

November 17, 2014

via electronic filing

Marlene H. Dortch
Secretary, Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: Protecting and Promoting the Open Internet • GN Docket No. 14-28

Dear Ms. Dortch,

On November 13, 2014, Andrew Phillips of the National Association of the Deaf (NAD) and Blake E. Reid, counsel to Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), met with Kris Monteith, Mark Stone, Karen Peltz Strauss, John Adams, Kurt Schroeder, Parul Desai, Jerusha Burnett, and Aaron Garza of the Consumer and Governmental Affairs Bureau and Andrew Erber and Claude Aiken of the Office of General Counsel to discuss the above-referenced matter.

We reiterated the points in the deaf and hard of hearing Consumer Groups' initial comments in the matter.¹ We expressed our support for the Commission's efforts to protect and promote an open Internet and for President Obama's encouragement to the Commission to "preserve [the Internet's] promise for today, and future generations to come."²

In particular, we urged the Commission to update and expand its existing transparency rules to ensure that Internet users who are deaf or hard of hearing can make informed choices about broadband services that will serve their needs.³ We explained that deaf and hard of hearing users rely on high-performance video communication applications to communicate including via American Sign Language (ASL), lipreading, and relay interpreters, that require significant and consistent upstream and downstream bandwidth and low latency to function properly. We noted that video services serve as the primary mode of communication for users who are deaf or hard of hearing, who often cannot fall back on voice services when bandwidth or congestion issues cause video services to fail. The need for reliable video services is particularly acute for mobile

¹ *Comments of TDI, et al.*, GN Docket No. 14-28 (July 18, 2014) ("*Consumer Groups Comments*"), <http://apps.fcc.gov/ecfs/document/view?id=7521707584>.

² *Net Neutrality: President Obama's Plan for a Free and Open Internet*, <http://www.whitehouse.gov/net-neutrality> (last visited Nov. 15, 2014).

³ See 47 C.F.R. § 8.3; *FCC Enforcement Advisory, Open Internet Transparency Rule* (July 23, 2014), https://apps.fcc.gov/edocs_public/attachmatch/DA-14-1039A1.pdf.

services, upon which Internet users who are deaf or hard of hearing increasingly rely as their sole Internet connection.

We explained that four dimensions of transparency are particularly important for Internet users who are deaf or hard of hearing:

1. **Bandwidth rates.** Users need to know not just hypothetical maximum rates—*i.e.*, “Up to 10 Mbps”—but real world rates that are generally available. Those users also need to know not just *downstream* speeds, but *upstream* speeds—because video applications often have significant symmetrical requirements.
2. **Latency.** Users also need to know about connection latency, which can delay communications and hinder understanding of conversations.
3. **Consistency.** Users need information about the variance of bandwidth—both over time in the same location for wired services and across differing locations for mobile services.
4. **Data caps.** Because users who are deaf or hard of hearing rely more substantially on video communications services, it is critical that they have access to accurate information on how service providers meter data usage, how much data can be used, and overage charges for exceeding data caps.

We also noted the importance of making network information available to edge providers—both about consumer connections and those connections available to edge providers themselves. This information is critical for application developers seeking to create video services that favor frame rate over image and audio quality—characteristics critical to users who are communicating in ASL.

We emphasized that accessible customer service is a critical part of ensuring transparency. We urged the Commission to require that service information is provided in formats that are accessible to users with all types of disabilities, including screen-reader capable information on the Internet for users who are blind or visually impaired and printed in-store materials for users who are deaf or hard of hearing. We also noted the importance of training customer service representatives on the particular needs of Internet users with disabilities and equipping them with the information necessary to help those users make informed choices. Finally, we supported the prospect of requiring service providers to permit users to try service and device combinations to ensure that they accommodate the users needs and to permit the cancellation of service and return of devices where they do not meet a user’s needs.

Next, we voiced our support for the Commission’s no-blocking rules. In particular, we emphasized that while specialized services for users who are deaf or hard of hearing are appropriate in many contexts, many users now rely on off-the-shelf video services like Apple’s Facetime and Google’s Hangouts. As we explained in our comments, some

providers have blocked these services over mobile connections, leaving deaf and hard of hearing users unable to communicate.⁴

Relatedly, we urged the Commission to modify the enterprise and premise operator exceptions to make clear that blocking software used by people with disabilities is impermissible when doing so violates disability law. In particular, we noted that both enterprises and premise operators routinely block videoconferencing applications, even for use by employees or customers who are deaf or hard of hearing, which may constitute a violation of Title I or Title III of the Americans with Disabilities Act or other state or federal law.

We also emphasized our support for a ban on paid prioritization. We believe that Internet technologies can be made accessible in the context of an open network without singling out “accessibility” traffic. We also urged the Commission not to use prioritization for accessibility purposes as a basis for permitting paid prioritization more broadly.

Finally, we highlighted that reclassifying Internet service providers as telecommunications service providers under Title II of the Communications Act could afford the Commission significant additional flexibility to ensure that Internet services are accessible. In particular, we highlighted that various sections of Title II, including Sections 202, 214, 225, 251, 255, and 256, could form the basis of improved accessibility policy, and urged the Commission not to include these sections in any forbearance strategy if it chooses to reclassify.

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Please don’t hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

/s/

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CC: Meeting attendees

⁴ *Consumer Groups Comments* at 4-6.