

January 12, 2015

Re: WC-12-375, paras 145-151  
Advanced Inmate Communications Services

The Prison Policy Initiative has long expressed the view that while there are benefits to advanced communication services in correctional facilities, we remain deeply concerned that the same perverse incentives that caused market failure in the telephone market are also driving the market for video visitation, voicemail, video voicemail, email and other advanced services.

In a separate comment, the Prison Policy Initiative will address video visitation in great depth. In this comment, we will share our views and recommendations on three issues:

1. The need for these services.
2. The market penetration of these services.
3. The appropriateness of the pricing.

#### **These services address a real need**

These services are typically bundled with other communications services, and we rarely see them given much attention in industry bids for contracts. Surprisingly, we didn't find many examples of the industry even bothering to explain the value that these services provide, so we will do so here:

Traditionally, there are only a few ways that incarcerated people and loved ones on the outside can communicate:

- By letter, sent by either party through the U.S. mail, with all of the delays that that entails.
- By visit in person, sometimes at great distance and sometimes arranged in advance, and always initiated by the non-incarcerated person.
- By telephone, always initiated by the incarcerated person.

These three avenues leave some serious gaps, namely that there is no way to send a timely message to an incarcerated person, such as:

- Your father just passed away.
- I was at home for your regular weekly call, but the doorbell rang right before you called and I missed your phone call. Can you call again tonight or tomorrow morning?
- I found a buyer for the car. Do you know where the deed is?

- I fell and broke my leg. I'm going to be ok, but I can't make it to our regular visit tomorrow.

In these circumstances, there is no good way for family members to proceed. They can send a letter or wait for a phone call but all of these delays create unnecessary stress for everyone involved. In practice, there is one other possibility that often creates its own problems: the person on the outside calls the correctional facility, speaks to a counselor or the warden, and asks that a message be relayed for the incarcerated person to call. (And then, the person has to sit by the phone and hope that the message was relayed.)

Many of these services simply give both incarcerated and non-incarcerated people more methods of timely communication which can be initiated by either party. In fact, as we explain in our video visitation report, these services tend to be most popular where they give people not just a new technology with which to communicate, but also a more flexible approach to communication.

### **These services are still new and are not yet common**

These services have not yet been widely introduced, and where they exist, our preliminary research suggests that — with some notable exceptions — they are not yet widely used. This could change rapidly as pricing, features, and marketing strategies evolve.

### **The pricing does raise questions about fairness.**

In an era where going digital means a decline in prices, these advanced services raise an eyebrow. For example:

- On JPay an email without attachments costs \$0.16 to \$0.33<sup>1</sup>, and many other vendors charge \$0.50. While those prices are competitive with a letter sent through the post office, they are far out of line with the price of internet access at home. And as we all know, the actual cost of transmitting typed text over the internet is almost zero.
- JPay allows people to send 30-second recorded videogram messages for \$0.83-\$1.67 for an effective per-minute price of \$1.67 to \$3.33 a minute. This is considerably more expensive than \$12.95 for a 30-minute JPay video visit (\$0.43/min).

Appropriate pricing is, therefore, one of the factors that should be explored alongside how these technological advancements can be introduced alongside — rather than as a replacement to — traditional methods of communication.

### **Recommendations:**

Beyond noting that journalists and the advocacy community need to do more in-depth research to be able to describe the full diversity of this market, we can make two

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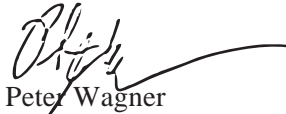
<sup>1</sup> JPay requires their services to be paid for in a virtual currency called “stamps”. The minimum purchase is 6 stamps for \$2, although there are large discounts for larger purchases, up to 60 stamps for \$10. Of course, in all of these cases, the actual cost is twice as high because only the family member on the outside has any income and must pay, one way or another, for the reply.

recommendations to the Federal Communications Commission which are grounded in the view that the most urgent need is for regulation of in-state calling rates and comprehensive regulation of ancillary fees.

Recommendation #1. Immediately after publishing its next order regulating the prison and jail telephone market, the FCC should convene a meeting of diverse stakeholders — including correctional officials and the American Bar Association — to address these emerging technologies and encourage the timely adoption of sensible and fairly priced technologies.

Recommendation #2. As an interim measure, the FCC should, as part of its forthcoming order, explicitly prohibit the bundling of regulated services with any services that the contracting parties consider to be unregulated<sup>2</sup> and require phone service providers to certify their compliance annually, listing the services they provide under each contract. Alternatively, the FCC could strengthen safeguards when allowing bundling of communications services in correctional facilities, to ensure that the facilities can better separately review advanced communications services as part of the Request for Proposals process. This would in turn make it that much easier for all stakeholders to understand these services, their value, and the financial terms of the contract.

Sincerely,



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<sup>2</sup> This would serve two purposes: 1) the facilities would benefit from a more transparent picture of financial costs of the separate components, and 2) it would give the companies an incentive to invite regulation of those services they would like to bundle.