



May 15, 2013

Ex Parte

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

*Re: Misuse of Internet Protocol (IP) Captioned Telephone Service, CG Docket No. 13-24; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities CG Docket No. 03-123*

Dear Ms. Dortch:

Sorenson Communications, Inc. and its wholly owned subsidiary, CaptionCall, LLC (collectively “CaptionCall”) submit this response to Miracom USA, Inc.’s (“Miracom”) untimely opposition to CaptionCall’s proposal that the Commission adopt a price-cap methodology for setting Internet Protocol Captioned Telephone Service (“IP CTS”) rates.<sup>1</sup> Miracom does not provide relay services, is not certified to be compensated for the provision of relay services, does not—to CaptionCall’s knowledge—utilize relay services, and has neither the expertise nor practical experience to provide relevant insights into the Commission’s rate-setting methodologies. Thus, the Commission should disregard the Miracom Opposition, which besides being untimely, is nothing more than a baseless ad hominen attack on CaptionCall.

At the outset, Miracom appears to doubt the Commission’s capabilities, accusing CaptionCall of attempting “to distract the Commission from instituting permanent reforms” to IP CTS.<sup>2</sup> CaptionCall is confident that the Commission is capable of incorporating consideration of the IP CTS rate-setting mechanism into the Commission’s IP CTS reform efforts.

In addition, Miracom, like other parties opposed to CaptionCall’s price-cap petition, fails to explain why a rate-setting mechanism that effectively guarantees perpetual rate increases and inefficiency is superior to a price-cap mechanism that inherently encourages providers to enhance efficiency. Miracom decries a price-cap rate as “arbitrary,”<sup>3</sup> without acknowledging

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<sup>1</sup> See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities* CG Docket Nos. 13-24; 03-123, Opposition to Sorenson Petition for Rulemaking (filed May 10, 2013) (“Miracom Opposition”).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 4.

that this mechanism is used successfully to set rates for a significant portion of telecommunications services in the U.S. Moreover, Miracom somehow concludes that a price-cap would “entrench Sorenson as the dominate [*sic.*] IP CTS provider,”<sup>4</sup> a statement that is puzzling at best. CaptionCall has provided service only since 2011, and it competes with an “entrenched” provider—CapTel—that has provided service for a significantly longer period of time. CaptionCall does not enjoy any cost or scale advantages since the majority of costs associated with provision of relay service are variable. Thus, Miracom’s opposition can be centered only on a belief that IP CTS rates should protect inefficient providers. The ADA, however, requires the Commission to ensure that TRS is provided in “the most efficient manner.”<sup>5</sup> The Commission should not allow IP CTS rates to increase into perpetuity simply because some providers are unwilling or unable to increase their efficiency over time.

Finally, Miracom launches a baseless attack on CaptionCall’s regulatory compliance, suggesting that “One wonders why the Commission allowing Sorenson to even remain an IP CTS provider at this point.”<sup>6</sup> CaptionCall is dedicated to full compliance with the Commission’s rules. Prior to the recent IP CTS order, CaptionCall’s marketing practices, customer-certification procedures, and default-caption settings fully complied with the Commission’s rules, and the Commission has never suggested otherwise. Following the IP CTS order, CaptionCall has ceased paying for referrals and has fully implemented the Commission’s certification requirements. As CaptionCall has disclosed at length, CaptionCall made a herculean, good-faith effort to implement a “default-off” solution that ultimately was doomed by technical glitches and pervasive consumer confusion. CaptionCall has worked diligently to deploy a functioning version of its default-off firmware—a process it intends to complete by, at the latest, August 19, 2013—and it has been fully transparent with the Commission and the public throughout the process.<sup>7</sup> Moreover, given the structure of the interim IP CTS rules, CaptionCall has engaged in this process under the risk that it could forego *one-hundred percent* of its compensation for non-complaint phones. CaptionCall’s focus remains full compliance with all FCC regulations and fulfillment of all mandates of the ADA to provide functionally-equivalent communication services for all eligible US citizens.

In reality, Miracom has attacked the administrative process, as well as the First Amendment itself. Miracom accuses CaptionCall of “avoiding the bulk” of the IP CTS rules, but bases that attack largely on CaptionCall’s comments in opposition to interim and proposed IP CTS rules that impede ADA-mandated functional-equivalence, efficiency, and technology advancement requirements.<sup>8</sup> According to Miracom, the FCC should revoke a provider’s

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<sup>4</sup> *Id.* at 6.

<sup>5</sup> 47 U.S.C. § 225(b)(1).

<sup>6</sup> Miracom Opposition at 6.

<sup>7</sup> *See, e.g.*, Letter from John T. Nakahata, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24; 03-123 (filed Apr. 22, 2013) (attaching declaration detailing CaptionCall’s efforts to deploy default-off feature, problems encountered in the process, and efforts to deploy new firmware).

<sup>8</sup> *See* Miracom Opposition at 5-6.

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certification any time it opposes proposed rules in a notice-and-comment cycle. Needless to say, the Commission will disregard such absurd suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Nakahata". The signature is fluid and cursive, with the first name being the most prominent.

John T. Nakahata  
*Counsel to CaptionCall, LLC*

cc: Kris Monteith  
Karen Peltz Strauss  
Gregory Hlibok  
Eliot Greenwald  
Robert Aldrich  
Jonathan Chambers  
Nicholas Alexander  
Elizabeth Andrion  
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