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June 20, 2014

Mr. Tom Wheeler, Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

*Re:* Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123

Dear Mr. Chairman,

The Board of Directors with Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”) held its regular meeting in Baltimore, MD on June 7-8, 2014. The Board has asked me to send you a letter requesting some action for the Commission’s efficient, effective management of the national telecommunications relay service (“TRS”) program.

The Federal Communications Commission (“FCC” or “Commission”) has administered the national telecommunications relay service program since 1990, when the Americans with Disabilities Act (“ADA”) was signed into law by President George H.W. Bush. As we near celebrating twenty-five years of the Act, the Commission is currently operating the program at an annual cost of approximately \$1.5 billion. This is about 2% of the total telecommunications market, which Rolka Loube Saltzer Associates (“RLSA”) has estimated to be around \$67 billion a year as reported from common carriers on their 2013 interstate and international end user revenues.<sup>1</sup>

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<sup>1</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Services Program*, CG Docket Nos. 03-123 and 10-51, Report of Rolka Loube Saltzer Associates, *Interstate TRS Fund Payment Formula and Funds Size Estimate*, at 5 (May 1, 2014).

On April 12, 2011, TDI and other sister consumer groups submitted a TRS Policy Statement to the Commission for its consideration.<sup>2</sup> The purpose of the Policy Statement was to offer goals and objectives that would ensure TRS achieves and maintains functional equivalency as required by law.<sup>3</sup> The following organizations worked collaboratively with TDI to develop and submit the Policy Statement: National Association of the Deaf (“NAD”), Association of Late-Deafened Adults (“ALDA”), Hearing Loss Association of America (“HLAA”), California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”), American Association of the Deaf-Blind (“AADB”), Speech Communication Assistance by Telephone (“SCT”), Communication Service for the Deaf (“CSD”), and Deaf Seniors of America (“DSA”) (collectively “Consumer Groups”).

In the opening part of the Policy Statement, we offered principles and a definition of functional equivalency as a “guide” for the FCC’s management of the national TRS program.<sup>4</sup> Functional equivalency must be the standard filter through which every TRS program action proposed or taken by the Commission, Consumer Groups, and TRS providers is assessed. Congress in enacting the ADA did not intend for the FCC to respond to developments within the TRS program as they arise. Rather, the ADA envisions that the FCC will make proactive assessments to determine whether the TRS Fund continues to provide functional equivalency, to determine whether specific action(s) will move TRS users on both sides of the conversation towards a functionally equivalent experience, and to consider what technology, equipment, training, program, policy, or services needs to be developed (or can be provided), to achieve greater functional equivalency.<sup>5</sup>

The principles set forth in the Policy Statement by TDI and the other consumer groups have remained true, and are even more clearly critical today some three years after the Policy Statement was adopted and provided to the FCC. The Consumer Groups contend that the national TRS program has moved beyond its formative stages. Unfortunately, however, recent incidents and allegations of waste, fraud and abuse in the Federal TRS Fund have altered the FCC’s focus with the effect that other critical aspects of the TRS program have not been sufficiently addressed (*e.g.*, customer care, outreach, education, and research and development). As a result, opportunities for TRS to achieve its fullest potential and to introduce TRS to new users who have not experienced its empowering influence remain unfulfilled.

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<sup>2</sup> *Notice of Ex Parte Meeting, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Services Program*, CG Docket Nos. 03-123 and 10-51, Policy Statement attached (April 12, 2012) (“Policy Statement”).

<sup>3</sup> Policy Statement, at 1.

<sup>4</sup> Policy Statement, at 1.

<sup>5</sup> Policy Statement, at 1. “Under Title IV of the ADA, the Commission must ensure that telecommunications relay services (TRS) ‘are available, to the extent possible and in the most efficient manner’ to persons in the United States with hearing or speech disabilities.” *In the Matter of Structure and Practices of the Video Relay Services Program et al.*, CG Docket Nos. 03-123 and 10-51, Report and Order and FNPRM, FCC 13-82, at ¶ 2 (Rel. June 10, 2013), quoting, 47 U.S.C. § 225(b)(1).

