

*The French Chef Still Waits for The Annoying Orange:  
Making online programming accessible to people with disabilities*

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## Executive Summary

When *The French Chef* appeared on PBS in 1972 with open captions, it marked the first time TV had ever been accessible to the deaf and hard of hearing. Despite closed-captioning's popularity, it took another 18 years to pass a law requiring captions for most TV and cable shows. Nearly 40 years later, when viewers tuned in to watch *The Annoying Orange*, the chart-topping Webisode series, none of the videos were captioned.

With the rise of the Internet, TV and cable/satellite networks are at a crossroads again. Their content is moving online to meet the demands of always-on consumers, and the captioning technology, standards and processes must begin anew. At the same time, new types of programming that didn't exist before the Internet are growing in popularity, but making them accessible has been a low priority.

As consumers achieve greater freedom in how and where they watch and listen to movies, dramas, sitcoms and sports, it is increasingly important that Americans with disabilities are able to access and enjoy this programming along with them. As it stands now, the explosion of emerging online programming, and the move from the tube and the silver screen to the Internet, means fewer safeguards in place to protect people with disabilities' access to their favorite shows.

In the U.S. there are 25 million people with significant vision loss, and 36 million Americans have reported some form of hearing loss -- a number that is expected to double by 2030<sup>1</sup>. There are now 75 million Baby Boomers who will encounter vision, hearing, cognitive and mobility disabilities as they age, and more than one million veterans returning home from a decade-long war -- many with physical and mental conditions.

The new Twenty-first Century Communications and Video Accessibility Act signed into law (Public Law 111-260) on October 8, 2010 is a tremendous step in the right direction for these groups. However, the law's limited scope means that hundreds of hours of online programming will not be captioned or described for people with hearing and vision disabilities. This includes popular Webisodes, YouTube videos, podcasts and movies from Netflix, which now offers streaming TV shows and movies online and through devices like iPhones and PlayStation consoles.

Some of these programmers are voluntarily choosing to make their online content accessible. While good faith efforts are much appreciated, it is wise for policymakers and businesses to consider the breadth of emerging online programming and look at the implications of accessibility for the millions of Americans with disabilities.

abledbody lays out the current online programming landscape and attempts to analyze:

1. What the law covers, and what content is not covered
2. Why all emerging programming delivered online should be accessible
3. The business case for making online programming more accessible
4. What we can expect from the industry going forward

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<sup>1</sup> American Foundation of the Blind; National Institute on Deafness and Other Communications Disorders

It is our hope that this paper serves as a resource for lawmakers and policymakers as they continue to place a high value on accessibility as the types of programming, and the ways in which Americans receive it, evolves. Second, we wish to inform all providers of online programming, from Webisode networks to small business owners, why they should innovate for accessibility and the ways in which they can take initial steps to do so.

Lastly, we want to help Americans with disabilities and others dealing with physical or mental conditions to understand the changing online programming landscape, the types of laws that are now in place to help protect their access to programming as it moves online, and where they will remain vulnerable unless more innovation, consistent standards and safeguards are enacted on their behalf.

## **What the law covers, and what content is not covered**

Nine years following *The French Chef*, the first closed captioning of a children's television program, PBS' *Sesame Street*, was broadcast. PBS helped pave the way for the most important law related to captioning, The Television Decoder Circuitry Act of 1990, which gave the FCC the power to enact rules for implementing closed captioning on TV sets 13 inches or larger. The Communications Act of 1996 took this one step further and made closed captioning a requirement for all broadcast TV and cable/satellite live and video programming.

Another key law was the Americans with Disabilities Act of 1990, which prohibits discrimination and ensures equal access to public goods and services to people with disabilities. When the ADA was enacted, however, the Internet as we know it today did not exist. Today the Internet is a hub of information exchange, and is becoming a vehicle for distributing all types of programming.

The Twenty-first Century Communications and Video Accessibility Act attempts to address this issue. The bill came to life under the Coalition for Accessible Technology (COAT)<sup>2</sup>, with leadership from U.S. Representative Ed Markey (D-MA) and Senator Mark Pryor (D-AR).

