



February 26, 2013

Via Electronic Filing

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**CG Docket No. 13-24**

**NPRM Comments – Misuse of Internet Protocol (IP) Captioned Telephone Service**

Dear Ms. Dortch:

The National Association of State Relay Administration (NASRA) submits these comments in response to the Notice of Proposed Rulemaking (NPRM) released on January 24, 2013. In this NPRM, the Federal Communications Commission (FCC) seeks comment on issues related to the FCC's concerns regarding Misuse of Internet Protocol (IP) Captioned Telephone Service (MIPCTS). Specifically, the FCC is looking for comments on the need for immediate interim rules, unusual increase in IP CTS minutes of use, referrals for rewards, registration and certification requirements, default captions off, and provider compensation.

**Immediate Interim Rules**

NASRA agrees with the FCC implementing interim rules as a swift, but essential, measure to control the unusual rapid growth of IP CTS minutes until such time the FCC has explored all feasible options to safeguard the integrity of the TRS programs.

**The Recent Increase in IP CTS Minutes of Use**

NASRA is unable to provide the FCC with substantive data relative to the cause(s) of the unusual increase of the IP CTS, and therefore refrains from providing comments addressing those concerns. However, states would be in a much better position to monitor and comment on the growth if they had state-specific data. We therefore request that the FCC amend the contract with RLSA to include the provision of state-specific data for all forms of IP TRS. We look forward to the opportunity to partner with the FCC and RSLA to be able to analyze and monitor the provision of all forms of TRS in our state.

## **Referral for Rewards**

NASRA supports the FCC's suspension of the "referral for rewards" program, and believes it should be permanent. When the video relay service (VRS), "referral for rewards" or "brown bagging" programs were discontinued by the FCC for reasons related to the FCC determining that this type of distribution methodology had resulted in inappropriate or unethical behavior, the FCC thereby set a precedent. The FCC should handle the IP CTS concern in the same manner.

## **Provider Dissemination of Free End IP CTS User Equipment**

NASRA supports the FCC's prohibition against providers disseminating IP CTS equipment and software at no cost. We also support the prohibition against providers disseminating IP CTS equipment at *de minimis* cost. However, we are concerned that the definition for *de minimis* is sufficiently vague to allow a loophole for continued misuse. We would encourage the FCC to consider a definition based on: not less than some percentage of the manufacturer's suggested retail price; an average price of off-the shelf-telephones; a set price point, such as \$75.00; or some other more concrete measure.

The FCC seeks comment on the extent to which governmental programs are able to provide IP CTS equipment to people with limited incomes, making the free distribution of equipment by providers unnecessary. While some states EDP have income requirements, others do not. Additionally, not all states EDP distribute Internet Protocol (IP)-based equipment due to statutory limitations or restrictions.

## **Registration, Threshold Eligibility and Certification Requirements**

NASRA supports requiring IP CTS providers to register each new IP CTS user for service and also to register existing users as a precondition to continuing to be eligible for compensation from the TRS Fund. We support the form and content proposed by the FCC for self-certification. The self-certification form makes it clear that CTS involves a relay service and is designed to be used by individuals with hearing loss to provide functionally equivalent telephone communication. This clear concise statement helps dispel the "magic telephone" concept fostered by marketing and advertising in which the customer believes the equipment itself provides the captions rather than a relay service which is funded by the federal TRS fund. We encourage the FCC to require self-certification even if the Commission bars the provision of free equipment or at *de minimis cost*.

NASRA does not support a minimum hearing threshold being implemented because of the varying degrees of hearing loss and auditory discrimination. Users with audiograms outside the thresholds may still have auditory discrimination issues that can be assisted through the use of captioning. There are often factors (e.g. additional disabilities, auditory processing, learning, acceptance of technology, family support, etc.) other than strictly hearing loss that impact whether CTS is the best option for providing telecommunication service access. We support users of CTS equipment needing to be screened/assessed, whether that be via a state EDP's own procedures/eligibility requirements, through a third-party professional (i.e. audiologist, healthcare professional, Vocational Rehabilitation counselor, etc.), or via the CTS providers (but only if the end user is paying a reasonable cost to obtain the equipment and self-certifying, thereby lessening the chances that the end users will be individuals not truly in need of the service).

We support the FCC Requirements that each IP CTS provider maintains the confidentiality of registration and certification information obtained by the provider.

### **Default Captions Off**

Although NASRA members are not in full agreement regarding the default “captions off”, an equally important concern is consumer’s ability to change captions to on. We carefully need to weigh the risk of users struggling to effectively use the phone against the cost of minutes generated by non-eligible persons. If the FCC requires IP CTS providers have a default setting of “captions off”, we do support allowing an exception for devices located in a consumer or work environment where the devices are minimally or non-accessible to non-eligible persons and the user certifies that he or she will not permit non-qualified users to utilize the captioning services provided on the device.

### **Provider Compensation**

NASRA is unable to provide the FCC with substantive data relative to provider compensation, and therefore refrains from providing comments addressing this topic.

### **Notification Labels**

NASRA supports the use of notification labels being added to all IP CTS equipment and supports having all IP CTS providers provide these labels to equipment already in use. NASRA does not support the same information appearing on the captioning screen.

Questions related to these comments may be directed to Connie Phelps at [cphelps@mt.gov](mailto:cphelps@mt.gov).

Sincerely,

Connie Phelps, Chair  
National Association of State Relay Administration

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