

January 5, 2015

*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: Rates for Interstate Inmate Calling Services – WC Docket No. 12-375**

Dear Ms. Dortch:

The National Association of the Deaf (NAD), Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), Hearing Loss Association of America (HLAA), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), Cerebral Palsy and Deaf Organization (CPADO), American Association of the Deaf-Blind (AADB), Deaf Seniors of America (DSA) and the Gallaudet University Technology Access Program (collectively, the “Consumer Groups”), respectfully submit this comment in response to the Federal Communications Commission’s (“FCC” or “Commission”) October 22, 2014 Second Further Notice of Proposed Rulemaking in the above-referenced proceedings.<sup>1</sup>

The Consumer Groups appreciate the accessibility questions raised in the Second FNPRM and recognize that while mainstream deaf and hard of hearing people have enjoyed many accessibility improvements over the last few decades, the far majority of these accessibility improvements have yet to happen inside our correctional facilities. We have received numerous stories about deaf and hard of hearing inmates routinely being denied access to sign language interpreters, closed captioning on televisions, and facing many barriers to telecommunications. The civil rights of deaf and hard of hearing people must not end at the walls of prisons and jails.

Our community is deeply concerned about the lack of modern telecommunications equipment inside prisons and jails. The vast majority of correctional facilities that provide some telecommunications access only provide access through slow and antiquated TTYs at non-discounted calling rates. While TTYs are important accessibility tools for some deaf and hard of hearing individuals, they are no longer used by most deaf and hard of hearing people. Instead deaf and hard of hearing inmates need access to the more functionally equivalent telecommunications equipment that are used by the majority of deaf and hard of hearing individuals outside of these facilities such as videophones, captioned telephones, and other

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<sup>1</sup> *In the Matter of Rates for Interstate Calling Services*, WC Dkt. No. 12-375, Second Further Notice of Proposed Rulemaking, FCC 14-157 (rel. Oct. 22, 2014) (“FNPRM”).

Internet-based communications. Correctional facilities must recognize the importance of these modern telecommunication equipment and provide their deaf and hard of hearing inmates equal access in telecommunications.

### **Discounted Calling Rates**

The Consumer Groups appreciate that the Commission recognizes the need for discounted calling rates for TTY calls, and the tentative conclusion that the per-minute rates for TTY calls should be set at 25% of the safe harbor rate for inmate calls. In our March 2013 comment,<sup>2</sup> we provided information on the need for discounted TTY calling rates, however, all of the relevant research in this area date back to the 1970s and 1980s when TTYs were our only form of telecommunications access.

The National Center for Law and the Deaf (NCLD) which closed in the 1990s, led many of these efforts to get discounted calling rates for deaf and hard of hearing people. In 1977, the NCLD petitioned the Commission to begin a formal inquiry into the telecommunications needs of deaf and hard of hearing people.<sup>3</sup> This led to AT&T asking the FCC for reduction of interstate long-distance rates for deaf and hard of hearing TTY users.<sup>4</sup> The Commission approved AT&T's request and interstate rates were reduced by 35% for daytime calls and 60% for nighttime and weekend calls.<sup>5</sup> As for discounting intrastate calls, deaf and hard of hearing people petitioned local PUCs and pushed to pass laws in state legislatures.<sup>6</sup> For example, Connecticut ordered that intrastate TTY rates be reduced by 75% in 1977. We only have references to this information and do not have any of the original research. However, the Commission should still have a copy of the 1977 petition which should include studies of the actual lengths of TTY calls as compared to voice calls.

More research on discounted calling rates may have been done in Europe. For instance, a 1991 European publication on text communication explained that TTY conversations can take up to 7 times longer than the same conversation using speech.<sup>7</sup> The publication explains that due to these longer durations for TTY calls, several European countries rebated parts of phone bills to deaf and hard of hearing people.<sup>8</sup> A TTY call which takes 7 times longer than a voice call translates to being 7 times more expensive if there are no discounts or rebates. This measurement doesn't even factor in the time lag communicating through a communications assistant for TRS relay calls.

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<sup>2</sup> Consumer Groups Comment, WC Docket No. 12-375 (March 25, 2013)

<sup>3</sup> *Legal Rights: The Guide for Deaf and Hard of Hearing People*, National Association of the Deaf, 1984, pages 141.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 142

<sup>7</sup> *Text Communication*, Kelvin Currie, BT, pp 38-41 in Proceedings of the COST 219 conference:

Telecommunications and people with disabilities - current practice and future plans in Europe, Prague, 16 to 18 September 1991, ISBN 92-826-4338-7, Office for official publications of the European Communities, L-2985 Luxembourg.

