

Closed Captioning Obligations for PEG Programming

Under the Federal Communications Commission's Rules

November 10, 2015



FCC requirements to caption PEG programming vary, depending on whether the programming is shown on television or via Internet protocol (IP).

On **television**, PEG programming must be captioned unless the programming is exempt.

- Now, 100% of all “new, non-exempt” programming shown on television must be captioned.
- 75% of older “pre-rule” programs (i.e., published or exhibited before 1/1/98 for analog programs, and before 7/1/02 for digital programs) must be captioned.

Exceptions to the 100% captioning requirement for new non-exempt programming shown on television:

1. The programming falls under one of the thirteen self-implementing categorical exemptions. 47 C.F.R. § 79.1(d).
2. Video programming distributors are not required to caption PEG programming that is not subject to the editorial control of the distributor. However the producers and owners of PEG programs must caption such programming. 47 C.F.R. § 79.1(e)(9).

Thirteen Categorical Exemptions (1)

1. Programming subject to contractual captioning restrictions in effect on or before February 8, 1996.
2. Requirement has been waived.
3. Programming other than English or Spanish language.
4. Primarily textual programming.
5. Programming distributed in late night hours – between 2:00 a.m. and 6:00 a.m.; or if distributed in multiple time zones, a 4-hour period between midnight and 7:00 a.m.
6. Interstitials, promotional announcements and PSAs that are 10 minutes or less in duration.

Thirteen Categorical Exemptions (2)

7. Educational Broadcast Service (EBS) programming pursuant to part 27 of the rules.
8. Non-news programming locally produced by a video programming distributor with no repeat value, and for which the electronic newsroom technique is not available.
9. Programming on new networks for the first 4 years after launch.
10. Primarily non-vocal musical programming.
11. Captioning expense in excess of 2 percent of gross revenues from that channel.
12. Channels or streams producing revenues of under \$3 million.
13. Instructional programming locally produced by public television stations for use in grades K-12 and post secondary schools.

- **Full-length PEG programming shown on the Internet must be captioned if shown on television with captions:**
 - After 9/30/12 for **prerecorded** video programming not edited for the Internet.
 - After 3/30/13 for **live and near-live** video programming.
 - After 9/30/13 for prerecorded video programming that has been substantially edited.
- **Archived** Internet PEG programming must be captioned:
 - As of 3/30/15, within 30 days after date shown on TV with captions.
 - Starting 3/30/16, within 15 days after date shown on TV with captions.
- **IP video clips** of PEG programming must be captioned if shown on TV with captions:
 - If posted after 1/1/16 for straight lift clips (single excerpt of a program).
 - If posted after 1/1/17 for montages of video clips (single file contains multiple video clips).
 - If posted after 7/1/17 for clips of live or near-live television programming.

(See 47 C.F.R. § 79.4. Exemption petitions based on economical burden may be filed under § 79.4(d).)



Captioning Quality Standards for Non-Exempt Televised PEG Programming:

- **Accuracy:** Captions must reflect the dialogue and other sounds and music in the audio track to the fullest extent possible based on the type of the programming, and must identify the speakers.
- **Synchronicity:** Captions must be synchronous with their corresponding dialogue and other sounds to the fullest extent possible based on the type of the programming, and must appear at a speed that can be read by viewers.
- **Program Completeness:** Captions must run from the beginning to the end of the program, to the fullest extent possible, based on the type of the programming.
- **Placement:** Captions may not cover up other important on-screen information, such as character faces, featured text, graphics, or other information essential to the understanding or accessing of a program's content, and other information may not cover up captions.

See 47 C.F.R. § 79.1(j)(2).

Captioning quality of covered Internet programming must be “at least of the same quality as the television captions provided for the same programming.” 47 C.F.R. § 79.4(c)(1)-(2).

Even if exempt under FCC rules, entities may still have an obligation under other federal laws to make the programming accessible to individuals with disabilities. From the FCC's 1997 Report and Order:

- “[E]ntities that qualify for an exemption under Section 713 may be obligated under other federal statutes, such as the ADA, to make their services and programs, including video programming services, accessible to an individual with disability upon request. We do not intend our rules to preclude or supersede the operation of any other federal laws that may require an entity exempt from Section 713 to make its video programming services accessible to people with disabilities.” *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Video Programming Accessibility*, MM Docket No. 95-176, Report and Order, 13 FCC Rcd 3272, 3342 n.534 (1997).

Your Resources at the FCC

- Visit FCC Disability Rights Office webpage:
 - <http://www.fcc.gov/cgb/dro>
- Subscribe to AccessInfo@fcc.gov
- Contact FCC DRO at:
 - DRO@fcc.gov (e-mail)
 - 844-432-2275 (VP)
 - 202-418-2517 (voice)
 - 888-835-5322 (TTY)
- Online complaint form: www.fcc.gov/complaints

