



Federal Communications Commission
Washington, D.C. 20554

May 27, 2009

DA 09-1116

Small Entity Compliance Guide

Report and Order

Closed Captioning of Video Programming; Closed Captioning Requirements for Digital Television Receivers

FCC 08-255
CG Docket No. 05-231
ET Docket No. 99-254
Released November 7, 2008

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—to comply with the new rule/s adopted in the above-referenced FCC rulemaking docket/s. This Guide is not intended to replace the rule/s and, therefore, final authority rests solely with the rule/s.

Although we have attempted to cover all parts of the rule/s that might be especially important to small entities, the coverage may not be exhaustive. As a result, in any civil or administrative action against a small entity for a violation of a rule or rules, the content of the Small Entity Compliance Guide may be considered only as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. This Guide may not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update text. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

**1-888-CALL-FCC (1-888-225-5322)
TTY: 1-888-TELL-FCC (1-888-835-5322)
Fax: 202-418-0232
fccinfo@fcc.gov**

COMPLIANCE REQUIREMENTS

Objectives of the proceeding

In the closed captioning proceeding, CG 05-231 and ET 99-254, the Commission seeks to ensure that all Americans, including persons who are deaf or hard of hearing, have access to video programming on television. To ensure such access, deaf and hard of hearing consumers must be able to easily contact video programming distributors about problems with closed captioning contained in television programming. Therefore, the Commission has adopted rules that require video programming distributors to make contact information available for consumers who need to reach the distributor about closed captioning problems.

Rules That the Commission Amended or Adopted

The Commission **adopted a contact information** requirement for video programming distributors (47 C.F.R. § 79.1(i)). The new rules require video programming distributors to make available two different kinds of contact information—contact information for the receipt and handling of immediate closed captioning concerns by consumers, and contact information for written closed captioning complaints. Video programming distributors are also required to provide this information to the FCC for posting on the FCC website. Requiring video programming distributors to place contact information in telephone directories, in their bills (to the extent they issue billing statements), and on their websites (if they have a website), as well as providing such information to the FCC for posting on its website, will enable viewers to promptly inform distributors about captioning problems.

The Commission **amended the procedures** to shorten the timeframes for filing and responding to closed captioning complaints, and to allow for the filing of written closed captioning complaints with the FCC as well as the video programming distributor (47 C.F.R. § 79.1(g)). Shortening the complaint process will result in more timely resolution of captioning complaints. Allowing individuals to file complaints regarding closed captioning directly with the FCC will simplify the complaint process for consumers, and may result in faster resolution of complaints because the Commission will forward complaints to appropriate distributors for handling.

Impact on Small Business

These additional requirements for video programming distributors will have no significant adverse impact on small entities. Two of the requirements – *i.e.*, posting contact information in billing statements and on websites – apply only to the extent the distributor already uses these methods to communicate with its subscribers and the public. For instance, subscription services to the extent they already distribute bills to subscribers are required to include the newly required contact information in such statements and thus the requirement should pose little additional burden. In addition, distributors, to the extent they already maintain websites, are required to post contact information on their existing websites and thus the website requirement should pose little additional burden on distributors. With regard to the requirement that all video programming distributors place contact information in telephone directories, the

Commission acknowledges this may create a burden for small entities. However, we do not expect the funds and manpower needed to comply with this requirement to be extensive or unduly burdensome. With regard to the amendment to the rules to decrease the complaint processing times, this change reflects the fact that most programming must now be closed captioned and therefore allowing distributors three months or more (the former response time) to respond to complaints is unnecessary. The shortened time frame should not pose a burden to distributors.