The Consumer Groups have proposed the following concepts and points to the FCC to move the national TRS program forward as envisioned by the ADA:

***1. Address Deficiencies in Outreach & Research:***

“Data on people’s interaction with TRS is sparse or nonexistent. There is an urgent need to research the availability of service, user trends and habits, including use of TRS in emergencies, and new and emerging technologies ... Immediate steps should be taken to identify and reach out to unserved and under-served Americans who are deaf, hard of hearing, deaf-blind or speech-disabled who have not discovered TRS or been extended the freedom and independence offered by the type of TRS that best matches their communication requirements. The Consumer Groups believe that there are countless Americans who are on fixed incomes and unaware of available resources for access to TRS services, or who live in rural areas or on Tribal Lands where broadband access is lacking.”<sup>6</sup>

***2. Emphasize that Relay Services are for the Entire U.S. Population:***

“There continues to be a misconception that relay services are primarily for people with hearing and speech disabilities to use to communicate. Relay services are equal access programs that are just as useful and critically important for those with or without hearing and speech disabilities. Not many people realize and understand that a hearing person is usually one-half of every relay call. In fact, the majority of TRS users are those with normal hearing and speech. This is because people who are deaf, hard of hearing, deaf-blind or speech-disabled call multiples of people with normal hearing and speech via TRS every day. Accordingly, meeting functional equivalency for hearing people when they make or receive relay calls deserves equal consideration because the lives and careers of people without hearing or speech disabilities are intertwined in varying degrees with current and potential TRS users who have hearing and speech disabilities ... Many employers in private and public sectors are not aware of relay services or do not understand the effectiveness relay services offer for communication with persons who have hearing and speech disabilities. The same is often true of family members, neighbors and friends of every TRS user.”<sup>7</sup>

***3. Adapt the Program to the Changing World:***

“Today people with hearing and speech disabilities primarily communicate across towns and states. Communication with others abroad is becoming more widespread and necessary for work, family, and personal travel and interests. The TRS Program must adapt to the continuing globalization of communications. Communication on the go is a capacity TRS must provide. TRS must be embedded within the ecosystem of today’s telecommunications on the Internet that is evolving day by day with boundless offerings of applications and features. TRS must be offered regardless of the existing economic and political conditions in the world, and must provide people with hearing and speech disabilities comparable opportunities for interacting with

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<sup>6</sup> Policy Statement, at 3-4.

<sup>7</sup> Policy Statement, at 4.

the rest of America and the world, regardless of technology and communication modality used by either party in every call.”<sup>8</sup>

#### ***4. Achieve Program Effectiveness & Accountability:***

“Through advance and detailed plans, with the buy-in of stakeholders including TRS consumers and industry, the FCC can improve effectiveness and accountability in its TRS program. The Consumer Groups respectfully ask that the FCC’s Disability Rights Office chart the future of the national TRS program by developing and implementing formal plans to exercise its jurisdiction over the TRS industry. In doing so, the FCC will more effectively address its accountability and responsibility for the program before Congress and with other governmental agencies, the business community, and last, but not least, the TRS user population.”<sup>9</sup>

#### ***5. Provide Equal Attention & Support for All Forms of TRS:***

“All forms of TRS must receive the necessary and appropriate attention and support from the Commission in order to function as reliable, state-of-the-art choices for an interoperable dual-party relay service for every American, with or without a hearing or speech disability, regardless of the technology and communication modality used. TRS users must be given full control of their calls, whether originated or received, and must have as full of an array of options and features available through TRS just the same as a person with no hearing or speech disability.”<sup>10</sup>

The Consumer Groups concluded the Policy Statement by asking the Commission to respond to our Statement “with a sense of urgency.”<sup>11</sup> We asked the Commission to follow suit with some “significant advances ... in areas of policy development, outreach, research, and innovation to meet the mandate of the Americans with Disabilities Act for a true functionally equivalent experience in telecommunications for all people who are deaf, hard of hearing, deaf-blind or speech-disabled, and their contacts in the United States.”<sup>12</sup> We stressed the point that “only when the national TRS program reaches its full potential, individuals with hearing and speech disabilities can then experience full independence and inclusion in the community.”<sup>13</sup>

During our weekend Board meeting in Baltimore, a full report was given on TDI’s collaborative work with FCC and other consumer groups on TRS issues. We deeply appreciate the Commission’s consultative meetings in recent months with TDI and other consumer groups. We were happy to hear that the Commission issued conditional approval for Miracom to provide its brand name Internet-Protocol captioned telephone relay services, InnoCaption. We care about having competition and choices for ALL forms of TRS. Choice gives an incentive to vendors to

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<sup>8</sup> Policy Statement, at 4.