The signed law (Public Law 111-260) requires the following as it relates to making online programming accessible:<sup>3</sup>

- The law DOES require all TV shows and movies that that originally aired on a broadcast or cable/satellite TV network to be captioned when delivered over the Internet, starting in 2012.
- The law DOES also require captions for live TV shown over the Internet, such as news programs, sports games, and live reality shows.
- The law DOES require a small amount -- 4 hours per week<sup>4</sup> -- of audio descriptions for people who are blind or visually impaired.

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<sup>2</sup> COAT is a 131-member group that includes national and state based advocacy groups including the American Council of the Blind, the American Association of People with Disabilities and the National Association of the Deaf.

<sup>3</sup> Coalition of Organizations for Accessible Technology (COAT), "What S. 3304 Does For Us", August 9, 2010.

<sup>4</sup> Descriptions will be required on 9 television channels (top 4 broadcast networks and top 5 cable channels) in the top 25 most populated markets, which will increase to 7 hours and the top 60 most populated markets by 2017, with a goal of 100% nationwide coverage.

Though not the focus of this paper, the law also requires that TVs and their accessories be accessible. On-screen text menus and guides provided through cable/satellite set-top boxes must be audibly accessible for the blind and visually impaired, while remote controls must include closed-caption buttons or icons for the deaf and hard of hearing.

### ***Limits of the law***

The Twenty-first Century Communications and Video Accessibility Act amends Federal Communications Commission policies. Thus, as mentioned the law only covers the programming that the agency has the power to regulate – broadcast and cable/satellite TV providers. Therefore, a lot of emerging programming is not covered under the new law, such as:

- The law DOES NOT require Web-only programming and programming not for commercial distribution to have captions.
- The law DOES NOT affect producers or distributors of non-broadcast content like Netflix, movie studios and movie theater chains.

Accordingly, new online-only companies that are owned or funded by cable networks and movie studios, such as TheWB.com and Crackle.com, are exempt from this new law, effectively giving these providers a legal loophole. Also exempt is Google's YouTube, whose content is considered to be non-commercial, even though it supports advertising and is becoming a vehicle for companies to market their products to customers.

In the federal government, all public Websites are required by law to be accessible to people with disabilities, including their film, video and multimedia products.<sup>5</sup> Also, the Americans with Disabilities Act requires private companies that operate in the public space, such as e-commerce retailers and banks, to make their place of business, goods and services accessible to people with disabilities. The Department of Justice, which enforces this law, is considering amending the ADA to include companies' Websites.

If policymakers were to apply federal-sector rules to private companies, or if it were to utilize the full rigor of the ADA, then content across the entire media spectrum would be required to be accessible. It would include movies shown in theaters; Internet movie rental services, such as Netflix's Watch Instantly; videos and programming produced specifically for online consumption; and e-commerce Websites.

Currently there are no plans to regulate these companies. However, the Department of Justice has issued an Advance Notice of Proposed Rulemaking and is seeking public comments to determine whether they need to use their power as the enforcer of the ADA to take additional measures.<sup>6</sup>

### **Why all emerging programming should be accessible**

Unlike with TV, which delivers captions through a decoder and onto the TV screen – a process that has been nearly perfected over three decades – online programming introduces a new technology for which captions cannot be as easily applied.

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<sup>5</sup> Section 508 of the Workforce Rehabilitation Act of 1973

<sup>6</sup> Department of Justice, Advance Notice of Proposed Rulemaking, "Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities and Public Accommodations," July 23, 2010.

Emerging programming, for the purposes of this paper, includes live or video (recorded) programming either delivered other the Internet or in a digital format and includes:

- Broadcast and cable/satellite TV programs
- Webisodes
- Consumer-generated videos
- Radio and podcasts
- Motion picture movies
- Digital cinema shown in theaters

### ***Broadcast and cable/satellite TV programs***

Captions for TV and cable/satellite are covered by the Twenty-first Century Communications and Video Accessibility Act. The law will also require a limited amount of audio descriptions for the blind and visually impaired. Descriptions speak out loud the key visual aspects of a film or television program by describing scenery, facial expressions and costumes.

