May 14, 2021

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street, N.E.  
Washington, DC 20554

Re: WC Docket No. 12-375, notice of ex parte communication

Dear Ms. Dortch:

On May 12, 2021 the following people held two meetings to support a positive vote on the draft order circulated in this docket. The first meeting was with Commissioner Simington and his staff, Carolyn Roddy, Erin Boone, Adam Cassidy and Michael Sweeney; the second meeting was with Commissioner Carr and his staffer, Danielle Thurman. The following people shared their direct experiences with communications as incarcerated people, among incarcerated people and with those outside jails and prisons: Senette and Jerald Jenkins, Deaf parents of currently incarcerated hearing son; Alphonso Taylor, advocate & community educator, HEARD, formerly incarcerated & currently e-carcerated DeafDisabled person; Adrian Martinez, Media Justice; Ulandis Forte, grandson of Martha Wright-Reed. In addition, the following were in attendance: Cheryl A. Leanza with the United Church of Christ’s media justice ministry, OC Inc.; Greg Glod, criminal justice fellow with Americans for Prosperity; Bianca Tylek, Worth Rises; Erin Shields, Media Justice; Malik Morris and Talila A. Lewis, HEARD; Blake E. Reid of the Samuelson-Glushko Technology Law & Policy Clinic, Counsel to TDI; Eric Kaika, CEO, TDI. Interpreters and live captioner present were: Erin Sanders-Sigmon, Carolyn Boykins, Shannon Morrison, and Cory Dostie.

Senette Jenkins explained that her son is a child of deaf adults (CODA) whose first language is American Sign Language (ASL). ASL is completely different from English—having its own unique grammar and syntax, relying on visual/tactile expression. Senette and her husband, who are both Deaf, continue to face many challenges to obtaining equal and adequate communication during their son’s incarceration. The incarcerating institutions would not provide the technology required for effective communication—a videophone, in their family’s case. For a long time, they could not communicate at all because accessible technology was not provided. The family engaged in advocacy to try to get access to telecommunication, asking the institutions and then VRS companies. When they finally were able to communicate with their son, they were forced to use video relay service even though both parents and their son use ASL to communicate with each other directly. This meant the family was forced to try to communicate through sign language interpreters instead of directly with one another. Additionally, due to the unreasonably limited time, their calls often ended up being just a few minutes due to communication breakdowns with sign language interpreters, connection and set-up time for all relay calls, and the time for interpretation itself. When their family needed to communicate tragic news to their son, they could not communicate directly, rather they spent considerable time interacting with the interpreter instead. On a 15-minute call only about 3-5 minutes might be spent on actual communication. Not only does using an interpreter take time, but different signing customs—like regional accents in spoken language—can lead to incorrect interpretations and misunderstandings. The problems with inadequate technology adds to the
extreme stress of supporting an incarcerated family member. As deaf/disabled parents, they felt like they are being punished for having a disability and for having an incarcerated loved one. Senette explained that her story is not unique: tens of thousands of incarcerated people who who are deaf, disabled, CODA, and/or who use signed languages and require access to a videophones and other telecommunication technologies to authentically, effectively, and directly communicate with their loved ones.

Alphonso Taylor, a DeafDisabled formerly incarcerated person, similarly explained the problems with lack of access to effective/accessible and affordable telecommunication for disabled people in jails, prisons, detention, etc. Alphonso emphasised that most prisons provide no telecommunications for deaf/disabled people, while others tend to only offer an antiquated TTY. Alphonso shared that the TTY is an outdated telecommunications service that he and his loved ones were not accustomed to using. TTY requires a person to connect to a relay operator and type out their communication in English and is a particularly long and laborious process. In addition to requiring English and technology proficiency and aptitude, TTY use requires special knowledge of particular codes like GA and SK (which stand for “Go Ahead” and “Stop Keying”), and requires institutions to have the proper technology to connect and operate the device. For native ASL users, like Alphonso, who do not have fluency in English or in typing, this process is impossible to navigate. Alphonso was unable to effectively communicate with his family or advocates. Videophones, as Senette explained, are simple, modern, free, and ensure that people can use their native language without going through relay operators.

