No. 95-176, 15 FCC Rcd 16788 (2000) (*Digital Closed Captioning Order*) (addressing requirements and compliance dates).

⁵ See 47 C.F.R. § 79.1(b)(2)(ii). Effective January 1, 2006, 100% of non-exempt “new” English language programming must be captioned. 47 C.F.R. § 79.1(b)(1)(iv).

⁶ See Pub. L. 104-104, 110 Stat 56 (1996); 47 U.S.C. § 613.

As a further reminder, we note that the closed captioning requirements specified above are separate from video programming distributors' obligations to make emergency information accessible to persons with hearing and vision disabilities, as set forth in 47 C.F.R. § 79.2 of our rules.⁷ The provisions of 47 C.F.R. § 79.2 apply to all video programming distributors, including those that are exempt from the closed captioning rules in Section 79.1.⁸ For more information, please see the Commission's Public Notice on this issue, released December 29, 2006, which can be found at http://fjallfoss.fcc.gov/edocs_public/openAttachment.do?link=DA-06-2627A1.pdf or our Factsheet at <http://www.fcc.gov/cgb/consumerfacts/emergencyvideo.html>.

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⁷ See 47 C.F.R. § 79.2.

⁸ *Id.*