Notably, many of these providers are already making good faith efforts to caption their online programs. NBC's Hulu.com, which Comcast now partly owns, today provides captions for many of its popular programs within 24 to 48 hours. It's likely that Hulu will continue to add caption functionality, making it a clear frontrunner for accessible video programming.

The cable and satellite industry is changing rapidly as customers migrate online. Cable and satellite providers lost 119,000 customers in the third quarter of 2010, compared to a 346,000 gain reported in the same quarter last year. In the past two quarters of 2010 the segment has fallen 2.3% to just more than 100 million subscriptions<sup>7</sup>.

To combat cable cutters, many providers, including Comcast, Time Warner, Verizon, and DirecTV are moving their content online and offering paying subscribers "free" access to their online TV and movie libraries. They're also securing deals to provide their content on new platforms like Internet TV and the iPhone.

Time Warner, for example, provides content from HBO, NBA, TBS, TNT, Cartoon Network and CNN.com to Google TV, a new medium operated by Google's Android system that lets users view all kinds of Web content on their TVs. Comcast's Fancast Xfinity TV lets subscribers watch TV and premium movies and has a new iPhone app, with an Android app coming in January 2011.

Most of this content is not yet captioned, but will be, once the law goes into effect. Still, providers have been given an April 2012 initial deadline, so it won't happen overnight.

### ***Webisodes***

Webisodes and online-only videos are still considered the "Wild West" when it comes to accessibility, and are not covered by the Twenty-first Century Communications and Video Accessibility Act.

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<sup>7</sup> Olgeirson, Ian and Rondeli, Mari, "U.S. multichannel subscribers drop for 2nd straight quarter in Q3," SNL Interactive, November 15, 2010.

Webisodes are short episodes that air initially as Internet TV instead of on broadcast or cable TV. They can be part of established online networks, or created by independent distributors. For example, top networks now include TheWB.com, which is owned by Warner Bros.; Crackle.com, which is owned by Sony Pictures Entertainment; and Epix, owned jointly by Viacom Inc.'s Paramount Pictures, Metro-Goldwyn-Mayer Inc. and Lions Gate Entertainment. None of the content on these Websites offer captions, but the companies claim to be working on them.

Meanwhile, new independent networks like Dailymotion and Koldcast let independent content creators host their videos online. For the most part, these networks have not been responsive to requests to caption their content<sup>8</sup>. Hulu and StumbleUpon, among many websites, have original channels that include Webisode series; none are captioned at this time, as Hulu and StumbleUpon say it is up to the producers to provide captions.

The most popular Webisode in October 2010, The Annoying Orange, garnered more than 56 million monthly views. The news parody Auto-Tune the News saw more than 31 million views in October<sup>9</sup>. After targeted outreach by disability advocates, The Annoying Orange recently began captioning some of its Webisodes<sup>10</sup>, but with 35 hours of video uploaded every minute on YouTube alone, it is impossible to reach out to them all.

This cottage industry has the potential to lock out a huge marketplace of content for the deaf and hard of hearing population -- even though some Webisodes series now enjoy a bigger audience than many cable TV channels<sup>11</sup>. And while some websites, like YouTube, have added a search functionality to help users find captioned videos where they exist, others do not. Without standards in place, it's unlikely that captions will be a priority for many companies, especially for those who have small budgets or lack the technical expertise to caption their videos.

Some consistent standards for locating captioned videos on different platforms, players and devices would be helpful to the deaf and hard of hearing, who must seek out and access captioned content by what amounts to a shot in the dark.

### ***Consumer-generated videos***

Videos created by consumers and organizations and posted online are not covered by the Twenty-first Century Communications and Video Accessibility Act. Content in this industry is considered non-commercial, even if the Website operates in the public realm, like news and entertainment Websites.

Consumer-generated content creates a murky area for lawmakers, especially as so much content is being produced for these channels. YouTube users produce almost 18 million hours of video content annually, and users upload 35 videos every minute. More than 99% of YouTube content is not closed-captioned or video-described, nor will it be required to be anytime soon<sup>12</sup>. In comparison, the major broadcast and cable networks only produce about 100,000 hours of video content a year from their TV programs.

