

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Misuse of Internet Protocol (IP) Captioned Telephone Service)	CG Docket No. 13-24
)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	

To: Secretary, Federal Communications Commission
For: Chief, Consumer and Governmental Affairs Bureau

**AMENDMENT TO
JOINT PETITION FOR LIMITED WAIVER**

On September 30, 2013, Hamilton Relay, Inc. (“Hamilton”) and Sprint Corporation (“Sprint” and, collectively with Hamilton, the “Petitioners”) filed a petition (the “Petition”) for a limited waiver of certain Internet Protocol Captioned Telephone Service (“IP CTS”) labeling requirements adopted in the Commission’s August 26, 2013 *Report and Order*.¹ Specifically, Petitioners requested an extension of time in which to come into compliance with Section 64.604(c)(11)(iii) which, upon approval by the Office of Management and Budget, will mandate various IP CTS labeling obligations (the “Labeling Rule”).² After further discussions with Commission staff, and further review of the parties’ ability to comply with the Labeling Rule, Petitioners are hereby revising the waiver request, as follows:

¹*Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket Nos. 13-24 & 03-123, FCC 13-118 ¶ 90 (rel. Aug. 26, 2013) (“*Order*”).

² 47 C.F.R. § 64.604(c)(11)(iii). The Labeling Rule becomes effective upon approval by the Office of Management and Budget (“OMB”) and public notice of such approval. See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, *Final Rule*, 78 Fed. Reg. 53684 (Aug. 30, 2013); see also 47 C.F.R. § 64.604(c)(11)(iii) Note.

For IP CTS equipment manufactured on or after the date of OMB approval of the Labeling Rule: Petitioners have now determined that this aspect of the waiver request is unnecessary. As of Monday, November 11, 2013, all new IP CTS equipment manufactured by the Petitioners' supplier is being packaged with the label affixed to the equipment. Accordingly, Petitioners withdraw this aspect of the waiver request.

For existing IP CTS equipment inventory that left the manufacturing plant prior to November 11, 2013 and is already in the hands of equipment vendors, off-site warehouses, and Equipment Distribution Programs (EDPs): Petitioners still believe that a waiver is needed so that a label, which is not currently affixed to such equipment, can be shipped to the consumer within 30 days of the equipment being registered to that consumer. Absent such a waiver, this equipment would need to be recalled to the manufacturing plant so that the labels could be affixed to each individual phone, and then re-shipped to the various vendors, warehouses, and EDPs, all of which would be extremely burdensome and costly. Petitioners believe that flexibility should be afforded to providers to ensure that users receive a label within 30 days of registration for all such equipment, no matter when shipped to the user. This proposal strikes a necessary balance between the need to ensure that consumers receive the labels without unduly burdening the manufacturing process.

For existing IP CTS equipment inventory that was manufactured and packaged prior to November 11, 2013 and is still in the possession of the manufacturer: It is possible to include a label with the equipment before these units are shipped. However, Petitioners' supplier has indicated that it would be extremely burdensome and take significant time and effort (more than two full work weeks) to take the phones off the pallets they are stored on, unpackage them, remove them from the protective polyurethane bags that the phones are packaged in, affix the

label, repackage them with the label affixed, and re-store them on the pallets they were on, in the exact same organizational pattern as they were previously stacked (sorted by Electronic Serial Number).

An alternative, less burdensome solution would be to allow the Petitioners' manufacturing supplier to include the labels in the box in which the phone is shipped. The labels can be added to the box when the manufacturer's shipping department processes the units, and will not cause undue delay or burden because the manufacturer's shipping department often adds informational inserts into the box before shipping. Thus, the phone could be shipped with a label and an insert instructing the user to affix the label before using the phone. This approach would also avoid the need to mail the label separately to the user, as it will be included in the original package. Accordingly, Petitioners request a waiver to allow IP CTS equipment inventory that has been manufactured prior to November 11, 2013 but that has not yet been shipped to be distributed without the label affixed to the equipment, and instead to have the unattached label in the shipping box along with instructions to the user to affix the label to the IP CTS equipment prior to initial use.

Finally, for *mobile applications*: Petitioners continue to believe that a waiver is necessary to allow an additional 90 days from the date that the Labeling Rule becomes effective. Petitioners are actively working to update their mobile applications; however, many aspects of the updating process are beyond their control. As an initial matter, the approval process for revisions to mobile application can be cumbersome. For example, in order to update the IP CTS iPhone app, Apple has to review and approve the proposed update before it can be made available for download in the App Store. The timing of that approval process is beyond Petitioners' control. Coordinating deployments of the Android app with the iPhone app causes

the Android app to follow the iPhone deployment timelines. Petitioners have also found that required changes can have a ripple effect, such that the labeling change may require other changes that are not discovered until the testing phase. Petitioners' testing phase is rightfully a rigorous one, which is designed to avoid customer frustration. The testing phase can take at least a month.

Finally, the labeling change must be factored into the context of other modifications that are constantly being made to the Petitioners' mobile applications. Those modifications are already significantly advanced in the development process, and in order to incorporate the labeling changes, Petitioners would be required to go back to the original version of the code, add the labeling code and make it work within the overall design, test it rigorously to ensure there are no bugs, and if there are bugs, fix them and test again. Petitioners therefore need to time the label modification appropriately amidst the other app changes that have already been in the planning stages for many months.³

In light of all of these challenges, Petitioners respectfully request an additional 90 days from the effective date to update their mobile applications to comply with the Labeling Rule.

Respectfully submitted,

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November 13, 2013

³ In addition, Petitioners have no control over whether and when the user accepts the updated application. The Commission should afford additional time to allow consumers to update their applications.