

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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Response to NPRM on)

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Closed Captioning of Video Programming) CG Docket No.
05-231

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Comments of Dana Mulvany, MSW

These comments are written in response to the FCC's Notice of Proposed Rulemaking and in support of the petition from TDI, SHHH, NAD, ALDA, and DHHCAN to improve the quality of captions for television programming.

I write these comments as a hard of hearing individual who herself relies heavily upon captioning and as a member of the public with an interest in all members of society being able to understand television programming effectively.

- 1. Do you think there should be standards for the non-technical quality of closed captioning?*

Yes, the FCC should adopt such standards. Standards should take into account whether the captioning is performed in real-time, which requires the services of highly skilled realtime captioners, or is produced prior to the broadcast. Mistakes during realtime captioning are inevitable; the captioner will need to exercise judgment in

correcting them. For pre-broadcast captions, however, much higher standards for captions should apply, such as indicating who is speaking, non-verbal information, narrated information, etc.

Lyrics of songs are often left out of captions due to concerns about copyright but should always be automatically included; the FCC needs to take action to clarify to the public that copyright law does not prevent captioning of songs or any other audio material provided on video programming.

2. Do you think there should be a different process to take care of technical problems with captioning immediately?

A different process is desperately needed. The current state of affairs is terrible for consumers with hearing loss, who often have no way of contacting the broadcaster to tell them of an immediate problem. Often the captioning problems are not being monitored at the station level and no action will be taken to correct the problem otherwise.

For example, stations sometimes show election results during a regular program in a way that temporarily stops the captions for the program. More frequently, some stations fail to transmit recorded captions on programs after breaking news have been provided, apparently due to switching problems. I have never seen a web site for a television station provide any information about what consumers can do if there are captioning problems.

I agree with the request of the consumer organizations that “The FCC should establish and maintain a database with updated contact information for video programming distributors and providers, enabling consumers to quickly locate whom to call with a complaint – name, address, TTY/toll free phone number, fax number, e-mail address. It should be updated within 7 days of any changes.” I would add that **this database should be available on the FCC web site.**

I also request that all providers of video programming provide information on their web site about how consumers can contact them immediately if there are captioning problems. This information should be placed under an “Accessibility” link on the home page and then under a link such as “Captioning Problems.”

3. Do you think there should be a change in the complaint procedure for captioning?

The current requirements for filing a complaint about captioning are confusing. Much clearer guidance is needed, such as what is meant by “evidence” of the captioning problems. Furthermore, many consumers have attempted to complain to their cable or satellite television provider but have not been able to navigate the voice menu system because of their hearing loss, and have thought they could not file a complaint with the FCC due to not having a written complaint to their cable service provider. The complaint process has therefore been completely inaccessible to many consumers with hearing loss. If providers of video programming were required to provide information on their web sites about an email address to receive complaints of captioning problems, this would provide a track record for the consumer of written correspondence.

I support the petitioners’ request for the FCC to adopt a captioning complaint form and to change the complaint rules to require responses to complaints on quality issues within 30 days.

4. Do you think the FCC should set a penalty for captioning that is missing, dropped, garbled, inaccurate, etc.?

For several days in late October, 2005, captions for many pre-recorded NBC programs were garbled, beginning Thursday, October 24th. On Sunday, October 30th, I discovered from correspondence with people on five different listserves that

nearly all viewers of primetime NBC programs in the entire United States experienced severely garbled captioning, rendering the captioning for “The West Wing” and subsequent programs unintelligible. NBC had allowed these captioning problems to persist for several days leading up to October 30th; the problems were not fixed until Monday morning. NBC’s captioning problems thus affected **hundreds of thousands of viewers of captioning in the entire United States across all time zones.**

I personally emailed the email address for “The West Wing” and asked for an alternative captioned viewing of the affected episode of “The West Wing” but not one person from NBC has responded to me. No attempt was made by NBC to rectify the fact that hundreds of thousands of viewers who rely upon captioning were not able to understand NBC programs on the evening of October 30th. No public apology was ever made.

Since broadcasters and providers of programming are apparently not taking responsibility for monitoring and correcting captioning problems immediately, the FCC must set forth penalties to force them to do so. Furthermore, they should provide restitution for missing captions as soon as possible in a form of captioned programming that is accessible to the complainant. If penalties are set, they must reflect the scope of the affected area and the length of time the captioning problems existed, and should thus discourage broadcasters from not requiring monitoring and resolution of captioning problems. Because local providers of video programmers rely on the broadcaster to provide proper transmission of captions, there needs to be a mechanism established to fine broadcasters if they do not monitor and correct captioning problems over which they have control.

Although the TDI petition had requested that the FCC establish fines and that there be a base \$8,000 per infraction, captioning problems can persist for hours and days; the penalty should be larger the longer the problems persist.

5. Do you think “video program distributors” (broadcast, cable, satellite) should be required to file compliance reports about the amount of closed captioning they provide?

I think the video program distributors should file compliance reports that also discuss efforts to continuously monitor captioning and efforts to correct captioning problems. These reports should also discuss how they publicize contact information to the public if captioning problems are perceived.

6. Do you think the requirement for real-time captioning of TV news programs should be expanded beyond the “top 25” markets?

The FCC will need to take into consideration the availability of qualified, skilled real-time captioners and the accuracy of speech-recognition programs before expanding the requirement for real-time captioning of TV news programs. I am concerned that at this time, there may not be enough qualified real-time captioners in the United States to meet real-time captioning needs for all news programs at this time with professional standards. However, if there is a lack of sufficient numbers of qualified real-time captioners, it may be desirable for news stations to apply for permission to temporarily relax standards for real-time captioning if their news program is outside the “top 25” markets in order to provide better access to news than news feeds alone can provide. (Real-time captioners usually need considerable time to develop their skills.)

7. Do you think there should be a procedure to prevent and remedy technical problems?

I agree with the petitioners’ request: “The FCC should require continuous monitoring by video program distributors or providers – and routine checks of their equipment -- to ensure that technical problems are remedied promptly and efficiently.”

The FCC should also publish information about how to prevent and remedy technical problems.

8. How do you feel about disclaimers we sometimes see on TV that say the provider is not responsible for the correctness of the captions?

Programming distributors should be held responsible for captioning, not the captioning agency, particularly since they often choose not to hire skilled service providers. They also need to be held responsible for providing information about content to the service provider before the captioning is provided.

Captioning is extremely important to the quality of life of millions of Americans with hearing loss. Thank you for your very important work on this important subject.

Sincerely,

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