<sup>9</sup> Policy Statement, at 4-5.

<sup>10</sup> Policy Statement, at 5.

<sup>11</sup> Policy Statement, at 5.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

pursue innovation and quality of service with their offerings, as well as giving consumers an opportunity to select the service that works for them. We thank the Commission for involving consumer groups in its planning process as it implements some areas of reform for VRS, notably the reference platform and the neutral video communications provider platform. We respectfully ask that the Commission exercise careful judgment and regulatory flexibility to ensure that the plans for the VRS neutral provider platform will not push us toward full nationalization of TRS services. Rather, that it is an affirmation of the Commission's total commitment for us to access TRS services in the marketplace, under a reasonable level of oversight.

The TDI Board of Directors greatly appreciate the consistent efforts of the Disability Rights Office, headed by Mr. Gregory Hlibok, and supervised by Ms. Karen Peltz-Strauss, Deputy Bureau Chief, with support from Ms. Kris Monteith, Acting Chief, both with Consumer and Government Affairs Bureau. However, we feel compelled to inform you as the chief executive officer of the Commission that there is a critical need to establish a centralized structure at the FCC for daily management of the national TRS program. Multiple bureaus, offices, and layers have a negative impact on the program. In all honesty, it is our view that the community will not experience timely, steady progress in the future for any one form of TRS with the decentralized structure currently in place at the FCC. As you know, there is a familiar adage: "Too many cooks spoil the broth." We have seen considerable delays on some VRS reforms, as well as the certification of Miracom as a certified IP-CTS provider. Very often, these delays were the result of more than one office at the FCC having jurisdiction on one TRS topic or another, and holding the process hostage. We respectfully urge you to designate or appoint an FCC executive as the focal point person or as "a Czar" to run the national TRS program. This executive, with your unequivocal, full support, must also have sufficient authority and responsibility to coordinate all the work by his/her office and other offices within the FCC on all issues and topics related to TRS. The contemplated new Czar would devote full-time to the national program, as the promise and potential of relay services cannot be overlooked nor taken lightly as technology evolves, opportunities arise, and/or challenges occur. And more importantly, the FCC must maintain its accountability to the U.S. Congress, when it responds to inquiries from the Hill, or to send reports regularly on progress made with the national TRS program.

On behalf of the TDI Board of Directors, we thank you for giving our special request your full consideration. You are most welcome to contact our Executive Director, Claude Stout, to discuss more about our request.

Last but not least, we extend you our deepest gratitude for the first eight months of your dynamic leadership and proactive efforts for our disability access needs, particularly in areas of TV caption quality, the 21<sup>st</sup> Century Communications and Video Accessibility Act of 2010, and emergency communications with Text-to-9-1-1.

Sincerely,



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cc (via e-mail):

- Ms. Mignon Clyburn, Commissioner
- Ms. Jessica Rosenworcel, Commissioner
- Mr. Ajit Pai, Commissioner
- Mr. Michael O’Rielly, Commissioner
- Ms. Maria Kirby, Legal Advisor, Office of the Chairman, FCC
- Mr. Adonis Hoffman, Chief of Staff, Office of Commissioner Clyburn
- Mr. Clint Odom, Policy Director, Office of Commissioner Rosenworcel
- Mr. Nicholas Degani, Legal Advisor, Office of Commissioner Pai
- Ms. Courtney Reinhard, Chief of Staff, Office of Commissioner O’Rielly
- Ms. Kris Monteith, Acting Chief, Consumer and Government Affairs Bureau, FCC
- Ms. Karen Peltz-Strauss, Deputy Bureau Chief, Consumer and Government Affairs Bureau, FCC
- Mr. Gregory Hlibok, Chief, Disability Rights Office, Consumer and Government Affairs Bureau, FCC
- Members, TDI Board of Directors
- Claude Stout, Executive Director, TDI
- Howard Rosenblum, Chief Executive Officer, NAD
- Andrew Phillips, Policy Counsel, NAD

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