

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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
)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”) hereby submits reply comments in relation to the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceedings.¹

I. INTRODUCTION AND SUMMARY

In its August 26th *Order and FNPRM*, the Federal Communications Commission (“FCC” or “Commission”) took several important steps aimed at preventing waste, fraud and abuse by users and providers of IP Captioned Telephone Service (“IP CTS”). Sprint supports many of the Commission’s actions and agrees that IP CTS use must be limited to individuals who “need [the] service to communicate in a functionally equivalent manner.”² While implementation of the *Order* and its robust registration requirements is ongoing, Sprint believes the next focus should

¹ *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-118 (rel. Aug. 26, 2013), 78 Fed. Reg. 53684 (published Aug. 30, 2013) (“*Order*” or “FNPRM”).

² *Id.* ¶ 8.

be on improving and maturing IP CTS because it is a very helpful and meaningful service for a growing population of aging Americans with hearing loss.

Within the *FNPRM*, the Commission asks a number of important questions that could have a significant impact on the future of IP CTS. Rather than wading too deeply into these waters, however, Sprint believes the Commission should delay any significant changes to IP CTS until the *Order* and new rules are fully implemented. This would provide all interested parties the time and data to understand the effects of the new regulations and to make more informed decisions on whether additional regulatory adjustments are necessary. In short, Sprint does not believe a drastic overhaul as contemplated within the *FNPRM* is a necessary or urgent matter; Sprint believes a wait-and-see approach is the more prudent course of action.

In relation to the *FNPRM* and the comments submitted, Sprint believes the Commission should: (1) maintain the MARS rate methodology for IP CTS; (2) maintain a separate rate for IP CTS rather than adopting a single rate for both IP Relay and IP CTS; (3) enforce the “verbatim” requirement and develop objective, measurable quality of service metrics; (4) gather more information about transferring some responsibilities of IP CTS administration to state TRS programs; (5) extend the default-on hardship exception and expand IP CTS to users with cognitive impairments and other special circumstances; (6) require default captions-on for 911 calls; and (7) remove the \$75 threshold for software and mobile applications; and

II. DISCUSSION

A. The Commission Should Maintain the MARS Cost Methodology

The Commission has sought “comment on whether modifications should be made to the current [cost] methodology for IP CTS, including whether an entirely different methodology

would be more appropriate.”³ Several parties submitted comments on this topic with Purple Communications (“Purple”)⁴ and Hamilton Relay (“Hamilton”)⁵ supporting the current Multistate Average Rate Structure (MARS) methodology. In contrast, Sorenson Communications and CaptionCall (“Sorenson”)⁶, favors a market-based price cap using an average of the MARS rates for the years before IP CTS overtook CTS.

Like Purple and Hamilton, Sprint believes MARS is the most appropriate cost methodology. As pointed out by Hamilton, “the MARS methodology is superior to its alternatives chiefly because it relies on the competitive market, rather than prescriptive regulation and proxies, to set rates.”⁷ Purple similarly supported MARS stating that it “sees no reason to artificially develop other forms of market-based rates given the effectiveness of the MARS policy.”⁸ Sprint agrees wholeheartedly with Hamilton’s further assertion regarding the superiority of MARS in stating “MARS mirrors competitive prices by basing interstate CTS and IP CTS rates on competitively bid intrastate CTS rates, obviating the complexities inherent in rate-of-return or price-cap ratemaking while relying on providers’ strong incentives to estimate their costs accurately in the competitive bidding process.”⁹

Sorenson, on the other hand, seeks a price cap plan which Sprint adamantly opposes. As noted by Hamilton, the price cap methodology “is badly flawed and not appropriate for IP CTS ratemaking. The approach’s principal weakness is that, in contrast to most moves to price-cap regulation (which reflect transitions from rate-of-return regulation), Sorenson’s proposal would

³ FNPRM at ¶ 120.
⁴ Purple Comments at p. 2.
⁵ Hamilton Comments at p. 1.
⁶ Sorenson at p. 5.
⁷ Hamilton at p. 2.
⁸ Purple at p. 2.
⁹ Hamilton at p. 2.

shift rates away from market-clearing prices, not towards them.”¹⁰ In other words, a price cap plan makes sense as a transition away from rate-of-return regulation and ultimately towards market-based pricing. But, with respect to IP CTS, it already utilizes market-based pricing – via the MARS methodology – so, a price cap plan is a step in the wrong direction. In short, there is no reason to consider a price cap plan which serves as yet another artifice to market-based pricing that already exists under MARS.

