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October 11, 2011

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: Notice of Ex Parte Meeting, CG Docket Nos. 03-123 and 10-51

Dear Ms. Dortch:

On October 6, 2011, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”); Andrew S. Phillips, Policy Attorney, National Association of the Deaf (“NAD”) and Cheryl Heppner, National Advocacy Director, Association of Late Deafened Adults, Inc. (“ALDA”) met with Christine Kurth, Policy Director & Wireline Counsel to Commissioner Robert McDowell, to discuss a likely Notice of Proposed Rulemaking (“NPRM”) that may include proposed changes to the per-minute rate of compensation mechanism for Video Relay Service (“VRS”).

The Consumer Groups emphasized the importance of having the NPRM meet the original Congressional intent of functional equivalency under the Americans with Disabilities Act. On April 12, the Consumer Groups submitted to the FCC a document titled *Consumer Groups’ TRS Policy Statement - Functional Equivalency of Telecommunications Relay Services: Meeting the Mandate of the Americans with Disabilities Act* dated April 12, 2011 (the “Policy Statement”).<sup>1</sup> The Consumer Groups asked the Commission to review this Policy Statement as it formulates its NPRM that could result in policy decisions for the future of the national TRS program. For example, they asked the Commission to ensure that any changes to the VRS compensation methodology not act as an effective cap and that the Commission explore means to expand the program, such as encouraging research and development that leads to service innovation.

The Consumer Groups emphasized that individuals who are deaf or hard of hearing often pay monthly for a plan that can include TV programming, Internet, and phone separately or bundled. While deaf and hard of hearing consumers pay the same as individuals who do not have difficulties hearing, they do not have full access to all the features of the programs and equipment that hearing consumers do, such as the same ability to access calls or messages. This is what Title IV of the Americans with Disabilities Act was meant to address, and this is why the Consumer Groups have offered the Policy

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<sup>1</sup> See Ex Parte Notice of the Consumer Groups, CG Docket No. 10-51 (Apr. 12, 2011).

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Statement to articulate clearly what functional equivalency means and what it will take to achieve fully the civil right to equal communication in telecommunications.

The Consumer Groups commended the FCC's goal of increasing adoption by deaf and hard of hearing individuals who are not currently served by TRS, but questioned whether changing the compensation mechanism would advance that goal. The participants discussed the current VRS per-minute compensation system and potential alternatives, including how different compensation mechanisms provide different incentives to providers, different results for users, and how they impact the FCC's ability to monitor and audit the program. One of the alternatives discussed was a per-user compensation mechanism under which each user would be limited to choosing one service provider that presumably would have incentives to meet all of the consumer's needs (fixed and mobile), in order to retain the customer. The Consumer Groups expressed concerns that a per user system would create incentives for providers to avoid high volume customers, that providers may game the system to reduce the number or length of calls from customers (i.e. longer answer times), that consumers need the ability to change service providers if service quality deteriorates just as hearing users have the ability to switch telephone providers (e.g., wireline to cable), and that the same or similar issues that have been encountered in trying to set the per user rate would be encountered in setting a per minute rate. They also raised questions about a per-user compensation approach, including what data would be used to calculate a per-user rate. For example, unlike many telecommunications services that are offered for a flat fee regardless of usage, interpreters generally are paid hourly for their time. The Consumer Groups emphasized that consideration of any per-user method must include additional minimum service standards that would need to be implemented simultaneously.

The Consumer Groups urged the FCC to explore not only new compensation mechanisms but also improvements to the current mechanism. They asked the Commission to take into consideration feedback from consumer representatives as well as providers and all other pertinent offices and bureaus, particularly the Consumer and Governmental Affairs Bureau and its reporting unit, the Disability Rights Office, as the Commission develops, solicits input for, and makes decisions to develop solutions to improve VRS. They recommended that the Commission solicit input through workshops and forums that bring together these important stakeholders. The November 2009 forum with Commissioner Copps and Marlee Matlin at Gallaudet proved to be highly successful for the FCC's draft of the National Broadband Plan.

Respectfully submitted,

*/s/ electronically signed*

Tamar E. Finn

Counsel for TDI

cc (by e-mail): Christine Kurth

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