

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

**SECOND 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 Petitioners submitted an amendment to the Petition on November 13, 2013 to narrow the scope of the waiver request. In this second

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.

amendment to the Petition, the Petitioners are further narrowing the scope of the Petition to eliminate one aspect of their waiver request, as follows:

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: Petitioners have now determined that this aspect of the waiver request is unnecessary. All on-site equipment inventory now includes a label, and therefore this aspect of the waiver request is no longer needed.

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.

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

³ In addition, Petitioners have no control over whether and when the user accepts the updated application. The Petitioners' application updates cannot be "pushed" to a consumer's mobile phone. It is therefore possible that a particular consumer might simply refuse to update their application. In addressing this request for waiver relief, the Commission should clarify that Petitioners are only required to make their application updates containing the labeling information *available for download*, and that the consumer's failure to update their applications by accepting the download in a timely manner will not result in non-compensable minutes of use after the applicable waiver deadline has passed. Alternatively, the Commission should afford consumers ample time (e.g., 6 months) in which to accept the download, after which Petitioners would be required to block a consumer's use of the application until the update has been accepted.

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,

/s/ Scott R. Freirmuth

Scott R. Freiermuth

6450 Sprint Parkway

Overland Park, KS 66251

Tel: 913.315.8521

E-mail: scott.r.freiermuth@sprint.com

Counsel for Sprint Corporation

/s/ David A. O'Connor

David A. O'Connor

Wilkinson Barker Knauer, LLP

2300 N Street, NW, Suite 700

Washington, DC 20037

Tel: 202.783.4141

E-mail: doconnor@wbklaw.com

Counsel for Hamilton Relay, Inc.

March 24, 2014