

## FCC Releases Proposed Internet Closed Captioning Rules

By Brian Hurh

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In a very late release today, the FCC has issued for comment its proposed rules for closed captioning of IP-delivered videos (NPRM available [here](#)). Pursuant to the 21st Century Communications and Video Accessibility Act (discussed earlier [here](#)) and other related events, the FCC is required to adopt final Internet closed captioning rules by January 12, 2011. This gives the FCC less than four months to solicit and consider comments and replies before issuing its final rules. Consequently, the FCC has provided a mere **20 days** (from publication in the Federal Register) to submit comments, and **10 days** to submit reply comments. Interested parties may want to start drafting their comments now.

As we noted earlier [here](#), the Video Programming Accessibility Advisory Committee had issued its report of recommendations for implementing closed captioning on the Internet. That report recommended, among other things, an Internet closed captioning standard (SMPTE-TT) and a schedule of tiered compliance deadlines.

In the NPRM, the FCC has proposed NOT to adopt a technical standard, but has instead proposed to allow parties to negotiate an appropriate interchange format. The FCC believes that, if SMPTE-TT is indeed the "best interchange format, [then] the industry will settle on that format without Commission intervention and, if it is not [the best], the industry will come to a different agreed-upon format." The FCC did, however, leave itself the option to adopt a standard under the final rules. Thus, the FCC has asked whether it should allow parties to comply using "alternate means" rather than an FCC-adopted standard.

On the other hand, the FCC has proposed to adopt the VPAAC's recommended compliance schedule, which the FCC deemed to be "reasonable." That schedule, if unchanged under the final rules, would require the following compliance deadlines (measured from the date the final rules are published in the Federal Register):

- Within 6 months: Prerecorded programming that is unedited for Internet distribution;
- Within 12 months: Live or near-live programming;
- Within 18 months: Prerecorded programming that is edited for Internet distribution.

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Other highlights from the NPRM include:

- Proposed procedures for petitioning the Commission for full or partial exemptions under the same "economically burdensome" standard used with respect to television closed captioning;
- Request for comments as to the meaning of "de minimis failure to comply" and relevant factors, including type of failure, reason for failure, frequency of failure (one-time or continuous), and timeframe within which the failure was remedied.

Further details of the NPRM will be provided in our DWT Advisory, which we will release shortly.

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