



**** IHS Member Advisory ****

U.S. Federal Communications Commission Rules and Advice Regarding Internet Protocol Captioned Telephone Services

Background

In 2018 the U.S. Federal Communications Commission began public proceedings to consider and update the existing rules related to Internet Protocol Captioned Telephone Services (IP CTS). This action came because the usage rates of IP CTS had grown exponentially, and the FCC was concerned about fraud, abuse, and waste within the system, as well as other inefficiencies. IHS both submitted public comments and met with FCC staff to share its perspectives and recommendations on the future of the program.

In its letter to and meeting with the commission, IHS expressed its support for IP CTS for qualified users, encouraged the commission to retain the role of hearing aid specialists and audiologists in being able to certify eligibility for captioned telephone use, and recommended these professionals be able to rely on the findings of their comprehensive hearing evaluations combined with professional judgment in making determinations.

FCC released a Report and Order, and rules on February 15, 2019, which were published in the Federal Register on March 8 and became effective on April 8, 2019, and address some of the topics raised in its 2018 request for feedback. Other issues for which feedback was sought are still under consideration by FCC staff.¹

What are Internet Protocol Captioned Telephone Services and how does the IP CTS program work?

The Internet Protocol Captioned Telephone Service (IP CTS) program provides hard of hearing and deaf individuals a form of telephone relay service (TRS) that relies on the use of captioned telephones using an Internet connection. The program is fully funded by the Telephone Relay Service Fund and the captioned telephone services are provided free of charge to the certified user. The captioned telephones display to the user a written transcription of what the other party on the phone is saying through captioning. The predominantly used model relies on having an intermediary communications assistant re-voicing the hearing party's words into a speech recognition program that transcribes the words into captions. Hearing healthcare providers are among the entities permitted to certify eligibility. Consumers may also self certify. Captioned telephones are then distributed, and the captions are provided by IP CTS providers (i.e., Caption Call, Clear Captions, Hamilton Relay, InnoCaption, and Sprint.)

¹ <https://docs.fcc.gov/public/attachments/FCC-19-11A1.pdf>

What do hearing health providers and patients need to know?

The changes made through the Report and Order, and rules largely impact IP CTS providers. For example, once a hearing healthcare provider certifies an individual's eligibility for use of a captioned telephone, under the new rule, the IP CTS provider is responsible for registering the individual in the new User Registration Database, which is a condition of payment by the TRS to the IP CTS provider for captioning services provided to that individual.

There were no significant changes adopted as part of the recent order that impact hearing healthcare professionals. However, there are existing regulations with which hearing healthcare professionals must comply, as well as key messages for consumer and professional awareness. It is important to note that FCC does not have jurisdiction over hearing aid dispensing professionals, and that any determination of non-compliance would fall to state licensing agencies.

The hearing healthcare provider must comply with following requirements per 47 CFR § 64.611(j)(x):

- (A) [The provider be] qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.
- (B) Provide his or her name, title, and contact information, including address, telephone number, and email address.
- (C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

The FCC is considering a modification to the compliance requirements:

- The professional must be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional;
- Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider;

- The third party professional making such certification may not have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service;
- He/she must provide his or her name, title, and contact information, including address, telephone number, and email address; and
- He/she must certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

If a deaf or hard of hearing patient or client is unable to use a conventional phone to effectively communicate and is in need of an alternate telephone communication system, licensed hearing healthcare providers may provide an evaluation for individuals to be certified to receive captioned telephones.

The hearing healthcare provider should rely on a combination of the results from a comprehensive hearing evaluation and any additional testing necessary, as well as a consideration of other factors relevant to the patient's/client's health status, to determine whether the patient/client could be best assisted through the use of a captioned telephone, or whether he/she could effectively function with an alternate device or telephone system, such as TYY, an amplified telephone, or smartphone application. While not required, hearing healthcare professionals may choose to periodically re-evaluate whether IP CTS is still the best method for telephonic communication, given changes to the client's hearing ability and/or new technology options either offered through their hearing aids or as other new assistive technologies become available.

The FCC emphasizes that both providers and patients need to be aware that:

- The captioned telephone is for the use of the qualified individual only. Use of the captioned telephone by any person other than the qualified individual is prohibited.
- There is a per-minute cost to using the caption feature of the captioned telephone.
- The use of other assistive devices/features such as amplified telephones or specialized apps for smartphones should be fully considered prior to making a recommendation for a captioned telephone.
- Hearing healthcare providers may not enter into exclusive arrangements with captioned telephone providers.

IHS reminds members that licensed professionals must abide by all applicable federal and state advertising and licensing laws, as well as their professional codes of ethics in participating in services related to the assessment for and delivery of captioned telephones. **To that end, hearing aid dispensing and audiology practices should not advertise the availability of free captioned telephone assessments in general marketing materials.**

In Summary

Captioned telephones are an effective tool for many hard of hearing consumers, and hearing aid dispensing professionals are encouraged to consider them as a potential tool, when indicated, and in adherence with federal and state requirements. The FCC recognizes the value of hearing healthcare professionals as educators about the potential benefit of IP CTS if the right solution for them.

To Learn More

- FCC's IP CTS Consumer Guide: <https://www.fcc.gov/consumers/guides/internet-protocol-ip-captioned-telephone-service>
- FCC's February 2019 Report and Order, Further Notice of Proposed Rulemaking, and Order: <https://docs.fcc.gov/public/attachments/FCC-19-11A1.pdf>
- IHS Code of Ethics: http://ihsinfo.org/lhsV2/Resources/020_Code_Of_Ethics.cfm.