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8 Goodwin, Robert, "Caption Action 2: December 2010 Newsletter," December 5, 2010.

9 Ehrlich, Brenna, "Top 10 Most Watched Series, October 2010", Mashable, October 2010.

10 Berke, Jamie, "Number One Web Series Is Now Captioned!" Caption Action 2: Internet Closed Captioning, November 3, 2010.

11 Seidman, Robert, "Cable Top 25: NFL, LeBron's Return to Cleveland, The Walking Dead, Big Time Rush and WWE RAW Top Week's Cable Viewing," TV By the Numbers, December 7, 2010.

12 Janger, Michael, "Web Content Accessibility Law Needs More Brawn," abledbody.com, October 5, 2010.

Further complicating this issue is that YouTube originated as a non-commercial Website, but has grown to include advertising and social media campaigns produced by corporations that use this channel to attract viewers to their own Websites, products and services. As more companies use videos and social media channels, as more content gets uploaded on YouTube, and as more brick-and-mortar publishers gravitate to the online space with video, less content is going to be accessible to the deaf and hard of hearing as well as the blind and visually impaired.

As mentioned, the Department of Justice has jurisdiction over Websites of companies that operate in the public space and in enforcing the ADA. It is looking for businesses to take steps to make their Websites and Web programming inclusive to everyone.

Notwithstanding the Justice Department, some businesses are initiating good faith efforts to make their content more accessible, finding that it makes good business sense for them to include all of their potential customers when communicating about a product or service. Other businesses are realizing that the process for creating a small amount of captioned files is not difficult, nor very costly, and the cost can be considered as part of their multimedia operations.

### ***Radio and podcasts/Webcasts***

Radio is a completely auditory format that, for the most part, has never been a medium that the deaf and hard of hearing could enjoy. The FCC regulates radio, but the Twenty-first Century Communications and Video Accessibility Act does not include radio captioning or podcasts.

It's difficult to include a visual component in a traditional radio receiver, but the advent of HD Radio, a digital, multi-channel technology, has brought new possibilities. On Election Night in October 2008, NPR, working with Harris Corporation and the Center for Accessible Media at Towson University, simulcast the first-ever live, captioned radio broadcast on NPR's Website and on special HD Radio receivers.

NPR and the National Center for Accessible Media, along with others, are also working on prototypes of captioned HD radio broadcasts using specially equipped receivers that could someday be used in cars. NPR is also working on ways to add audio prompts and other cues to HD radio to help blind and visually impaired users find stations and news programs designed for their use.

Overall, consumer interest in radio remains tepid. Despite the number of new stations that broadcast in HD today, competition with Internet and satellite radio offerings like Pandora, the popularity of TV and video, the cost of buying new HD radio receivers, a lack of adoption of HD radio in automobiles, all have contributed to a decline in radio's prominence.

Still, captioned and audio-prompted radio would provide value beyond entertainment and news to people with disabilities. Weather reports, emergency broadcasts and other essential life-saving information are often provided through radio, and the FCC has an interest in making sure radio programming and devices are fully accessible.

Podcasts are another broadcast medium designed for the Internet. Podcasts are downloadable audio programs that are not regulated by the FCC or covered under the law. Low-cost and easy to create using a media player, podcasts are a popular medium for anyone who wants to espouse on any topic. For example, a company CEO might post a recent speech online through a podcast.

Like user-generated videos, podcasts are rarely captioned. It still remains a voluntary effort, and the priority among content providers and businesses remains low. Like with videos, some consistent standards for locating captioned podcasts on different platforms, players and devices would be helpful to the deaf and hard of hearing.

### ***Motion picture movies rented online***

Companies that rent or sell movies to be viewed online are poised to profit nicely as demand for streaming media increases. This FCC does not regulate the motion picture industry, so these providers are exempt from the Twenty-first Century Communications and Video Accessibility Act.

The industry leader in this space is Netflix. Launched as a DVD-by-mail business in 1997, Netflix now has 17 million subscribers, deals with all the major motion picture studios, and is positioning itself for growth.

