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June 20, 2013

VIA ECFS

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

Re: Notice of *Ex Parte* Presentation, CG Docket Nos. 13-24 , 10-51, & 03-123

Dear Ms. Dortch:

On June 18, 2013, Claude Stout, Executive Director, Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”) and Chair, Deaf and Hard of Hearing Consumer Action Network (“DHHCAN”); Lise Hamlin, Director, Public Policy, Hearing Loss Association of America (“HLAA”) and Linda Kozma-Spytek, Research Audiologist, Rehabilitation Engineering Research Center on Telecommunications Access (“RERC-TA”) (together, “Consumer Groups”) along with the undersigned of Bingham McCutchen LLP on behalf of TDI met with Nicholas Degani, Legal Advisor, Office of Commissioner Ajit Pai.

During the meeting, we discussed issues associated with Commission’s interim default captioning-off rule¹ for Internet Protocol Captioned Telephone Service (“IP CTS”) and explained that the Commission should not impose this rule on a permanent basis. In addition, we requested that the Commission approve Miracom USA, Inc.’s application for certification to provide IP CTS.²

¹ *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 & 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, ¶ 33 (2013) (“NPRM”); 47 C.F.R. § 64.604(c)(10).

² *See* Application of Miracom USA, Inc. for Certification to Provide IP Captioned Telephone Service, CG Docket No. 03-123 (filed Nov. 23, 2011). *See also* Application of Miracom USA, Inc. for Certification to Provide IP Captioned Telephone Service, CG Docket No. 03-123 CG Docket No. 10-51 (filed Nov. 28, 2011).

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In urging that the interim default-off rule not be adopted permanently, Consumer Groups showed pictures of IP CTS telephones in the brochures of certain IP CTS providers, which are attached hereto as Attachment 1, and presented the views set forth in the handout provided under Attachment 2 hereto. Copies of these brochures and the handout were provided to Mr. Degani.

In addition, Consumer Groups discussed whether IP CTS consumers, who wish to have a “captions-on” default for the IP CTS devices, should be required to provide an additional certification under penalty of perjury. TDI and HLAA each presented their views on this topic.³

Consumer Groups also explained that the rights afforded under that Title IV of the Americans with Disabilities Act of 1990 (“ADA”), which Section 225 of the Act implements, mandates the availability of telecommunications relay services (“TRS”) and defines TRS as a service that enables communication “in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio.”⁴ We emphasized that the size or growth of the TRS fund does not restrict this civil statutory right under Section 225 and should not prevent the individuals this statute is designed to protect from obtaining IP CTS. We further stressed TDI’s concerns that the default-off rule may be inconsistent with other FCC rules and policy objectives.⁵

Consumer Groups further explained that RERC-TA survey data on CTS usage does not support either fraud or misuse as the source of recent IP CTS growth and that a low incidence of misuse was found among survey respondents.⁶ We noted that any misuse is likely *de minimis* and individuals not eligible to use IP CTS telephones would not want to use these phones because they are hard-wired devices and therefore in a fixed location in the home, typically in a place that an eligible IP CTS user can easily access.⁷ IP CTS telephones would not provide

³ See Comments of TDI *et al.*, CG Docket Nos. 13-24 and 03-123, at 9 (filed Feb. 26, 2013) (“TDI 2-26-2013 Comments”); Comments of HLAA, at 11 (filed Feb. 26, 2013).

⁴ 47 U.S.C. § 225(a)(3).

⁵ See TDI 2-26-2013 Comments, at 2-5.

⁶ See Letter from Philip J. Macres, counsel for TDI, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 13-24 & 03-123, at 2 (filed Apr. 26, 2013).

⁷ *Id.*

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residential hearing consumers with either the convenience or mobility of typically wireless or cordless devices for telephone calls.⁸

Consumer Groups also emphasized that the Commission needs to get more involved in overseeing RLSA and its demand forecasts associated with its TRS fund estimates. Consumer Groups explained that RSLA's IP CTS demand projection is overblown for the 2013-14 fund year and fails to comport with Industry Projections. We noted that the Commission should consider engaging a third party to audit RLSA's management of the TRS fund, identify problem areas, and propose how they could be addressed.

Finally, in urging that the Commission approve Miracom's pending application, Consumer Groups explained that there should be more competition among IP CTS providers and that the delay in approving Miracom's application has prevented IP CTS users from obtaining the competitive and distinct devices for IP CTS that Miracom provides. As a result, IP CTS users have fewer alternatives. Consumer Groups explained that there are more providers of VRS than IP CTS and that there should be just as many for IP CTS.

Respectfully submitted,

/s/ Philip Macres

Philip J. Macres

Counsel for TDI

cc (by email):

Commissioner Pai
Nicholas Degani
Karen Strauss
Gregory Hlibok

⁸ *Id.*