



December 17, 2012

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

Re: IP-Captioned Telephone Service – Critical Points for FCC Consideration

Dear Ms. Dortch:

In recent months, the rapid growth in IP-Captioned Telephone Services minutes reimbursed by the TRS Fund has gained the attention of the Commission, the Fund Administrator and other stakeholders.¹ IP-Captioned Telephone Services (“IP-CTS”) are, and will be, an important and popular service among Americans who are hard of hearing and have difficulty using the phone. To protect the program and ensure the long term viability of the Fund, Purple urges the Commission to take the steps outlined below.

In addition to recent quality advancements and consumer awareness, the growth in IP-CTS minutes also has much to do with current provider practices of: 1) giving captions-enabled phones away for free, 2) making it hard for a user to turn off captions which results in inappropriate use, and 3) paying cash to people who refer others to get the free phone. The Commission could reduce current minutes and slow the rate of growth by focusing their “circuit breaker” policies on the source of the problem without unnecessarily restricting use of the service by its intended beneficiaries.

Specifically, Purple encourages the Commission to enact the following measures:

1. **Sales and Marketing Practices:** Prohibit referral fees paid by an IP-CTS provider to third parties for soliciting registrations for that provider’s IP-CTS service. However, this prohibition should exclude payments to third-party hardware manufacturers who incorporate captioning technology into their devices for sale to customers who later register for a provider’s captioning service.
2. **Equipment Functionality:** For a provider to receive reimbursement from the Fund for IP-CTS minutes, the provider must certify to the Administrator that such minutes were generated from a device that:
 - a. Is equipped with functionality making the phone “default off”, such that new captions sessions must be initiated with each subsequent call, and is shipped to the customer with such setting enabled.

¹ iTRS Council Letter to Greg Hlibok, April 25, 2012; CG Docket 10-51, which stated “The TRS Administrator reported on its expectations of continued rapid growth of IP-CTS services, which will yet become another example of the FCC’s success in carrying out the intents of the Americans with Disabilities Act. Since the 2007 Order authorizing reimbursement for IPCTS, there have, however, been no meaningful rules developed related to this service, including issues such as registration and verification. The Council has consistently in past meetings brought up concerns about protecting the integrity of this important service. The TRS Council believes in the value of IP-CTS for people who need the service and given the size of the potential user community, we encourage the Commission to take the lessons being learned with VRS and IP-Relay and to be proactive in addressing potential issues through rulemaking informed by stakeholder input.”

- i. An exception should be permitted for devices located in a consumer or work environment in which they are not accessible by non-qualified persons (ie, a dedicated extension in an office, or a one-person household), and the registered user certifies that they will not permit non-qualified users to utilize captioning services on such device.
- b. Is registered to a user whose identity has been verified by the provider prior to caption calls being initiated on the device.

With respect to the “default off” equipment functionality, Purple believes that the standards should be applicable to both new and existing captions-enabled phones. Existing devices that are not currently compliant with such standards should be upgraded through remote software updates, or replaced by the issuing provider with compliant equipment.

These policy options would quickly reduce existing minutes generated by ineligible users, and would slow the rate of growth of future minutes, giving the Commission time to analyze other longer term policy solutions.

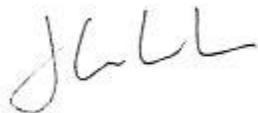
In no event should the Commission consider as a policy option imposing a moratorium on registration of new users of the service. Such an action would:

- Deny new eligible users access to IP-CTS services;
- Assure the continued payment of TRS funds as reimbursement of minutes generated by ineligible users;
- Reward the provider whose very practices gave rise to the FCC’s immediate action by allowing them to continue uninterrupted to make profits from its existing installed base while the Commission evaluates a permanent fix;
- Devastate responsible providers of IP-CTS services who – in reliance on the FCC’s prior orders – have invested heavily in development of technology solutions and employ operating practices already fully compliant with all the policy recommendations above.

We remain available to address any questions the Commission staff may have related to the above.

Sincerely,

PURPLE COMMUNICATIONS, INC.



John Goodman
Chief Legal Officer

CC: Consumer and Governmental Affairs Bureau
Jonathan Chambers, OSP
Commissioners’ Offices