Sprint

Michael B. Fingerhut
General Attorney

401 9th Street, Northwest, Suite 400
Washington, D.C. 20004
Voice 202 585 1909
Fax 202 585 1897
PCS 202 607 0624
michael.b.fingerhut@mail.sprint.com

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BY EMAIL
Mr. Thomas Chandler
Chief, Disabilities Rights Office
Consumer and Government Affairs Bureau
Federal Communications Commission
445 12th Street SW
Washington D.C. 20554

Re: *Declaratory Ruling* (DA 05-140) issued January 26, 2005 in CC Docket No. 98-67 & CG Docket No. 03-123: *Ex Parte* Communication

Dear Mr. Chandler:

As we previously discussed, the *Declaratory Ruling* issued January 26, 2005 in the above-referenced dockets may implicate a promotion now being offered by Sprint Communications Company LP (Sprint Corp.'s subsidiary providing long distance service) in states where there are multiple vendors providing traditional TRS service. Under the promotion, TRS users are able to obtain free long distance service if they access the Sprint TRS center and select Sprint to provide their long distance service. The promotion as set forth in Sprint's schedules posted on the Internet is as follows:

> **Telecommunications Relay Service (TRS) Promotion III**
>
> Sprint may offer eligible residential customers free Dial-1 state-to-state and in-state usage. TRS customer must access a Sprint TRS center by dialing a toll-free 8YY Number. This promotion is available in any state, where the State Deaf/HOH Oversight Agency has awarded TRS contracts to more than two call center service relay providers. This promotion will remain in effect until January 31, 2006, unless sooner changed or canceled by Sprint.

Sprint began offering free long distance service to TRS users in California, which is the only TRS multi-vendor state, after Sprint re-entered the TRS market there at the request of the State and after the advent of 711 calling. Because MCI was at the time the State's contract TRS provider, it received all 711 dialed traffic. Thus, the Sprint long distance unit agreed to provide free long distance service as an incentive for TRS users to call the 10-digit toll free number to reach Sprint Relay's center.

After its reentry, Sprint managed to capture about 20% of the TRS market in California. However, Sprint doubts that its free long distance played a significant part in enabling Sprint to obtain that market share. The State asked Sprint to re-enter the market after awarding the contract to MCI because TRS users were complaining vociferously about the quality of service then being provided by MCI. Thus, it is highly likely that Sprint's market share was, in the main, due to Sprint's reputation for quality TRS service.

The MCI contract ended last year, and under the new contract all vendors will be able to offer 711 dialing to TRS users. Under the system devised by the State, TRS users will be able to pre-select one of the three TRS providers that currently operate centers in the State to handle their 711 calls. Their selection will be entered into a database administered by Verizon. Since Sprint has been designated by the State to carry all toll free traffic to the relay centers, Sprint will obtain a caller's preferred TRS provider by accessing the Verizon database and will route the call to the appropriate TRS provider. The 711 calls from individuals who have not selected their preferred TRS provider are to be allocated to the three providers by Verizon.

Given the fact that Sprint now has an opportunity to compete for 711 calls, its original reason for offering free long distance is no longer valid. Nonetheless, Sprint has continued to offer free long distance to TRS users because both of its competitors in the California TRS market now provide free long distance service to their TRS customers. It is my understanding that the California PUC has approved the offering of free long distance service to TRS users.[1]

Discounts from standard rates have long been a characteristic in the super-competitive long distance market and there is absolutely no justification for depriving those in the deaf and hard-of-hearing community the ability to receive discounted rates on the long distance calls they make through a TRS center. And the Commission in the subject *Declaratory Ruling* does not suggest otherwise. Rather, it states that the offering of discounted long distance service is distinguishable from the unlawful promotions being offered by Hands On because the end user is still paying for the call albeit at a reduced rate. *See* ¶7 of the *Declaratory Ruling* ("With ... long distance calls, for example, the consumer who ...makes the call has to pay for the ticket or the call; therefore any financial 'reward' for doing so is really a discount or a refund on monies the consumer is obligated to pay because the consumer elected to use that particular service."). The issue presented by the *Declaratory Ruling*, therefore, is whether a discounted rate for long distance service, which could be as low as a penny a minute but which because the consumer is paying for the service does not run afoul of the *Declaratory Ruling*, becomes questionable when the discount is 100% and the consumer is able to make long distance calls through the TRS center for free.

Sprint believes that its offering of free long distance service to TRS users in a multi-TRS vendor state like California simply cannot be equated to the so-called "Brown Bag" promotion

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[1] In this regard, should the Commission rule that Sprint's long distance promotion at issue is at odds with the policy set forth in the *Declaratory Ruling*, it should make clear that its decision applies only to interstate and not intrastate long distance service.

offered by Hands On. The Brown Bag program provided a strong incentive to users to make VRS calls, which are free, regardless of whether they needed to or not just to generate enough points to pay for their broadband access to the Internet which, of course, provides them with features and functions unrelated to their VRS calling. In contrast, the fact that a TRS user in California is able to make free long distance calls over the Sprint network does not provide any other benefits independent of the calls themselves. Thus, the incentive to make unnecessary TRS calls does not exist. Indeed, the ratio of local to interstate TRS calls in California is not significantly different than such ratios in other states.

Accordingly Sprint respectfully requests that the Bureau clarify that its *Declaratory Ruling* does not affect the free long distance promotions being offered by Sprint in multi-vendor TRS states. If the Bureau believes it necessary to ask for public comment on Sprint's request here, it should permit Sprint to continue its offering of free long distance until the Bureau issues a decision based on such comments. But, if contrary to Sprint's position, the Bureau believes that Sprint's offering of free long distance raises the same problems addressed in the Declaratory Ruling, Sprint asks that the Bureau inform Sprint of its decision in time to enable Sprint remove the offering from its schedules before the March 1 deadline established by the *Declaratory Ruling*.

Respectfully submitted,

cc: Jay Keithley, Deputy Chief, CGB (By Email)
Marlene H. Dortch, Secretary, FCC (By Email)