



PUBLIC NOTICE

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DA 15-534
May 5, 2015

FILING PROCEDURES FOR REPORTING NON-CERTIFYING VIDEO PROGRAMMERS UNDER THE CLOSED CAPTIONING RULES

CG Docket No. 05-231

By this Public Notice, the Consumer and Governmental Affairs Bureau (CGB or Bureau) announces the filing procedures applicable to section 79.1(j)(1) of the Commission's rules, which requires video programming distributors (VPDs) to submit reports identifying those video programmers who do not provide widely available certifications regarding the quality of the closed captions provided with their programming.¹ The Bureau also reminds video programmers of the requirements applicable to certifications under section 79.1(k)(1)(iv), establishing Best Practices for video programmers.²

On February 24, 2014, the Commission released the *Closed Captioning Quality Order*, in which it adopted rules requiring each VPD to make best efforts to obtain a certification from each video programmer from which the VPD obtains programming stating (i) that the video programmer's programming satisfies the caption quality standards,³ (ii) that in the ordinary course of business, the video programmer has adopted and follows the Best Practices for video programmers with respect to captioning quality,⁴ or (iii) that the video programmer is exempt from the closed captioning rules, under one or more properly attained exemptions.⁵

VPDs may satisfy their best efforts obligations by locating a programmer's certification on the programmer's website or other widely available locations.⁶ If a VPD is unable to locate such certification on the programmer's website or other widely available location, the VPD must inform the video programmer in writing that the video programmer must make widely available such certification within

¹ 47 C.F.R. § 79.1(j)(1); see also *Closed Captioning of Video Programming; Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking*, CG Docket No. 05-231, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 2221, 2256, n.206 (2014) (*Closed Captioning Quality Order*) (directing CGB to issue a Public Notice "announcing the proper procedure for submitting such reports to the Commission").

² 47 C.F.R. §§ 79.1(j)(1), (k)(1)(iv).

³ See *id.* § 79.1(j)(2) (stating the requirements with regard to the captioning quality standards).

⁴ See *id.* § 79.1(k)(1) (stating the specific requirements with regard to the Video Programmer Best Practices); see also *id.* § 79.1(k)(1)(iv) (stating the requirement for programmers who adopt the Video Programmer Best Practices to provide certifications to VPDs that they adhere to Best Practices).

⁵ *Id.* § 79.1(j)(1); *Closed Captioning Quality Order*, 29 FCC Rcd at 2254-56, ¶¶ 54-57.

⁶ 47 C.F.R. § 79.1(j)(1).

30 days after receipt of the written request.⁷ If a video programmer does not make such certification widely available within 30 days after receipt of a written request, the VPD “shall promptly submit a report to the Commission identifying such non-certifying video programmer for the purpose of being placed in a publicly available database.”⁸

The following procedures apply to the reporting obligations under section 79.1(j)(1) of the Commission’s rules:

- A VPD must send the name and contact information of the video programmer via e-mail to <captioningcertification@fcc.gov>.⁹
- Because section 79.1(j) requires that such information be reported promptly, we expect VPDs to report the information (1) within 40 days of the date that the VPD informed the video programmer that the video programmer must make the certification widely available or (2) within 30 days of the date of this Public Notice, whichever is later.¹⁰
- Upon receipt of a report identifying a non-certifying video programmer, the Commission will send an acknowledgement to the VPD by e-mail and will place the name of the non-certifying video programmer in a publicly available database.¹¹
- If a video programmer provides a certification in compliance with the Commission’s rules after the VPD has submitted a report identifying the video programmer to the Commission as non-certifying, the VPD may notify the Commission of this certification via e-mail to <captioningcertification@fcc.gov>.

We also remind video programmers that, if a video programmer chooses to make widely available a certification stating that, in the ordinary course of business, it has adopted and follows the Best Practices for video programmers with respect to captioning quality, such certification must be executed by the *video programmer* and state that the *video programmer* adheres to the Best Practices for video programmers.¹² A video programmer that makes widely available only a certification *from a captioning vendor* stating that the captioning vendor complies with the captioning vendor Best Practices will not have provided a certification that satisfies section 79.1(k)(1)(iv) of the Commission’s rules. First, a certification from a captioning vendor does not satisfy the requirement that that the *video programmer* certify adherence to the video programmer Best Practices.¹³ Second, a certification from a captioning vendor does not address all of the Best Practices for video programmers set forth in the Commission’s

⁷ *Id.*

⁸ *Id.*

⁹ The contact information of the video programmer must include the video programmer’s address, telephone number, and e-mail address.

¹⁰ Because this guidance is issued after the March 16, 2015 effective date of section 79.1(j)(1), we are affording VPDs 30 days from the date of this Public Notice to begin complying with the rule’s reporting requirements. *See* 79 FR 77916 (Dec. 29, 2014).

¹¹ *See* 47 C.F.R. § 79.1(j)(1). The Bureau will release a Public Notice announcing the web address of the publicly available database when it is available.

¹² *Id.* § 79.1(k)(1)(iv) (stating that video programmers adopting Best Practices “will certify to video programming distributors that they adhere to Best Practices for video programmers and will make such certifications widely available to video programming distributors, for example, by posting on affiliate Web sites”).

¹³ *See id.* §§ 79.1(j)(1), (k)(1)(iv).

captioning rules.¹⁴ Therefore, to satisfy the Commission's rules, the certification from the video programmer must state that the video programmer adheres to the video programmer Best Practices.

Accessible Formats: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to <fcc504@fcc.gov> or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). This *Public Notice* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/encyclopedia/closed-captioning-video-programming-television>.

For Further Information Contact: Caitlin Vogus, Consumer and Governmental Affairs Bureau, Disability Rights Office, 202-418,1264, Caitlin.Vogus@fcc.gov; or Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, 202-418-2235, Eliot.Greenwald@fcc.gov.

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¹⁴ Ensuring that new and renewed contracts with captioning vendors include performance requirements comparable to those described in the captioning vendor Best Practices is only one part of the Best Practices for video programmers. *See id.* §§ 79.1(k)(1)(i), (ii), (iii).