

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13–24 and 03–123; FCC 13–118]

Misuse of Internet Protocol (IP) Captioned Telephone Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In this document, the Commission amends its rules for Internet Protocol Captioned Telephone Service (IP CTS) to remove certain paragraphs of the rules that were vacated by the United States Court of Appeals for the District of Columbia Circuit, and to remove notes that are no longer applicable and to make conforming revisions to certain paragraphs of the rules adopted in *Misuse of Internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*. The notes indicated that the Commission would publish a notice specifying the demarcation date, a registration deadline, and certain effective dates of various provisions of the amended rules after the amendments were approved by the Office of Management and Budget (OMB). Since the Commission has announced the effective date of each of these provisions in the **Federal Register**, the notes are no longer applicable.

DATES: Effective August 28, 2014.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418–2235 (voice), or email Eliot.Greenwald@fcc.gov.

SUPPLEMENTARY INFORMATION: On August 30, 2013, the Commission published final rules in the **Federal Register** at 78 FR 53684, which addressed marketing, labeling, registration, and default equipment-setting requirements for the internet protocol captioned telephone relay service (IP CTS). On June 20, 2014, the D.C. Circuit issued an order vacating the Commission's rule prohibiting compensation to providers for minutes of use generated by equipment consumers received from providers for free or for less than \$75, 47 CFR 64.604(c)(11)(i), and the Commission's rule requiring providers to maintain captions-off as the default setting for IP CTS equipment, 47 CFR 64.604(c)(10)(i), (iii) through (v). *Sorenson*

Communications, Inc. and CaptionCall, LLC v. FCC (D.C. Cir. Nos. 13–1122 and 13–1246, June 20, 2014).

The Commission published a notice in the **Federal Register**, at 79 FR 40003, July 11, 2014, stating that among other things, the rule regarding the labeling of equipment, software, and mobile applications, 47 CFR 64.604(c)(11)(iii), would become effective immediately. Today, the Commission publishes a notice in the **Federal Register** stating that the rule regarding consumer registration and certification, 47 CFR 64.604(c)(9), become effective immediately.

This document amends § 64.604(c)(9) through (11) of the Commission's rules by removing the notes and by revising specific rules sections as they appeared in the **Federal Register**.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

- 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

- 2. Amend § 64.604 as follows:

- a. Revise paragraphs (c)(9)(ii) introductory text, (c)(9)(iii) introductory text, (c)(9)(iv) and (v), (vii), (xi), and paragraph (c)(10);
- b. Remove and reserve paragraph (c)(11)(i); and
- c. Revise paragraph (c)(11)(iii).
- d. Remove paragraphs (c)(11)(iv) and (v).

The revisions read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(9) * * *

(ii) *Self-certification prior to August 28, 2014.* IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written

certification shall attest that the consumer needs IP CTS to communicate in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

* * * * *

(iii) *Self-certification on or after August 28, 2014.* IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

* * * * *

(iv) The certification required by paragraphs (c)(9)(ii) and (iii) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(v) *Third-party certification prior to August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75 and the consumer was registered in accordance with the requirements of paragraph (c)(9) of this section prior to August 28, 2014, the IP CTS provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (c)(9)(xi) of this section.

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(vii) *Third-party certification on or after August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid \$75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with the requirements of

paragraph (c)(9) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as provided in paragraph (c)(9)(xi) of this section.

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(xi) IP CTS providers must obtain registration information and certification of hearing loss from all IP CTS users who began receiving service prior to March 7, 2013, within 180 days following August 28, 2014.

Notwithstanding any other provision of paragraph (c)(9) of this section, IP CTS providers shall be compensated for compensable minutes of use generated prior to February 24, 2015 by any such users, but shall not receive

compensation for minutes of IP CTS use generated on or after February 24, 2015 by any IP CTS user who has not been registered.

(10) *IP CTS settings.* Each IP CTS provider shall ensure that each IP CTS telephone they distribute, directly or indirectly, shall include a button, icon, or other comparable feature that is easily operable and requires only one step for the consumer to turn on captioning.

(11) * * *

(iii) IP CTS providers shall ensure that any newly distributed IP CTS equipment has a label on its face in a conspicuous location with the following language in a clearly legible font: "FEDERAL LAW PROHIBITS ANYONE BUT REGISTERED USERS WITH HEARING LOSS FROM USING THIS DEVICE WITH THE CAPTIONS ON." For IP CTS equipment already

distributed to consumers by any IP CTS provider as of July 11, 2014, such provider shall, no later than August 11, 2014, distribute to consumers equipment labels with the same language as mandated by this paragraph for newly distributed equipment, along with clear and specific instructions directing the consumer to attach such labels to the face of their IP CTS equipment in a conspicuous location. For software applications on mobile phones, laptops, tablets, computers or other similar devices, IP CTS providers shall ensure that, each time the consumer logs into the application, the notification language required by this paragraph appears in a conspicuous location on the device screen immediately after log-in.

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