



January 19, 2016

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Rates for Interstate Inmate Calling Services, Docket Number 12-375**

Dear Chairman Wheeler,

The American Council of Chief Defenders (ACCD) submits this letter to address areas of concern in the Inmate Calling Services (ICS) industry. The ACCD strongly commends the action taken by the Federal Communications Commission (FCC) to place reduced rates on telephone calls for inmates in America's prisons and jails, and to cap additional fees at reasonable levels. The new regulations will enable America's indigent incarcerated persons to maintain more regular contact with their families and support networks outside of the facility. Consistent with the stated intention of the FCC to "ensure just, fair, and reasonable rates" for inmate calling services, the regulation eliminates arbitrary and unfair cost inconsistencies across states and facilitates, and brings America closer to meeting its obligations for the fair treatment of incarcerated individuals and their families.

The ACCD is a national community of public defense leaders dedicated to securing a fair justice system and ensuring high quality legal representation for people facing loss of life or liberty. We write to comment on section B of the *Third Further Notice of Proposed Rulemaking*, which requests comments on *Video Calling and Other Advanced Inmate Communications Services*. The FCC action in regulating the costs of telephone calls means that many families will no longer have to choose between purchasing subsistence fundamentals and contact with an incarcerated spouse, parent, or child. The ACCD believes that video calling, and indeed all forms of ICS, should be subject to similar regulation.

**Video Visitation**

Video calling services provide important opportunities for visitation where in-person visits are not practical, such as for inmates at facilities located long distances from their home and family.<sup>1</sup> Video visitation remains unregulated and the costs, which the *Third Further Notice of Proposed Rulemaking*

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<sup>1</sup> This includes vast numbers of America's prison population. A demonstrative example is that of Washington, DC, where no prisons are located and therefore every individual from that city who receives a prison sentence over one year will be moved to a facility elsewhere in the United States.

notes may be up to \$1.50 per minute, can be highly prohibitive, depriving indigent incarcerated individuals and families of critical visual connection. More than 80% of people charged with criminal offenses in the United States qualify for court-appointed counsel because of their low income levels. Setting “fair and reasonable” rates reduces the penalization of poverty, and makes our institutions and communities safer by enabling incarcerated individuals to maintain the familial bonds that are known to reduce prison misconduct<sup>2</sup> and recidivism on reentry to society<sup>3</sup>. The ACCD does not believe there is a reasonable justification for treating video and audio-only calling services as distinct and urges the FCC to extend the scope of the inmate calling services regulation accordingly.<sup>4</sup>

While access to all forms of communications that support the maintenance of social ties should be available, it is important to emphasize that video communication is not preferable to face-to-face interaction. The ACCD is greatly concerned that video visitation is frequently *replacing* in-person visits, rather than being used as an alternative only when in-person visitation is not possible. Even though this practice might reduce costs, it results in visits that are “impersonal” for families, “dehumanizing” for inmates, and traumatic for young children.<sup>5</sup> This practice directly contradicts the explicit stipulation of the American Bar Association (ABA) *Standards for the Treatment of Prisoners*, 23-8.5, which states:

*“...Correctional officials should develop and promote other forms of communication between prisoners and their families, including video visitation, **provided that such options are not a replacement for opportunities for in-person contact.**”*

The ACCD urges the FCC to consider the indispensable role of face-to-face visitation and design regulation that will expand fair access to video calling services.

### **Written Electronic Communication**

We note that the regulations do not address electronic written communications, and we write to highlight the importance of this form of contact, particularly for the very poorest in our prisons and jails. Although the new cost caps have substantially reduced calling rates, some will continue to experience financial hardship. As a result, written communications may often remain the only viable option for regular contact for families living in extreme poverty. To put this in context, even under the new regulation a 15-minute call will cost more than the Supplemental Nutrition Assistance Program (SNAP)

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<sup>2</sup> Joshua Cochran, (2012) *The ties that bind or the ties that break: Examining the relationship between visitation and prisoner misconduct*, Journal of Criminal Justice ([https://www.researchgate.net/publication/256919807\\_The\\_ties\\_that\\_bind\\_or\\_the\\_ties\\_that\\_break\\_Examining\\_the\\_relationship\\_between\\_visitation\\_and\\_prisoner\\_misconduct](https://www.researchgate.net/publication/256919807_The_ties_that_bind_or_the_ties_that_break_Examining_the_relationship_between_visitation_and_prisoner_misconduct))

<sup>3</sup> Minnesota Department of Corrections (2011) *The Effects of Prison Visitation on Offender Recidivism* (<http://www.doc.state.mn.us/pages/files/large-files/publications/11-11mnprisonvisitationstudy.pdf>)

<sup>4</sup> As the FCC indicated in the *Third Further Notice of Proposed Rulemaking*, the recent regulation of calls may already be applicable to video visitation: “we have made clear that our authority to regulate ICS is technology neutral.”

<sup>5</sup> Bernadette Rabuy and Peter Wagner (2015) *Screening Out Family Time: The For-Profit Video Visitation Industry in Prisons and Jails*, Prison Policy Institute ([http://static.prisonpolicy.org/visitation/ScreeningOutFamilyTime\\_January2015.pdf](http://static.prisonpolicy.org/visitation/ScreeningOutFamilyTime_January2015.pdf))

benefit provides on average per person/per meal (\$1.41)<sup>6</sup>. Currently, state facilities provide inconsistent access to these services, which often cost more than \$0.30-\$0.40 for a single email<sup>7</sup> that is likely to include restrictive word limits<sup>8</sup>. Written communication is crucial for the reentry success of incarcerated individuals but also benefits their families, with demonstrated positive effects on the mental health of children with an incarcerated parent<sup>9</sup>, of which there are more 2.7 million in the United States. To the extent that the FCC is authorized to regulate affordable access to email or comparable technology in service of promoting “just and reasonable” practices, it should do so in accordance with *ABA Standard for the Treatment of Prisoners 23-8.6*:

- (a) Correctional authorities should allow prisoners to communicate **as frequently as practicable in writing** with their families, friends, and representatives of outside organizations, including media organizations. **Indigent prisoners should be provided a reasonable amount of stationery and free postage or some reasonable alternative** that permits them to maintain contact with people and organizations in the community.

The ACCD reiterates its endorsement of the new rules for inmate calling services, while urging the FCC to consider the comments respectfully submitted as it continues to ensure justice and fairness in communications for all Americans.

Sincerely,



Avis E. Buchanan  
Chair, American Council of Chief Defenders

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<sup>6</sup> Center for Budget and Policy Priorities (2015) *A Quick Guide to SNAP Eligibility and Benefits* (<http://www.cbpp.org/research/a-quick-guide-to-snap-eligibility-and-benefits>)

<sup>7</sup> The CorrLinks service charges \$0.25 per message to inmates in Iowa and \$0.30 in Oklahoma. This is lower than many other inmate communication providers (<https://www.corrlinks.com/FAQ.aspx#Answer12>).

<sup>8</sup> Global Tel-Link caps emails sent through its ConnectNetwork.com service at 2000 characters, significantly less than a typical page of text (<http://www.gtl.net/cnmsg/>).

<sup>9</sup> Poehlmann, J., Dallair, M. D., Loper, A. B. and Shear, L. D. (2010) *Children’s Contact With Their Incarcerated Parents: Research Findings and Recommendations*, American Psychologist (<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4229080/pdf/nihms599540.pdf>)