In the *FNPRM*, the Commission also asks whether it should adopt a rate methodology “based on a weighted average of actual and/or projected costs for each provider.”¹¹ Sprint agrees with Purple that “the use of a weighted average cost methodology would not effectively reflect market competition in an unbalanced market with a strongly dominant provider. Moreover, the FCC’s historic methodology, which is oriented toward capital intensive utility carriers, is misplaced as applied to TRS services, including IP CTS, because these are labor intensive services, with very low capital investment requirements.”¹² Hamilton notes, “the vast majority of costs associated with CTS (in both its PSTN-based and IP varieties) are attributable to labor, not capital.”¹³ Similar to the flaws inherent with a price-cap methodology, a methodology based on weighted average of actual or projected costs is an artifice wholly inappropriate for IP CTS. MARS remains the correct and superior methodology.

B. The Commission should Maintain a Separate Rate for IP CTS

The Commission asks “whether the cost elements that go into a determination of the IP Relay rate, now set at \$1.0391 per minute for the 2013–14 Fund year, are demonstrably different

¹⁰ Hamilton at p. 7.

¹¹ *FNPRM* at ¶ 121.

¹² Purple at p. 2.

¹³ Hamilton at p. 5.

from the elements that go into an IP CTS minute.”¹⁴ While it does not appear that other parties addressed directly this point in comments, as a provider of both services, Sprint can assure the Commission that the costs of providing these services are different; and, more specifically, the cost to provide IP CTS is significantly higher than IP Relay.

To begin, IP CapTel serves primarily an aging demographic with hearing loss; whereas, IP Relay serves primarily a deaf population. So, the very nature of these services is drastically different which leads to different software platforms, labor pools, training programs, facilities, equipment, and, ultimately, different cost structures.

Sprint seeks employees with unique skill sets to fill IP CTS CA positions. Sprint’s IP CapTel CAs must pass a hearing test, be able to speak clearly to use the transcription software, have excellent short term memory, and the ability to maintain focus in order to properly re-voice conversations. Sprint’s agents must also be able to adapt quickly on-the-fly and to make corrections in order to meet Sprint’s strict standards for verbatim captioning.

The labor costs are also different due to “occupancy levels” (*i.e.*, the amount of time spent on relay calls). IP CapTel CAs operate under greater stress loads. In order to reduce this stress while maintaining high quality performance, the IP CapTel CAs require periodic breaks – especially after lengthy calls – in order to regroup and be effective on the next call. As a result, the occupancy level is significantly lower for IP CapTel CAs compared to IP Relay CAs. A lower occupancy rate results in significantly higher labor costs because Sprint must staff at higher levels to accomplish the same amount of work. Moreover, given the stress levels, there is

¹⁴ FNPRM at ¶ 122.

higher CA turnover for IP CTS agents compared to IP Relay. Higher turnover leads to greater expense in recruiting and training new CAs.

In addition, IP CapTel CAs use different equipment and have different agent position requirements for the call centers to provide high quality CapTel services. These specialized agent positions include office environments with high walls to reduce noise so that the CA can concentrate on the call without disturbing other CAs nearby. The IP CapTel agents also use specialized headsets and microphones to ensure the most accurate transcription. All of these measures are designed to ensure the highest levels of accuracy (verbatim captioning), and they come at a significant cost.

Finally, Sprint employs different computer/software platforms to provide these different services and at very different costs. Notably, the platform used in Sprint's IP CapTel service is a third-party technology provided by CapTel, Inc.; whereas, Sprint's IP Relay platform was developed in-house. The cost of the IP CTS third party platform (including licensing fees) is significantly greater than Sprint's IP Relay platform. Again, these are completely separate systems because they support completely different services. The IP CapTel system is a hybrid system with a PSTN component for voice (so the IP CapTel user can speak) and an IP component for the text/data captions. In contrast, the IP Relay need only support data as only text is delivered to the IP Relay user (who is typically deaf).

In sum, there are many differences between the provision of IP Relay and IP CTS and these differences create very different cost structures. Due to these contrasts and the higher costs to provide IP CTS, the IP Relay rate cannot be used as a substitute or proxy for the IP CTS costs. Moreover, there is little synergy or overlap between these services.

