

September 19, 2017

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24

Dear Ms. Dortch:

CaptionCall, LLC, and its affiliate Sorenson Communications, LLC, (together “CaptionCall”) hereby respond to the ex parte filed by ClearCaptions, dated August 25, 2017, in which ClearCaptions outlined a proposal for a four-tier IP CTS compensation mechanism. As we have previously stated, the Commission should not propose a tiered approach to rates in the FNPRM.¹ Though the Commission has adopted a tiered VRS rate structure, the IP CTS market is fundamentally different, none of the justifications the Commission has advanced for VRS apply to IP CTS, and, indeed, doing so here could unnecessarily disrupt the marketplace.

We agree with Hamilton that “constructing tiers such that providers with variable costs equal to or exceeding the average do not earn profits on their services once the supply of those services exceeds some threshold . . . is particularly ill-conceived.”² Market shares among the leading IP CTS providers are more equal than they are among leading VRS providers. In addition, IP CTS has exhibited a history of material market entry and expansion, without the need for regulatory intervention in the form of tiers. Indeed, CaptionCall and ClearCaptions both launched their services in 2011, and began drawing from the TRS Fund for IP CTS service within one month of each other. Both have competed in the same marketplace since then, with the same levels of available compensation. Yet, CaptionCall has become the largest IP CTS provider and ClearCaptions has not thrived.

Moreover, even if “competitive choice” were to be considered a component of functional equivalence (which is not a self-evident interpretation of the plain meaning of the term), with CaptionCall, Hamilton, and Sprint all competing, tiers cannot be considered necessary to competitive choice. Simply put, there is no need for the Commission to adopt tiered IP CTS

¹ See Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 13-24 (filed September 7, 2017).

² Letter from David A. O’Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, at 33, CG Docket Nos. 03-123 and 13-24 (filed September 5, 2017).

rates in order to maintain competitive choice—and tiered rates would themselves harm competition and innovation.

In the event that the Commission does, nonetheless, seek comment on regulatory intervention via a tiered approach, we respectfully request that the Commission include the following questions:

- What are the costs and benefits of tiered rates? For example, how would tiered rates affect incentives to operate more efficiently, improve service quality, or invest in new technology such as full automated speech recognition, and how would the tiers be updated as the market evolves? How would any tier mechanism take into account subcontracted operations? To what extent do tiers encourage operations at efficient or inefficient scale?
- To the extent that competitive choice is a component of a functionally equivalent TRS service, how many providers must be offering service in order to have a functionally equivalent service?
- To what extent are there barriers to expansion in IP CTS? What are those barriers, if any? Are there any barriers that preclude expansion in the absence of tiered rates? Of the existing providers, according to the Administrator's monthly Interstate TRS Fund Performance Status Reports, Hamilton and Sprint began receiving IP CTS compensation in 2008, CaptionCall in March 2011, Purple/Clear Captions in April 2011, and Miracom/Innocaptions in August 2014.

We appreciate the Commission taking these suggestions into account as it considers any FNPRM with respect to IP CTS rates.

Sincerely,



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