

April 18, 2013

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

Re: **Notice of Ex Parte – CG Docket Nos. 13-24 and 03-123**  
**Purple Communications, Inc.**

Dear Ms. Dortch:

On April 17, 2013, John Goodman, Chief Legal Officer for Purple Communications, Inc. (“Purple”) and Monica Desai, Purple’s outside counsel, had separate meetings with the following FCC staff regarding its Petition for Limited Waiver:<sup>1</sup> (1) Kris Monteith, Acting Chief of the Consumer and Governmental Affairs Bureau (“CGB”), Karen Strauss, Deputy Chief of CGB, Robert Aldrich, Legal Advisor to the Chief of CGB, and Gregory Hlibok, Chief of the Disability Rights Division, CGB; and (2) Jonathan Chambers, Acting Chief of the Office of Strategic Planning and Policy Analysis.

The discussions focused on Purple’s request for a limited waiver of the March 7, 2013, effective date for the interim rule requiring that IP CTS equipment and services operate with a default setting of “captions off” so that new and existing users must affirmatively turn on captioning for each telephone call initiated or received before captioning is provided. In particular, Mr. Goodman noted that all of Purple’s phones are already shipped to users in a “default off” mode. Accordingly, and as reflected in Purple’s waiver request, Purple believes that it remains at minimal risk for non-compliance. Purple’s IP CTS service, ClearCaptions, is delivered through the Clarity® Ensemble™ Phone and multiple versions of the Cisco IP Phone. Registration for both devices already included a self-certification requirement prior to adoption of the interim rule. And, from its release, the Ensemble phone has been shipped in a “default off” setting, and users must register for the IP-CTS service prior to using captions on the phone. Additionally, the ClearCaptions Cisco IP phone solution is exclusively delivered on dedicated workplace phone sets, and is only activated for consumers who have requested and been deemed eligible for the service by the appropriate

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<sup>1</sup> See Purple’s Petition for Limited Waiver, CG Docket Nos. 13-24 and 03-123, filed March 1, 2013; see also Purple’s Addendum to Petition for Limited Waiver, CG Docket Nos. 13-24 and 03-123, filed March 14, 2013.

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department at the government agency, business or organization in which they work. Those users also must complete registration for the service. As a result of these many safeguards, Purple strongly believes that any risk of misuse of captioning services on its endpoints is very low.

Nevertheless, Purple applied for a waiver based on preexisting programming options in the endpoint software that allow consumers to reprogram their phones to “default on.” Accordingly, Purple has taken the following steps since it applied for its waiver to ensure that phones are being used in a “default off” setting:

Purple worked quickly and diligently to develop redesigned software necessary to fully comply with the interim rule, and promptly provided the software upgrade to Ensemble and Cisco IP phone third-party developers for implementation. As a result of these aggressive efforts, all Ensemble phones currently in use have already been brought into compliance, and the remaining phones consist of a limited number of devices that remain in Clarity’s warehouse, which will update automatically when they are put into use by a registered ClearCaptions user.<sup>2</sup>

Purple is also diligently working with those enterprise environments that host ClearCaptions for their Cisco phones to complete the software updates. All Cisco phones used by ClearCaptions customers will become compliant as soon as their software is updated at the individual employer locations. Purple has scheduled on-site software installations with 30 of its 35 Cisco host companies, which will occur between now and July. Based on the installation schedule, devices representing approximately 92% of ClearCaptions’ Cisco minutes will be updated by May 30, 2013, and approximately 99% by June 14, 2013.

Purple anticipates being able to confirm full compliance at all employer locations not later than July 31, 2013. Thereafter, Purple commits to maintaining each device in full compliance with the “default off” provisions of the Order for at least 180 days from the date such device becomes compliant.

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<sup>2</sup> Each Ensemble phone is shipped from the factory pre-programmed to update its software on a fixed day of every week. Upon registration of the device by a qualified user, the device will be operational immediately, but will not update its software until its pre-programmed update day. For instance, if a new device, programmed to update every Monday, is registered and put into service on a Thursday, such device would be noncompliant (to the extent that a user could program the phone’s settings to operate in a “default on” mode). As these devices themselves would be technically noncompliant with the requirements of the Order, Purple would not seek reimbursement for caption minutes generated by such phone prior to its scheduled update day/time.

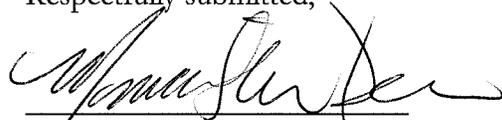
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Finally, Mr. Goodman and Ms. Desai noted that Purple has made every effort to comply with the interim rule requirements and has never delivered phones in “default on” mode, or required users to select the “default on” options.

Respectfully submitted,



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cc:

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