Recordkeeping and Other Compliance Requirements

Contact information: First, under the new rule, video programming distributors must make contact information available for the receipt and handling of immediate closed captioning concerns raised by consumers (*e.g.*, concerns that the captions suddenly disappear or become garbled). Video programming distributors, which includes broadcasters and multi-channel video programming distributors (*e.g.*, cable and satellite providers) must designate a telephone number, fax number, and e-mail address for purposes of receiving and responding immediately to any closed captioning concerns. To the extent that a distributor has personnel available, either onsite or remotely, to address any technical problems that may arise, consumers using this dedicated contact information must be able to reach someone, either directly or indirectly, who can address the consumer's captioning concerns. The Commission is not requiring distributors to alter their hours of operation or the hours during which they have staffing available; at the same time, however, where staff is available to address technical issues that may arise during the course of transmitting programming, they must be knowledgeable about closed captioning issues and must be able to address and resolve consumers' concerns. In situations where a distributor is not immediately available, any calls or inquiries received, using this dedicated contact information, should be returned or otherwise addressed within 24 hours.

Second, the Commission requires video programming distributors to make contact information available for the receipt and handling of written closed captioning complaints filed pursuant to § 79.1(g) of the Commission's rules when such complaints do not raise the type of immediate issues that are addressed above. This contact information shall include the name of a person with primary responsibility for captioning issues and who can ensure compliance with the Commission's rules, as well as the person's title or office, telephone number, fax number, postal mailing address, and e-mail address.

Distributors shall include the required contact information on their Web sites (assuming the distributor has a Web site), in telephone directories, and in billing statements (to the extent billing statements are issued). Distributors shall keep their contact information current, and when there are changes they must update this information as promptly as possible, and in any event within 10 business days for Websites, by the next billing cycle for billing statements, and by the next publication of directories.

To assist consumers in locating contact information, the Commission shall provide a list of video programming distributors' contact information (*i.e.*, the name of the appropriate person and/or office to contact, telephone numbers, e-mail addresses) on its Web site. To establish this listing, video programming distributors and broadcast services must file the required contact information, for both immediate concerns and written captioning

complaints, with the Chief of the Disability Rights Office, Consumer and Governmental Affairs Bureau, or by sending the information to CLOSEDCAPTIONING_POC@fcc.gov, within 30 days of the publication in the Federal Register of a notice announcing approval of the new rule provisions by the Office of Management and Budget.

After compiling and posting the list on the FCC's Web site, Commission staff shall prepare a Public Notice advising consumers and other interested parties how to obtain access to the contact information. This information shall also be available by telephone inquiry to the Commission's Consumer Center. Distributors shall promptly notify the Commission each time there is a change in any of this required information, and in any event within 10 business days.

Complaints: As noted, the Order revises the closed captioning rules to permit the filing of closed captioning complaints with either the video programming distributor or the Commission. The Commission will still require closed captioning complaints to be in writing, and to be filed by e-mail, fax, or letter. The Order amends the time frames associated with filing closed captioning complaints to require that a consumer file the complaint within sixty (60) days of the date when the captioning problem occurs. If the complaint is first filed with the Commission, the Commission shall promptly forward complaints that satisfy the complaint criteria to the appropriate video programming distributor, and that distributor must respond to the complainant in writing within thirty (30) days after the date of receipt of the complaint from the Commission.

If a complaint is first filed with the video programming distributor, the video programming distributor must respond in writing to the complainant within thirty (30) days after receipt of a closed captioning complaint. If a video programming distributor fails to respond to the complainant within thirty (30) days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within thirty (30) days after expiration of the time allotted for the video programming distributor to respond.

If a consumer re-files his or her complaint with the Commission (after filing with the distributor), the Commission will forward the complaint to the distributor, and the distributor shall respond to the Commission and the complainant within thirty (30) days after receipt of the complaint from the Commission.

Similar to the time period established for responding to complaints sent to the correct video programming distributor, the entity receiving the forwarded complaint shall respond to the complainant within 30 days after the forwarding date of the complaint.

Consumers are encouraged to include specific information in their complaint. Where it appears from the video programming distributor's response to a complaint, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter resolved, and will so notify the complainant. In all other cases, the Commission shall inform the parties of its review and disposition of the informal complaint.

Weblinks

Declaratory Ruling, Order and Notice of Proposed Rulemaking - FCC 08-255, released on November 7, 2008.

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-255A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-255A1.pdf

Erratum released December 3, 2008

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287146A1.doc

http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287146A1.pdf