In November 2010 Netflix announced that it would offer an Internet-only subscription service plan for less money than its DVD-by-mail plan<sup>13</sup>. Netflix believes the \$600 million it will save annually on mailing DVDs can instead go towards securing better content deals – as it already had with NBC Universal and Viacom’s Epix – and go head-to-head with Hulu as well as HBO.

In this move, accessibility takes a steep dive. Netflix’s DVDs have captions or subtitles prepared and supplied for them by the major studios and their distributors. Movies in Netflix’s Internet library, Instant Watch, are not captioned, with the exception of a handful of titles<sup>14</sup>.

While Wall Street analysts cheered the new plan, the deaf and hard of hearing community says less expensive pricing plans for Internet movies discriminate against them. Having to rent the more expensive captioned DVDs by mail amounts to what the deaf community is calling a “deaf tax”<sup>15</sup>.

Today, the responsibility rests with Netflix to voluntarily caption and describe its library of Web movies to make them compatible with its proprietary media player. Netflix is making good faith efforts do so, and is slowly navigating the technical challenges of captioning its library. Netflix is also making headway to ensure the captions are available wherever they have a platform, whether through their proprietary media player, or through Nintendo’s Wii and Sony’s PlayStation 3.

Still, it is concerning that an innovator in the digital online programming space did not also take into consideration the need to innovate for accessibility from the start. Unlike TV, which has been around for half of a century, Netflix debuted seven years after the passage of the ADA. After years of consumer pressure, Netflix is finally taking Web movie captions seriously, though their initiatives could take several years to complete.

### ***Digital cinema shown in theaters***

For decades, movie theater chains like AMC and Regal, with the help of movie studios and trade associations such as the National Association of Theatre Owners and the Motion Picture Association of America, have petitioned against having to provide access features like captions, subtitles and

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13 Worden, Nat. Nov. 23, 2010. The Wall Street Journal.

14 <http://ncmacasl.blogspot.com/2010/10/netflix-instantwatch-titles-with.html>

15 Mulvany, Dana, “Dealing with inaccessible business practices: Netflix”, Accessibility For People With Hearing Loss, November 23, 2010.

descriptions in movie theaters. The movies studios argue that it is expensive to burn captions onto film, while the theaters' reasoning is that captions are distracting to hearing and seeing viewers and the ADA only requires theaters to make their physical buildings accessible – the seats, not the films.

About 1% of U.S. theater screens have equipment to provide captions and descriptions. It costs around \$4,000 to \$6,000 per system, and to provide all screens in the U.S. with these devices would amount to nearly \$160 million, which the movie industry says is too costly<sup>16</sup>.

The movie industry's claims about cost, which have allowed it to skirt accessibility issues in the past, have gotten considerably weaker as 35mm film, which is analog, moves to digital cinema, or D-cinema. With D-cinema, the film is delivered by data files rather than by film reels; a major advantage is that digital files do not get worn down with each play. Captions and descriptions can be easily added to a D-cinema film, and can be turned on and off for different showings during the day.

In April 2010, The Society of Motion Picture and Television Engineering released a standard for how to recognize and play out captioning for digital films across various brands of digital cinema servers. While there is still some work to be done before all the manufacturers support the new standards, support has been rolling out and should be completed by April 2011<sup>17</sup>.

## **The business case for making online programming more accessible**

The issue of accessible online programming has not been easy for the media industry or for companies that create online videos. With the advent of the Internet and video streaming, and the presence of multiple sources of content distribution across different software platforms and video formats, many companies that want to do the right thing for people with disabilities are held back by technology, a lack of standards and costs.

Despite these obstacles, there are many reasons for companies to continue to work to make their online content accessible. Companies that innovate to enrich the user experience will gain more loyalty -- and profitability will follow. Good faith efforts also help shield companies from lawsuits, and consumers with disabilities, and their families and friends -- a \$3 trillion market segment -- will vote with their wallets.

Captioning also gives companies an opportunity to make their content findable on search engines, which will drive more customers to their sites, and also lead to better advertising opportunities. There are many companies that can assist content providers with adding accessibility to their programming, and a variety of new technologies are available to those who want to do it themselves.