C. The Commission Should Enforce the “Verbatim” Requirement and Work with Industry to Develop Objective, Measurable and Enforceable Quality of Service Metrics

In the FNPRM, the Commission expresses concern “that a practice may be emerging wherein providers summarize the conversation content of IP CTS calls. We remind providers that our rules require that all conversational content must be relayed verbatim, unless summarization is requested by the user. Noncompliance with this rule may result in denial of compensation.”¹⁵ Hamilton expressed concern over this practice, too, noting that Section 225(d)(1)(G) of the Act “prohibit[s] relay operators from intentionally altering a relayed conversation.”¹⁶

Not only is this a serious violation of the rules, but it also has an impact on the costs of providing service. A provider that provides verbatim relay incurs more costs than a provider that provides only summaries of conversations. Sprint urges the Commission to issue more than a reminder, but to investigate this matter thoroughly to determine whether violations have incurred and whether compensation should be denied.

The verbatim issue underscores a broader issue concerning how to best ensure a level playing field regarding quality of service. Hamilton states that “that there is a need for clearly defined, measurable captioning standards for speed, accuracy and verbatim/summarization as noted above, and these standards should be adopted for both CTS and IP CTS.”¹⁷ TDI concurs in supporting minimum mandatory requirements for IP CTS.¹⁸ Additionally, Hamilton aptly links quality of service and performance to the cost of providing service:

¹⁵ FNPRM at n. 438.
¹⁶ Hamilton at p. 14.
¹⁷ *Id.*
¹⁸ TDI Comments at p. 19.

Different providers may use different standards of measurement currently, which can result in widely varying cost data. The Commission needs to harmonize these measurements, certainly before any reliable cost data can be generated for purposes of calculating a non-MARS rate for IP CTS.¹⁹

Sprint further supports Hamilton’s suggestion that the Commission “work with industry stakeholders to develop these industry standards so that they can be implemented in a workable fashion that benefits consumers.”²⁰

D. The Commission Should Gather More Information About Transferring Some Responsibilities of IP CTS to State TRS Programs

The Commission seeks comment on whether it should “transfer the responsibilities for administering and overseeing IP CTS to state TRS programs.”²¹ This topic generated a bevy of comments with a fairly wide variety of perspectives. Purple, for example, opposed the concept noting that the states do not have “sufficient time, resources or experience to effectively take over ... administering IP CTS operations.”²² TDI also expressed a number of grave concerns ranging from “chronically underfunded and under-staffed” state programs to “a hopelessly complex, confusing and often conflicting patchwork of IP CTS regulations that will be difficult for IP CTS consumers, many of whom are elderly and over 80 years old, to navigate.”²³ On the other hand, the concept received conditional support from the states including the California Public Utility Commission (CPUC). In its comments, the CPUC stated that it “opposes the transfer of the IP CTS program to the states *unless* the FCC ensures that states can adequately

¹⁹ Hamilton at p. 14.

²⁰ *Id.*

²¹ FNPRM at ¶131.

²² Purple at p. 4.

²³ TDI at p. 10.

fund the program and that states are afforded sufficient time to transition the program in a manner that does not discommode program users.”²⁴

Sprint encourages the Commission to gather more information before making any decisions. Sprint is not necessarily opposed to the concept, but such a transfer of power raises a number of issues including legal/jurisdictional matters that require further research. Sprint suggests the Commission convene a special committee or working group comprised of stakeholder representatives from the Commission, industry, consumer groups and states. Moreover, should the Commission seek to transfer such authority to the states, it should provide ample time for such a transition, and it should permit the states to determine whether or not to require default captions-off.

Finally, on a related note, Sprint does support a mandate to provide CTS and IP CTS. Sprint believes caption telephone services are crucial for hard of hearing people in a growing demographic of aging Americans. While many states provide CTS on a voluntary basis, a mandate serves, not only as a legal mechanism to ensure that caption telephone services are available, but also as a symbolic recognition of the importance of this service. Sprint believes a transition to mandatory services could take place in two to three years.

E. The Commission Should Extend the Default-On Hardship Exception and Consider Permitting Additional IP CTS Users that Have Cognitive Impairments or Other Medical Needs

The Commission seeks comment on whether to extend the hardship exception to individuals who live alone or work in a situation, such as a private office, where no one else can use the individual’s phone.²⁵ Sprint supports Hamilton’s comments on this topic:

²⁴ CPUC Comments at p. 2.