<sup>8</sup> *Id.*

The question put forward by AT&T on whether to discount collect TTY calls is an important one.<sup>9</sup> The same principals of fairness as applied to discounted inmate calling services TTY calls should be applied to collect calls that are made through TTYs. TTY and telecommunications relay service collect calls should be appropriately discounted to reflect the slower conversation speeds. If for some reason a carrier wishes to charge less than the discounted calling rate, this should always be permitted.

Rates for other forms of accessible telecommunications and relay services should be appropriately discounted depending on differences in how much longer conversations take. For instance, while deaf and hard of hearing people are able to sign with each other at normal conversation speeds through videophones, this is not always the case when using video relay service. Video relay service is a mediated communication that depends on language translation and as a result has communication delays.

### **Other Forms of Telecommunication Access**

The vast majority of correctional facilities in the United States do not provide modern telecommunications equipment to their deaf and hard of hearing inmates. Several of our organizations have worked with deaf and hard of hearing inmates and rarely do they have access to newer telecommunication equipment like videophones and captioned telephones. We urge the FCC to investigate telecommunications access for deaf and hard of hearing inmates in prisons across the country.

Only in a few correctional facilities are deaf and hard of hearing inmates granted access to modern telecommunications technologies and primarily because of litigation. In 2010, the Virginia Department of Corrections (VDOC) settled a lawsuit with the Washington Lawyers' Committee for Civil Rights and Urban Affairs, representing deaf and hard of hearing inmates at the Powhatan Correctional Center, where among many things the VDOC agreed to provide equal access in telecommunications, including through videophones.<sup>10</sup> Through conversations with people involved with the Powhatan Correctional Center, it's our understanding that videophones are being provided to deaf and hard of hearing inmates and there is no reason why other prisons cannot do so too. Several other correctional facilities have also agreed to provide videophones such as the Oregon Department of Corrections.<sup>11</sup>

Correctional facilities should be required to install and provide access to the telecommunications equipment required by deaf and hard of hearing inmates – whether it's a TTY, videophone, captioned telephone, or even an amplified telephone or one that is amplified and has large buttons. These facilities, such as the VDOC are legally responsible for covering the costs of disability accommodations in their facilities and this includes accessible telecommunication equipment. Meanwhile, the Commission should make sure that videophones and other equipment are able to equally access the relay system such as through national

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<sup>9</sup> FNPRM at ¶ 138.

<sup>10</sup> Va. Prison gets videophones for the deaf, *Washington Post*, November 18, 2010.

<http://voices.washingtonpost.com/local-breaking-news/virginia/va-prison-gets-videophones-for.html>

<sup>11</sup> *Baldrige v. Oregon Department of Corrections*, Multnomah County Circuit Case 1204-04976 (settled January 2014).

telecommunications relay service registrations – either through individual accounts for each inmate or a facility-wide account. Gallaudet University and other public places like libraries already provide public access to videophones and through them, video relay service. There's no reason why prisons cannot have public videophones too.

Telecommunications access in correctional facilities should not only be limited to those who are only deaf or hard of hearing, but should include deaf and hard of hearing people with other disabilities. For instance, Deaf-Blind people use special telecommunications equipment such as Braille displays, and such technologies should be available for inmates with such multiple disabilities in these facilities. Some Deaf-Blind people may even need an in-person tactile or close-vision sign language interpreter to assist with telephone calls. Also deaf and hard of hearing people with mobility disabilities sometimes need customized telecommunications equipment. The goal is equal telecommunications access for all and each individual's communication needs must be considered.

We encourage the Commission to work with the Department of Justice to ensure equal telecommunications access in prisons for all deaf and hard of hearing inmates.

### **TRS Reporting Requirements**

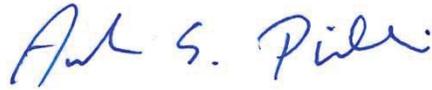
The Consumer Groups support HEARD's request that correctional facilities begin to track and report to the Commission the number of relay calls being made from prisons.<sup>12</sup> We believe that through this process, the Commission should work to make sure that telecommunications access is being provided in these correctional facilities. Reporting should include: complaints, technical problems, how much telecommunications access is provided as compared to non deaf or hard of hearing inmates, and whether there is access to modern telecommunication equipment. This information will help the Commission and other government entities improve telecommunication access in prisons. Of course, with any reporting, the Commission must consider the privacy of inmates and those they are communicating with and protect the confidentiality of their calls.

The Consumer Groups appreciate the opportunity to submit our comment and urge the Commission to create clear and strong rules that ensure equal telecommunications access for deaf and hard of hearing inmates communicating through TTYs, all forms of telecommunications relay services, and advanced communication services.

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<sup>12</sup> FNPRM at ¶ 144.

Respectfully submitted,



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