

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Rates for Interstate Inmate Calling Services) WC Docket No. 12-375
)
)

**REPLY COMMENTS OF
THE MULTICULTURAL MEDIA, TELECOM AND INTERNET COUNCIL**

The Multicultural Media, Telecom and Internet Council (“MMTC”) submits these reply comments in response to the Federal Communications Commission’s Third Further Notice of Proposed Rulemaking (“Third FNPRM”) in the docket listed above.¹ MMTC continues to advocate for the elimination of site commission fees to engender more certain and affordable rates of prison phone calls for families of the incarcerated. Additionally, MMTC supports other commenters in recommending that the Commission adopt rules that ensure just, reasonable, and fair rates for inmate video communications and visitation services. In light of the Commission’s recent adoption of rate caps on prison phones calls, these combined actions will continue to address the “tax on pain” often experienced by the families of the incarcerated whose communications can be limited or non-existent simply because they are not affordable.

I. THE COMMISSION SHOULD CONTINUE TO ADDRESS SITE COMMISSION FEES.

¹*Rates for Interstate Inmate Calling Services, Second Report and Order and Third Further Notice of Proposed Rulemaking*, WC Docket No. 12-375 (rel. Nov. 5, 2015) (“Third FNPRM”).

MMTC has consistently supported comprehensive reforms to inmate calling services (ICS) that result in more affordable rates for the incarcerated and their families.² In fact, we lauded the Commission's recent reforms to the rate caps for these calls. In a previous letter to the Commission, MMTC recommended that the agency curtail uncertain and often excessive site commission fees.³ In our view, comprehensive reform of ICS regulation must fully address *all* of the predatory traps associated with its current structure.⁴

While the FCC has determined that the regulation of site commissions is outside of their agency jurisdiction, we believe otherwise and urge the Commission to revisit their analysis with respect to how these ancillary fees inflate the average cost of a phone call. The State of Virginia is one recent example of how ICS rates can be lowered dramatically when site commissions are completely eliminated. In 2010, the average cost of a correctional facility phone call was \$4.06 and on December 1, 2015, Virginia's Governor lowered that cost to \$0.69 per minute, a move resulting in drastically lower rates than the FCC rate caps because the State's correctional

² See MMTC Civil Rights Inmate Calling Services Letter, Letter to FCC Chairman Hon. Tom Wheeler Regarding Inmate Calling Services WC Docket No. 12-375 (Oct. 14, 2015), available at http://www.mmtconline.org/wp-content/uploads/2015/10/MMTC-Civil-Rights-Inmate-Calling-Services-Letter_10.16.15.pdf (last visited Feb. 8, 2015) ("MMTC Civil Rights Inmate Calling Services Letter") (MMTC along with 22 other national civil rights and social justice organizations ("the Civil Rights Coalition") urges the Commission to embark on meaningful ICS reform.).

³ *Id.*; see also prisonphonejustice.org (highlighting which states have currently banned site commissions; it should be noted that not all of the bans apply to both the state prison systems and the county and local jails. For example, California prohibits commissions for its DOC but LA County received a guaranteed payment of \$15 million annually.); see also <http://www.detroitnews.com/story/news/politics/2015/11/09/prison-call-rate-cuts-help-inmates-hurts-jail-budgets/75431636/> (prohibiting commissions in Michigan, but implementing an equipment fund payment to the state from the ICS provider.)

⁴ *Id.* See Third FNPRM at 141 (Commission voices concern that rates for video calling and video visitation services that do not meet the definition of ICS could be used as a way to allow ICS providers to recover decreased rates as a result of the reforms currently adopted.); see also PPI Second FNPRM Comments at 3 (stating that "[F]ailure to regulate prison and jail video communication charges will leave this industry with a ready method to instantly subvert the FCC's price caps on long-distance calls simply by replacing facilities' current telephones with video phones and labeling the verbal communications that take place as 'video calls.'").

facilities do not receive site commissions.⁵ While some have argued that this action suggests that private telephone providers are inflating their actual costs,⁶ we view this as an example of what states can do to keep lowering ICS costs, while providing justification for the Commission's elimination of site commissions.

II. THE FCC MUST ENSURE THAT VIDEO CALLING AND OTHER ADVANCED INMATE CALLING SERVICES DO NOT BECOME MECHANISMS FOR PREDATORY PRACTICES BY ICS PROVIDERS.

Similar to voice communications, video calling and video visitation services have the potential of becoming predatory traps if they continue to be unregulated. MMTC supports the comments of the Wright Petitioners, the D.C. Prisoners' Legal Services Project, and Citizens United for Rehabilitation of Errants ("The Wright Petitioners") who share why the Commission must properly regulate video visitation rates and fees.⁷ To this point, The Wright Petitioners assert that the Commission "[m]ust step in and ensure that the rates and fees charged for video visitation services are just, reasonable and fair."⁸ MMTC fully supports this action and encourages the Commission to adopt rate regulations and other regulatory proposals that will deter predatory practices and abuse of video visitation services in the ICS marketplace. MMTC believes that this call to action will not stunt the development of these new technologies and services, but rather ensure that private telephone providers have limited opportunity to bring additional financial burdens to the families and caretakers of the incarcerated.

⁵ See Governor McAuliffe Announces Further Reduction on Inmate Phone Call Rates, available at https://vadoc.virginia.gov/news/press-releases/15dec23_phonerates.shtm (last visited February 8, 2016).

⁶ See HRDC Letter to the FCC Mentioned Re: VA DOC's Phone Rate Reduction, available at <https://www.prisonlegalnews.org/in-the-news/2016/hrdc-letter-fcc-mentioned-re-va-docs-phone-rate-reduction/> (last accessed February 8, 2016).

⁷ COMMENTS OF THE WRIGHT PETITIONERS, THE D.C. PRISONERS' LEGAL SERVICES PROJECT, AND CITIZENS UNITED FOR REHABILITATION OF ERRANTS (Jan. 19, 2016), available at <http://apps.fcc.gov/ecfs/document/view?id=60001408397> (last visited Feb. 8, 2015) ("The Wright Petitioners").

⁸ *Id.* at 10.

For the foregoing reasons, MMTC respectfully requests that the Commission continue to work toward the elimination of site commissions and to revise its rules to guarantee that rates for inmate video visitation are just, reasonable, and fair. The road to rehabilitation and recovery can be long for many inmates and as research suggests, it should also not be lonely simply because the costs surpass the means of family members, making it virtually impossible to stay connected. If we are to move from a society of over-incarceration, we must use telecommunications to strengthen familial bonds rather than disconnecting them.

Respectfully submitted,

**MULTICULTURAL MEDIA,
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