Hamilton supports extending the hardship waiver exception to those users who certify that they live alone. Under this approach, providers should be required to maintain records of such certifications. Hamilton believes that the Commission, using metrics that are available from the TRS Fund Administrator, can readily determine whether such waivers are causing any spike in individual or overall usage patterns, and take appropriate actions as needed to curb any perceived abuses by revoking individual waivers.²⁶

Sprint also supports Hamilton's well-reasoned arguments to relax or revise the default-off rules adopted by the Commission. In arguing that the default captions-off rule has itself created a hardship, Hamilton urges the Commission to allow registered user to default captions-on if they choose to do so.²⁷ As protections from abuse, Hamilton suggested that the user must be able to turn off the captioning with a single step.²⁸

On a related note, Sprint also believes the Commission should consider expanding the pool of eligible IP CTS users to include people who have cognitive impairments or other medical needs for the service. Sprint receives periodic inquiries from people (or their caregivers) that would benefit from IP CTS service. These people may not technically qualify as having a hearing loss, but their ability to communicate over the phone could be greatly improved through the use of IP CTS. Some of these inquiries are from people who have suffered traumatic brain injuries including U.S. service men and women. Similar to the hardship exceptions discussed above, Sprint believes such accommodations could be possible through record keeping (physician certification demonstrating a medical need) and monitoring.

²⁵ FNPRM at ¶
²⁶ Hamilton at p. 18.
²⁷ *Id.*
²⁸ *Id.*

Indeed, some states have permitted such expansion to users who may not be hard of hearing. In Texas, for example, there is a “dispute” process that allows a user to escalate to the Commission should the user feel they are a good candidate and can medically prove so for a particular device or service. Sprint believes there should be a similar process available for IP CTS users who may not have a hearing loss, but feel that they could benefit from the use of IP CTS.

F. The Commission Should Require Default Captions-On for 911 Calls

The Commission seeks comment “whether it is technically feasible for all IP CTS equipment to be defaulted to “captions turned on” for 911 emergency calls, and if so, whether we should require IP CTS providers to so configure their equipment.”²⁹ Since Hamilton and Sprint share the same vendor for IP CTS equipment, Sprint cites to Hamilton’s comments in which it states that “it is technically feasible to default all 911 emergency calls to captions on, and in fact Hamilton does so currently. However, Hamilton does not have access to the signaling information for 911 callbacks from emergency call centers, and therefore is unable to automatically caption such callbacks.”³⁰ Sprint’s vendor has further indicated that the better way to accomplish default-on for 911 is to “lock” the captions on for 911 calls. Importantly, by locking the captions on, the user would have no way of inadvertently turning the captions off and potentially endangering themselves or others.

G. The Commission Should Remove the \$75 Threshold for Software and Mobile Applications

²⁹ FNPRM at ¶ 146.

³⁰ Hamilton at p. 15.

The Commission seeks comment “on whether the purchase of IP CTS software and applications raises considerations that make it appropriate to set a different price threshold for software and applications. We ask commenters who believe that the \$75 price threshold should not be applicable to the context of software and applications to explain why it should not be applicable, to propose an appropriate alternative price threshold, and to explain why such an alternative would be sufficient to deter individuals who do not need IP CTS from using the service.”³¹

CaptionCall’s comments state that “to the extent the minimum payment requirement is intended to serve as a proxy for need, it should only be imposed on a consumer once.”³² Further, “a consumer that has already paid \$75 for hardware (or software) equipment should not be expected to pay any additional amount for access to software or applications, and vice versa.”

Sprint concurs with CaptionCall. As stated in Sprint’s Petition for Reconsideration:

While there is a reasonable argument that the charge imposed for IP CTS equipment is comparable to the price that hearing users must pay to purchase a telephone, there is no justification for requiring hearing-impaired individuals to pay \$75 for software after they have already paid to purchase a mobile phone or computer. To the contrary, a hearing individual who purchases either a mobile device or computer can often access voice services – and certainly the software needed to use those services – at no additional cost.³³

III. CONCLUSION

For the foregoing reasons, Sprint respectfully asks the Commission to refrain from making any significant changes or reform of IP CTS until the Commission and industry have had ample time to measure the effects of implementation of the robust registration requirements.

³¹ FNPRM at ¶ 145.

³² Sorenson/CaptionCall Comments at p. 21.

³³ See, *Petition for Reconsideration of Sprint Corporation*, CG Dockets 13-24, 03-123, at p. (filed Sept. 30, 2013).

Sprint notes, however, several items in these Reply Comments that could improve the service and ensure that it is accessible to a growing demographic of aging Americans.

Respectfully submitted,

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