

# ***SWM**MEMO*

A Memorandum to Our Clients

From the law offices of SCHWARTZ, WOODS & MILLER

January 30, 2015

## **CLOSED-CAPTIONING CERTIFICATION COMPLIANCE**

### **– Suggested Certification –**

As you know, the FCC has postponed until March 16, 2015, the deadline for compliance with the new closed captioning quality rules. Those rules include the requirements that stations obtain certifications of compliance from entities which make programs available to them and provide compliance certifications in connection with programming they produce which is provided to others (see SWM Memos 3305 and 3322). Despite the extended deadline, numerous entities, including commercial networks, PBS, stations and other programmers have moved ahead with their own certification compliance attempts, resulting in a multiplicity of approaches and attendant confusion. We have reviewed the FCC's rules and the efforts of the various players; our advice for you is below.

Your obligation as a station to make "best efforts" to secure certifications can be met by finding compliance statements on programmer websites. We are aware that such a statement has been posted already by PBS, CBS and other networks. We expect that you will be able to find certifications by most other entities that provide programming to you on their websites. If you cannot find such a certification, you must ask for it. You are not required to download certifications from parties that distribute programming to you; however, it may be helpful to your recordkeeping to do so.

If you provide programming you produce to other stations, including through PBS COVE, the March 16<sup>th</sup> deadline applies to any non-exempt program first broadcast on or after that date. For this programming, we recommend that you post on your website the following certification:

## ***SUMMARY:***

SWM provides guidance for compliance with new closed captioning quality rules certification requirements.

## ***DEADLINES:***

Certification requirement applies to any non-exempt programming first broadcast on or after March 16, 2015.

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***“Programs produced by [insert your licensee name or other clear identifier or call sign] for broadcast by others comply with the captioning quality standards embodied in Section 79.1(j)(2) of the rules of the Federal Communications Commission.”***

We advise that this certification be posted where stations airing programs you produce can readily find it. For public TV stations, if PBS has asked you for a certification and you have not already responded, we suggest that you provide a link to your online certification.

While the FCC has an ongoing proceeding to change the certification process that may eventually complicate matters, this is what we recommend you do for now. Please contact us if you have any questions.