



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

January 24, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
Washington, D.C. 20554

RE: Notice of Proposed Rulemaking (NPRM),
In the Matter of Rates Interstate Inmate Calling Services
FCC 12-375, 78 Fed. Reg. 68005 (November 13, 2013)

Dear Madam Secretary:

On November 13, 2013, the Federal Communications Commission (FCC) published in the Federal Register a Notice of Proposed Rulemaking (NPRM), requesting public comment on additional options to reform the inmate calling service (ICS) market. The Federal Bureau of Prisons (BOP) makes the following initial comments in response to the NPRM. The BOP also requests the opportunity to provide the FCC with additional comments as the FCC considers more specific proposals.

The mission of the BOP is two-fold: protecting the public through the operation of safe and secure correctional facilities, and providing inmates with resources and support for their reentry back into the community. The BOP shares the FCC's concerns about the importance of assisting prisoners in maintaining familial contacts with their children and other family members. The BOP is engaged in numerous efforts to support these familial ties and help prisoners successfully reenter society after release from prison. We note, however, that managing outside communications in the prison context is unique and challenging - especially in a time of overcrowded prisons and limited budgetary and staffing resources. It is

with these points in mind, that the BOP offers the following comments in response to the FCC's NPRM.

Call Blocking Regulations

The NPRM states the FCC's long standing policy to largely prohibit call blocking, and requests specific comments concerning billing-related and geographic call blocking. The BOP strongly recommends that any regulation addressing call blocking clearly state that correctional facilities can block calls for internal security reasons and the protection of the public. The BOP's ability to block certain calls is necessary to help prevent an inmate's continuing involvement in criminal activity in the community, to deter the harassment of victims and witnesses, and to protect members of the judiciary, law enforcement, and other public officials.

We share the FCC's concerns regarding billing-related call blocking as set forth in the NPRM.

The NPRM also seeks specific comments on geographic call blocking, that is, calls that may be prohibited by an ICS if made from outside the geographic area traditionally associated with that area code. The BOP does allow prisoners to make calls to a number that is not tied to a specific location. However, the number must be associated with a specific individual. The BOP is concerned about instances when prisoners attempt to contact a destination number through a third-party number which is different than the dialed number. The identification of all telephone numbers called by inmates is critical to protecting the public and maintaining security in the institution. Without the ability to block third-party calls, the BOP and law enforcement are significantly limited in their tools to investigate and prevent inmate involvement in criminal activity in the community.

Inmate Calling Services for the Deaf and Hard of Hearing Community

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in federally assisted programs and activities, including those conducted by the Department of Justice. Under the Rehabilitation Act, the

BOP takes appropriate steps to ensure effective communication with program participants with disabilities, including furnishing appropriate auxiliary aids where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of its programs.

Consistent with these obligations, the BOP supports parity of communications access for the deaf and hard of hearing inmate community. Currently, the BOP relies primarily on TTYs for these services. The BOP supports the FCC's proposed measures to insure that deaf and hard of hearing inmates are accommodated in terms of cost and access to TTYs.

The NPRM also considers a data collection requirement for TTYs and other forms of telecommunication relay services (TRSs). Currently, the BOP does not have an automatic means of collecting usage data. If data collection is required it will necessitate the creation of individual written logs per inmate, per institution and the manual collection and compilation of this data. This would require extensive staff resources. The value of such data and whether any request can be more narrowly tailored to the nature of its proposed use by the FCC should be considered before imposing such a requirement.

The NPRM discusses the use of additional technologies to help communication by the deaf and hard of hearing inmate population with the outside community. The BOP is evaluating the use of such technologies, examining issues impacting security, infrastructure, and resources. The BOP requests to have further discussions with the FCC on these technologies and any regulation in this area.

Further ICS Rate Reform

The NPRM asked for comments on the creation of "all-distance" rates, which would establish a rate structure which charges the same rate regardless of the distance or jurisdictional nature of the call. The BOP supports the concept of "all-distance" rates for domestic calls. Having a one rate system provides clarity for inmates regarding costs of phone calls. The BOP is unique in that inmates may be housed in a facility outside of their jurisdiction and/or state of conviction due to correctional needs or limited housing options

closer to home. Therefore, a one rate system provides equal rates to inmates throughout the BOP. However, we note the proposal of seven cents per minute is not enough to cover the costs of providing effective inmate telephone service and welcome further discussion on this issue.

Where an "all-distance" rate may be feasible for domestic calls, such a rate structure may not be possible for international calls. We note the charges associated with connections to other countries vary greatly; therefore it may not be possible to establish a single rate.

Quality of Service

The NPRM contemplates several provisions relating to effective communication, sufficient inmate access to telephones, and proper maintenance of telephones. The BOP agrees that ICS providers should provide service along these lines to help inmates maintain community ties. However, the provisions suggested in the NPRM directly affect institution operations. These operational issues are best addressed by correctional officials charged with maintaining security and order within the institution, and managing limitations on staffing, funding, and other resources. For example, we believe determining the ratio of telephones to inmates that must be provided in a prison is a matter that should stay within the discretion of prison management. These decisions require assessing the various needs and number of prisoners and the use of resources - which may vary on a case by case basis and over time. For example, the physical space and infrastructure of a particular facility may limit the number of telephones that can be provided. Additionally, due to security issues, some facilities may need different inmate-to-telephone ratios because the inmates have limited telephone access.

The BOP has similar concerns regarding a possible standard for maintenance of the telephones. Of course, the BOP recognizes that to serve inmates adequately, a prison's telephone system and equipment must be in a reasonable state of repair. Again, however, there are many factors in a correctional setting that make it difficult to meet a generalized maintenance standard. For example, security concerns inside the institution will take precedence over

allowing contract visitors into the facility to repair telephones. The remoteness of many facilities also results in significant differences in the ability to provide on-site maintenance within a standard defined time period.

Further, we believe regulations should not mandate specific access hours or time frames for inmate telephone access. Inmate and operational needs of each facility - which vary and change over time - must be taken into account in managing inmate access to telephones and insuring that inmates have the opportunity to use the telephone.

Finally, establishing a "quality of calls" standard is complicated due to the subjectivity in determining adequate volume, tone, level of static, etc. The BOP agrees ICS providers should deliver reasonable service quality. However, complaints about service quality are best addressed locally, between facility administrators and inmates. The BOP has established complaint processes that can be used for these purposes.

The BOP appreciates this opportunity to raise general issues of concern in response to the FCC's NPRM. As noted above, we share your goal of insuring that community and family ties for our inmate population are maintained through accessible and affordable telephone communications. We look forward to further discussion on these matters.

Sincerely,

A handwritten signature in black ink, reading "Charles E. Samuels, Jr.", written in a cursive style.

Charles E. Samuels, Jr.
Director
Federal Bureau of Prisons