



Michael F. Del Casino  
Regulatory Division Manager

Suite 1000  
1120 20<sup>th</sup> Street, NW  
Washington DC 20036  
202-457-2023  
FAX 202-263-2616

April 30, 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571; Petition for Reconsideration of Telecommunications for the Deaf, Inc., The Consumer Action Network, The National Association of the Deaf, and Self-Help for Hard of Hearing People

Dear Ms. Dortch:

Attached are the jointly filed comments of the Coin Sent-Paid Industry Team, whose members for this purpose are AT&T, Sprint, MCI, BellSouth Telecommunications, Inc., Qwest, SBC, Verizon, and Hamilton Telephone, to the petition for reconsideration in the above-captioned proceeding.

Yours truly,

A handwritten signature in black ink, appearing to read "M DelCasino".

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Michael F. DelCasino  
Co-Chair – CSP Industry Team

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for

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Al Novell  
Co-Chair – CSP Industry Team

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications	)	CC Docket No. 90-571
Relay Services and the Americans	)	
With Disabilities Act of 1990	)	
	)	
Re: Petition for Reconsideration of	)	
Telecommunications for the Deaf, Inc.,	)	
The Consumer Action Network,	)	
The National Association of the Deaf, and	)	
Self Help for Hard of Hearing People	)	

**COMMENTS OF THE COIN SENT-PAID INDUSTRY TEAM<sup>1</sup>**

The Industry Team agrees with Petitioners that consumer education about how to make TRS calls from payphones should be included in expanded outreach programs administered by a neutral governmental body or agent of the government. However, the Commission should address the issues of outreach for TRS payphone calls in CC Docket No. 98-67, which allows for the expansion of *all* TRS outreach efforts. It should not use a petition for reconsideration in the coin sent-paid proceeding, which would address only education efforts regarding TRS calls made from payphones, as the vehicle for implementing such a nationwide program. Obviously, TRS consumer education is an issue much broader than calls made only from pay telephones.

The Commission should deny Petitioners' request to regulate calling card and prepaid calling card rates, because such regulation is not necessary to achieve cost parity

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<sup>1</sup> The members of the Industry Team participating in this filing are AT&T, Sprint, MCI, BellSouth Telecommunications, Inc., Qwest, SBC, the Verizon Telephone Companies ("Verizon"), and Hamilton Telephone.

for TRS payphone calls. Further, regulation would only restrict competition in these areas.

**I. EXPANDED OUTREACH PROGRAMS ARE PROPERLY BEING CONSIDERED BY THE COMMISSION IN A SEPARATE PROCEEDING**

In the Commission’s Further Notice of Proposed Rulemaking in CC Docket No. 98-67, the Commission asked for comment on its tentative conclusion that “TRS service would be improved with a nationwide awareness campaign that would reach the groups suggested by commenters – all potential TRS users, consumers with disabilities, senior citizens who have lost their hearing late in life, potential STS users, and the general public.”<sup>2</sup> Several commenters in that proceeding supported the creation of a national TRS outreach program that would be administered by a neutral, non-carrier entity, and financed either by the TRS fund, or out of the Commission’s annual operating budget.<sup>3</sup> The Commission still has not ruled on that NPRM.

The Industry Team has supported the creation of a national outreach program, administered by a neutral governmental body, such as the FCC, or an agent of the government, such as the Interstate TRS Fund Administrator.<sup>4</sup> It also agrees that outreach

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<sup>2</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, ¶ 134 (2000) (“TRS Order & FNPRM”).

<sup>3</sup> *See, e.g.*, Comments of the People of the State of California and the California Public Utilities Commission, at 4-5; WorldCom Comments, at 4-13; Sprint Comments, at 7, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67 (filed May 5, 2000). *See also* TRS Order & FNPRM, ¶ 134 (noting “the suggestion made by a number of commenters that the outreach effort be supported by the interstate TRS Fund and that the interstate TRS Fund administrator administer the funding for educational outreach programs”).