All in all, accessibility initiatives reverberate through the disability community and beyond – to consumers who might prefer captions for a variety of reasons, such as to learn English or to “listen” in a noisy environment. Companies should consider the value of happier, more enriched customers who will derive clear benefits from a company's accessibility efforts.

### ***Captioning tools***

There are many free Web-based tools companies can use to create captions for videos, and each has their own specific features and limitations. For example, Overstream is often used to caption Flash videos

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16 Johnson, Carla K., “Americans With Disabilities Act: Gov’t Wants To Update ADA for Cyberspace,” The Huffington Post, November 15, 2010.

17 National Center for Accessible Media, “Access to Digital Cinema Systems.”

hosted on sites like Google Video and MySpace. Another tool, CaptionTube, is integrated for use with YouTube.

There are also a number of free desktop captioning/subtitling programs that offer options to create and export caption files for many different players and formats. Two examples are NCAM's MAGpie and Subtitle Workshop. Once the captions are created, they can be married to the video file and displayed on players such as those that use Adobe Flash, Apple QuickTime or Microsoft Silverlight platforms.

The publicly funded Described and Captioned Media Program has a Website that offers tutorials, guidelines and tools for people who shoot their own videos<sup>18</sup>. Another tutorial called *Video Captions Essentials* is offered by the Commission of Deaf, DeafBlind, and Hard of Hearing Minnesotans<sup>19</sup>.

### **Captioning services**

Creating captions for videos can be a lot of work. As an alternative, many outside companies will generate caption files for a fee, including CaptionMax and Automatic Sync technologies. The cost of converting or "reformatting" TV program captions for Internet use ranges from \$75 to \$300 or more per program episode, depending on the length of the program and the extent of editing (though higher volume content providers can negotiate lower rates.)<sup>20</sup>

A typical business that posts one 10-minute video per week will pay around \$100 for the caption file that it can sync to their video file for display online. On the other hand a TV network with hundreds of hours of weekly programming and multiple commercial breaks that require editing workarounds will pay a lot more.

A few industry groups are working on developing a standardized Web captions format to make it easier for content providers to "caption once and play everywhere" across different platforms like a computer, smartphone or other streaming media device. It is called Distribution Format Exchange Profile, or DFXP, which is also known as the Timed Text Markup Language, or TTML. It uses the same captioning format as Adobe's Flash and other players, and is now a World Wide Web Consortium (W3C) recommendation.

It would take years for all content providers to move onto a TTML format. The file formats and specific players that are used in today's marketplace are varied, but most captioning agencies work with multiple types of players and can easily generate captions for your content.

### **Content optimization**

Most videos today cannot be found through an online search, unless they are captioned. Captions serve as "metadata," or descriptions about a video that helps make it searchable and discoverable. Popular search engines like Google and Bing will read the captions and index the video just as they would a Website, which can drive Web traffic and lead to stronger advertising opportunities.

Content providers looking to put videos online can partner with companies that specialize in content optimization services. These companies use a combination of automatic captions using text-to-speech technology, automatic text alignment and human editing to produce videos for their customers that are both accessible for the deaf and hard of hearing and optimized for search engines.

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18 Described and Captioned Media Program website, Caption It Yourself

19 Video Captions Essentials from the Commission of Deaf, DeafBlind, and Hard of Hearing Minnesotans website

20 Interview with CaptionMax, December 13, 2010.

One such company, Woburn, Mass.-based RAMP, provides such services for popular news video publishers like Dow Jones, CNBC and Thomson Reuters. RAMP has a patented text-to-speech platform that it uses to create captions. Videos can be delivered on an outside player or on RAMP's proprietary video player called MetaPlayer<sup>21</sup>.

Another option is to buy a specialized appliance that generates automatic captions. DocSoft is a hardware and software solution that a developer can use to caption any Web video, not just those uploaded to YouTube, though it's expensive to purchase.