Deaf incarcerated people face significant burdens in communication as compared with hearing people. Alphonso couldn’t communicate with other people outside or inside prison because Alphonso was the only or one of just a few deaf people and the institution refused to provide access to external telecommunications. For four years of incarceration, he was almost completely unable to communicate. He was isolated and suffered a marked decline in his mental and emotional health. Alphonso described the mental, linguistic, social and emotional toll imposed on many disabled people and their loved ones—especially for Deaf/signing/non-speaking communities. Alphonso noted that even after a lawsuit and settlement in his state of Maryland, the prison system still did not comply with its obligation to provide telecommunications or other accommodations required by disability law and by the settlement agreement. He emphasized this was a key reason why guidance from the FCC on this issue for jails and prisons is critical.

Adrian Martinez explained that many of their family and chosen family faced incarceration. When these moments occurred, they would communicate between California and Hawai‘i, Texas, Nevada, and Arizona to their incarcerated family. These interstate rates were so costly that Adrian could not afford to communicate. Recently the California Public Utilities Commission held a hearing on intrastate rates.1 Parents, veterans, children, lawyers, bail agents, and advocates all had the same message: the access that we have is not the access that we need. Depending on the facility, current phone rates in California can be free, if you are lucky, and as high as $3.60 a minute. These calls are inaccessible, low quality, have frequent technology and connection issues, and they charge people for the first few minutes of mandatory messaging that cannot be bypassed. At the CPUC hearings, one person explained taking a second job, during the

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pandemic, to call their incarcerated loved ones. Families in California are footing bills as high as $46,000 a year to say, “I love you.”

Ulandis Forte, the grandson of Ms. Martha Wright-Reed, the lead plaintiff in the lawsuit which led to the FCC’s action today, explained the impact of the high costs of incarceration. Ulandis explained that in his 18 years of incarceration, except in extreme circumstances, not a week went by that his grandmother did not insist he call home. And that commitment put her under extreme financial pressure — she would choose between paying for her blood pressure medication and the phone bill. She would choose to pay the phone bill over her own health, saying “I’m not going to pick up my medication this month because I’d rather talk to you.” The 20-year fight still continues, and the FCC must take action.

Greg Glod stressed the importance of keeping families in contact during incarceration is critical to the mental wellbeing of people behind bars and those that love them. Study after study from within state prisons to international prisons, all over the world, have shown that close and frequent contact with family and loved ones helps lower recidivism and it increases reentry success. A 2011 study from a Minnesota prison, which followed about 16,000 released incarcerated individuals from 2003 to 2007, documented the importance of family connections.\(^2\) The hazard of reconviction for a felony was 13% lower for a visited person than those not visited. Each visit reduced the risk of reconviction by .1%. One visit per month decreased that risk by .9%. These findings are relevant because any close familial contact is critical to reentry success, and also to reduce recidivism. AFP supports the Commission’s approval of the draft order next week.

Cheryl Leanza, Blake Reid, Talila Lewis, Malik Morris and Bianca Tylek also emphasized that the stories shared today represented thousands of others around the country. The advocates supported the FCC’s draft which increases the clarity of rights of deaf, hard of hearing, and disabled incarcerated people, and also the FCC’s commitment to solve the issues facing the incarcerated people and their loved ones by circumventing the finger-pointing among incarcerating institutions including the Federal Bureau of Prisons, FCC rulings and phone company policies. The advocates strongly supported decreased rates for interstate calls and rapid action on the further notice of proposed rulemaking to make additional changes. The advocates appreciated support for a few key changes to the Commission’s draft order as covered in forthcoming \textit{ex parte} communications.

Sincerely,

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\(^2\) Minnesota Department of Corrections, \textit{The Effects of Prison Visitation on Offender Recidivism} (Nov. 2011), available at \url{https://mn.gov/doc/assets/11-11MNPrisonVisitationStudy_tcm1089-272781.pdf}. The study controlled for a variety of risk factors including previous convictions, type of conviction, risk levels, gender, where they were being released to, so the findings are very robust.