

## **A PERMANENT DEFAULT CAPTIONING-OFF RULE SHOULD NOT BE ADOPTED**

### ➤ **The interim default captions-off requirement is highly disruptive and problematic.**

- The interim default-off rule has proven highly disruptive to many IP CTS consumers that consider themselves deaf, hard of hearing, or have a vision and hearing loss, as well as those individuals who have a hearing loss and a mobility disability.
- The interim rule has effectively deprived many IP CTS consumers of their ability to secure functionally equivalent telecommunications services through IP CTS, thereby undermining its very purpose.
  - According to family members, elderly consumers who suffer from cognitive disabilities, such as dementia, Alzheimer's, and other types of memory loss find extremely difficult to remember to turn captions on.
- IP CTS consumers questioned whether the interim default-off rule should apply to deaf or hard of hearing individuals who live in exclusively non-hearing households.
- IP CTS consumers have expressed frustration and dissatisfaction with the additional step suddenly required to place and receive calls with captions, particularly since this phone was designed specifically for people with hearing loss who need captions to understand the conversation.
- Survey data indicates that 75% of CaptionCall's customers prefer "default-on" captioning.
- Given the Interim Order's expedited default-off rule implementation date, the default-off captioning software was designed quickly and not tested fully and as a result, has many problems.
  - For example, IP CTS consumers must often push the "captions-on" button three or four times, or have to hang up and initiate a new call before the captions actually appear.
- Not only do these problems impede the ability of IP CTS consumers to make phone calls, but also the problems place these consumers in a dangerous predicament if they cannot complete an emergency telephone call should an emergency situation arise.
- Current feedback from IP CTS consumers appears to demonstrate that prohibiting "default-on" captioning contravenes the functional equivalence mandate of the ADA, Section 225.
  - Forcing IP CTS consumers to turn captions on for every call is not functionally equivalent to a hearing user's ability to pick up a telephone and make a call.
  - Prohibiting "default on" may also conflict with Section 255 of the Communications Act, Section 716 of the Twenty-First Century Communications and Video Accessibility Act of 2010, the National Deaf-Blind Equipment Distribution Program ("NDBEDP"), and the regulations promulgated thereunder.
- Before the interim default-off rule is made permanent, the FCC should have an independent research group conduct a usability study, especially to assess the impact of a rule on persons with visual impairments or cognitive disabilities.

- **The interim default-off captioning rule is likely not reducing ineligible IP CTS usage.**
  - IP CTS usage reduction is based on the difficulties eligible IP CTS consumers are experiencing by having their IP CTS equipment set at default off.
    - CaptionCall’s experience reveals that the IP CTS demographic is the most likely to struggle with changes to a high-tech service.
    - When IP CTS service becomes more difficult to use, some eligible customers simply choose not to use it.
    - Any usage reduction serves as evidence that the Commission, contrary to ADA mandates, has erected barriers to usage of the service by the people with the very disability IP CTS accommodates.
- **If the interim default-off captioning rule is rescinded and the default-on setting is permitted again, IP CTS providers should obtain an additional certification.**
  - IP CT providers should permit consumers to have a “captions-on” default for their IP CTS device if they provide a separate certification, that:
    - They understand that the captioning service is provided free of charge by a live communications assistant (“CA”) dedicated to each of their captioned calls, and reimbursed by the TRS Fund;
    - Their device is not accessed by or easily accessible to ineligible users; and
    - They will not permit the use of captions on their device by any ineligible users.