### ***YouTube's Automatic Captioning***

One of the most widely known providers of automatic captioning is YouTube. YouTube launched its automatic closed-captioning service, powered by Google, in November 2009. Companies can now upload their short video to YouTube and Google's automatic speech-recognition (ASR) technology does all the captioning work.

Google's ability to automatically generate text as well as timing information for users has prompted a surge in captions for YouTube videos. Over the past year, the number of user-generated captions has tripled to more than 500,000 -- but that's still a small number compared with the 35 hours of video uploaded every minute to the site<sup>22</sup>.

Auto caps make too many errors to be considered as an equal alternative to human captions. But ASR technology is getting smarter. Google, for example, uses algorithms to account for different speech patterns, and believes that its technology will continue to improve as the program recognizes its mistakes and becomes more intelligent.

Though far from perfect, Google's ASR feature is a good start for businesses that upload videos. Businesses can also use the automatic captions to create a transcript that can then be edited by a person for accuracy and uploaded as a true caption file.

Though it is not likely that private sector content will be regulated to the extent that broadcast and cable/satellite networks are, it is time for companies to open their eyes to the possibility of making their content exclusive, and reap the benefits from doing so.

## **What we can expect from the industry going forward**

The TV and cable industry say they are committed to working with the FCC to improve accessibility for people with disabilities. Both industries worked with legislators to successfully reduce parts of the original Twenty-First Century Communications and Video Accessibility Act that would have required more action on their parts, such as requiring captions for Webisodes and giving them more flexibility in meeting the requirements.

As the law stands now, rules requiring closed captioning on certain Internet programs and closed captioning capability on video devices will go into effect in 2012. In 2013, the FCC will issue several orders to make communications, video programming and emergency access more accessible to people who are blind and visually impaired.

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21 Tom Wilde, CEO of RAMP. Interview with author. December 3, 2010

22 Valentino-DeVries, Jennifer, "YouTube and the Push to Improve Tech for Disabled", The Wall Street Journal, November 19, 2010.

Ironically it is the “legacy” TV and cable networks that are now leading in the space. Of course, it is doubtful that without these measures they would have chosen to do so on their own so quickly, but the deaf and hard of hearing communities have already shown that they are loyal to services that’s accessible to them, such as Hulu. How these emerging providers work to serve all of their customers will make a difference as they leverage their content onto new platforms like smartphones and Internet TV to grow their market reach.

For too long, too many content providers have ignored accessibility. We believe that future programming accessibility initiatives will likely come in the form of additional laws and regulations, though it is our hope that the Twenty-first Century Communications & Video Accessibility Act, as well as the business case for accessibility, spurs the online programming industry into action.

## Conclusion

The online programming industry is moving in the right direction – and has come a long way since *The French Chef* and *Sesame Street*. Still, we hope this paper makes it clear that the current arena of online programming, which is starting to spread across multiple platforms and devices, has the potential to exclude people with disabilities.

Up until now most online content providers have innovated however they like, or sometimes not at all. The downside is that they will spend years playing catch-up with accessibility. It is always better to innovate from the start, to reduce costs and inefficient processes. Businesses and individuals that are just starting to learn about accessible programming have a variety of resources to help them. Collectively, their efforts will go a long way in helping to create a more accessible Internet programming landscape.

We thank the major players including COAT’s members, the FCC and the DOJ, and the diligent lawmakers who helped put the issue of accessibility front and center as Internet usage continues to grow. The passage of the Twenty-First Century Communications and Video Accessibility Act has shown that regulators are taking action to ensure people with disabilities are not left behind in the digital and mobile transformation, and they have set the tone at the right time, while the technologies are still new and flexible.

The beauty of the Internet is that there’s enough room to create boundless hours of online programming. The philosophy of inclusiveness should guide the marketplace, and lay the foundation for emerging content providers. It is our hope that the next generation of youth with disabilities will never have known a time when watching a TV show or movie online was out of their reach.

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## About abledbody

abledbody provides news and information about disability issues and assistive technology through its website [abledbody.com](http://abledbody.com). The company also offers communications and consulting services to organizations seeking to reach and engage the disability community. abledbody is a Disability Owned Business Enterprise certified by the U.S. Business Leadership Network.

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