<sup>4</sup> Comments of the Coin Sent-Paid Industry Team, *Telecommunications Relay Services and the Americans with Disabilities Act*, CC Docket No. 90-571, at 15 (filed May 7, 2001) (“Industry Team Comments”).

regarding TRS calls from payphones should be included in that program. However, the details of that program should be addressed through an order in CC Docket No. 98-67, rather than through a ruling on the instant petition. The NPRM in CC Docket No. 98-67 raises issues of outreach efforts designed to educate the public on *all* TRS programs. Until the Commission determines whether to create a comprehensive, national outreach program designed for all TRS programs, and what the proper scope of that outreach will be, it would be inappropriate for it to adopt a national program, or mandatory outreach requirements, designed to deal solely with payphones and coin sent-paid TRS issues.

## **II. THERE IS NO NEED FOR ADDITIONAL REGULATION TO ENSURE FUNCTIONALLY EQUIVALENT RATES FOR TRS CALLS MADE FROM PAYPHONES**

The petition for reconsideration argues that “*If* alternative payment mechanisms result in higher rates for TRS users, the ADA’s mandate of functional equivalence will not be met.” Petition, at 9 (emphasis added). However, there is no evidence that the theoretical cost parity concerns raised by the petition are, or will be, a real problem. As the Commission has properly recognized, “[t]he calling card and prepaid phone card markets are currently very competitive, adding to the number of options available to TRS users who make toll calls from payphones.”<sup>5</sup> The robust competition in the market for calling cards and prepaid cards provides a number of options available for TRS users to make the functional equivalent of coin sent-paid payphone calls, at rates that are usually lower than coin sent-paid rates, without the necessity of Commission regulation. *Id.* ¶¶ 25-27; *see also* Industry Team Comments, at 8-9. Because regulation of calling card or prepaid calling card rates is not necessary to achieve cost parity, these regulations were

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<sup>5</sup> *Telecommunications Relay Services and the Americans with Disabilities Act*, Fifth Report and Order, 17 FCC Rcd 21233, ¶ 25 (2002) (“Fifth Report and Order”).

properly repealed.<sup>6</sup> Indeed, imposing a regulation of rates in such a competitive environment would run contrary to the Commission’s obligation, under Section 11, to repeal any regulation that “is no longer necessary in the public interest as the result of meaningful economic competition.” 47 U.S.C. § 161.

Functional equivalence does not require that the Commission require “*all* carriers” to charge TRS users making toll calls rates that are lower than a coin-sent payphone rate. Petition, at 10 (emphasis added). Like other consumers, TRS users may shop for long distance providers and cost-compare rates on calling cards and prepaid calling cards. Fifth Report and Order, ¶¶ 25-27 & n.90. Inasmuch as TRS users continue to be able to make local TRS payphone calls free of charge, and the vast majority of rates for readily accessible prepaid and calling cards are less than coin sent rates, mandating cost caps for toll rates for *all* calling card and prepaid calling cards that may be used by TRS customers, or some of the “other possibilities” suggested by Petitioners – such as “requiring TRS providers to offer special calling cards for TRS users with rates lower than those for coin sent-paid toll calls,” Petition at 10, are simply not required to achieve functional equivalence. See Fifth Report and Order, ¶ 27.

### **Conclusion**

The Commission should not impose mandatory outreach obligations or national outreach efforts designed solely to address TRS payphone calls. Regulation of calling

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<sup>6</sup> It is unclear whether the petition requests that the cost caps be applied to calling card *and* prepaid calling card rates. See Petition, at 10. Under the alternative plan previously adopted by the Commission, carriers were required to offer *either* calling cards *or* prepaid cards at rates lower than the coin sent-paid rate. *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Memorandum Opinion and Order, 10 FCC Rcd 10927, ¶ 18 (1995). It would not be feasible to regulate prepaid cards and, as stated above, such regulation is not necessary due to the competitive nature of the prepaid calling market. See Fifth Report and Order, ¶¶ 23-24 & n. 80.

card and prepaid calling card rates is not necessary to ensure that TRS users receive the functional equivalent of coin sent-paid calls.

Respectfully submitted,



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Michael F. DelCasino  
Co-Chair – CSP Industry Team



for

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Al Novell  
Co-Chair – CSP Industry Team