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January 22, 2021

Acting Chair Jessica Rosenworcel  
Commissioner Brendan Carr  
Commissioner Geoffrey Starks  
Commissioner Nathan Simington  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Re: WT Docket 12-375

Dear Acting Chair Rosenworcel, Commissioners Carr, Starks, and Simington:

On behalf of The Leadership Conference on Civil and Human Rights and the 17 undersigned organizations, we appreciate this opportunity to provide reply comments in response to this rulemaking initiated by the Federal Communications Commission (FCC or Commission).

The Leadership Conference is a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the civil rights of all persons in the United States. We have been an active participant in the FCC's multi-year, long-overdue effort to cap predatory rates for communications services used in prisons, jails, and immigration detention centers across the country. These reforms are important to the civil rights community because high prison phone rates place an unfair financial burden not only on people who are incarcerated, but also on their families and loved ones. Access to affordable communications is a fundamental right, critical to protecting other civil and human rights. Maintaining regular communication, such as through telephone calls, is often essential to vindicate other civil and human rights: without information about what is happening to people in prison, jail, or detention centers, their counsel, clergy, friends, and family members cannot safeguard their rights—such as their rights to physical safety and just adjudication. The current public health crisis has only exacerbated this need.

As discussed in these comments, we urge the Commission to take prompt action, by April 30, 2021, to:

- Address the needs of incarcerated people with disabilities;
- Adopt international rate caps;
- Adopt the lowest possible rates for interstate calls; and
- Immediately implement the rules along with regular data collection.

Moreover, we strongly urge the Chair and all Commissioners to support legislative action to expand the Commission's authority through the proposed Martha Wright Act in the House and Senate.

**The Commission must act without further delay to address the communications rights of deaf, hard of hearing, and disabled inmates.** As explained by HEARD et al., “[c]ommunications services should be free to incarcerated people with communications disabilities—and in the case of relay services, must be under the Communications Act.” Incarcerated people with disabilities often cannot communicate with their attorneys because they lack access to functional, accessible communications equipment, leading to a denial of their constitutional rights.<sup>1</sup> The Commission’s previous decision to rely on inadequate and increasingly obsolete teletypewriter (TTY) services for incarcerated people—which were never useful for people whose primary language is American Sign Language (ASL)—is now untenable because these services do not work over IP networks and the Commission has authorized a full IP transition.<sup>2</sup> The Commission must immediately require communications providers to coordinate with relay service and equipment vendors to furnish and maintain functional accessible equipment to carceral facilities pursuant to Section 225 of the Act.<sup>3</sup>

Additionally, we strongly urge the Commission to take action to collect adequate data about the state of access to communications for incarcerated disabled people. Such additional information is not a substitute for immediate action consistent with the law, but is essential to ensuring that incarcerated disabled people have access to communications services. Moreover, as HEARD et al. explained, the Commission should develop a joint working group with the Department of Justice, as well as an ongoing mechanism to interact with representatives of people with disabilities who are incarcerated at the state and local level, to ensure that all people receive access to communications they can use and afford.

**The Commission should cap international rates.** As Prisoners’ Legal Services of Massachusetts has explained, immigrants in ICE custody are in administrative detention, and therefore have no guaranteed access to legal representation if they cannot afford an attorney.<sup>4</sup> Many detainees must prepare their immigration cases *pro se*. They need to collect documents to prepare their cases, and if they lose their cases, they need to prepare for deportation.

ICE recognizes the need for communications and, its guidelines state that detained people should be able to call, for free: 1) a government office, to obtain documents relevant to his/her immigration case and 2) immediate family or others for detainees in personal or family emergencies. “Despite the guidance from ICE, sheriffs rarely allow free international calls....”<sup>5</sup> In fact, as Prisoners’ Legal Services of Massachusetts explains, incarcerated people in Massachusetts are paying 50 cents per minute to call internationally.<sup>6</sup> New Jersey Advocates for Immigrant Detainees, NYU Immigrant Rights Clinic, LatinoJustice, and the American Immigration Lawyers Association documented other abuses in the record in 2015.<sup>7</sup> While the a la carte rates to call internationally in some instances start at 49 cents per minute, most people who call internationally regularly have access to plans that permit unlimited calling for a low monthly rate, or at 5 or 10 cents per minute combined with a low monthly payment.<sup>8</sup>

**The Commission should adopt the lowest possible rates for interstate calls.** The Commission should adopt the lowest possible rate caps for incarcerated people, taking into account both the cost data submitted to the Commission and market rates to set rate caps. The Commission should adopt a rate of \$0.05 per minute. As explained by Worth Rises, the federal prison system and 43 state prison systems

already have rates below the Commission's proposed rates, and these prisons make up nearly 90 percent of the current incarcerated population.<sup>9</sup> Telecommunications providers routinely charge a fraction of the Commission's proposed rate, indicating that higher rates, therefore, are not the product of company costs.<sup>10</sup> For example, Prisoners' Legal Services of Massachusetts explained that Securus charges rates as low as \$0.09 per minute.<sup>11</sup> As members of The Leadership Conference and other commenters explained, "states like Maryland, West Virginia and Rhode Island charge only around 3 cents per minute for in-state calls, and as of 2018, Prison Policy Initiative reports Illinois and New Hampshire charge 14 and 20 cents, respectively, for a *15-minute* call."<sup>12</sup> Worth Rises and San Francisco explain jurisdictions are beginning to absorb the cost of calling in the same manner that they absorb other utilities such as water and electricity.<sup>13</sup> These practices should be encouraged and will be more likely if the Commission successfully ensures, as is required, just and reasonable rates.

While the marketplace strongly supports a \$0.05 rate cap, at a minimum, the Commission should not delay past April to adopt an immediate reduction to the rates proposed by the Martha Wright petitioners, at \$0.12 and \$0.14 per minute for prison and jails.

**The Commission should immediately issue rules and engage in regular data collection.** The Commission should adopt rules within the first 100 days of new FCC leadership (i.e. by April 30, 2021) and provide for rapid implementation and narrow waivers of any rules it adopts. The Commission has often not hesitated to require immediate compliance with its rules. As Free Press stated, any waivers of this rate should be narrowly tailored.<sup>14</sup> Finally, we support, as do many other commenters, regular data collection from the prison phone industry. Without data, incarcerated people and their families will not reap the benefits of the continued cost savings obtained by the rest of U.S. consumers.

If you have any questions about the issues raised in this letter, please feel free to contact Media/Telecommunications Task Force Co-Chair Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-904-2168 or [cleanza@alhmail.com](mailto:cleanza@alhmail.com), Kathleen Ruane, ACLU, at 202-675-2336 or [KRuane@aclu.org](mailto:KRuane@aclu.org), or Corrine Yu, Leadership Conference Senior Program Director, at 202-466-5670 or [yu@civilrights.org](mailto:yu@civilrights.org).

Sincerely,  
The Leadership Conference on Civil and Human Rights

AFL-CIO  
Communications Workers of America  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Action Alliance  
Japanese American Citizens League  
Lambda Legal  
NAACP  
National Action Network  
National Consumer Law Center (on behalf of its low-income clients)  
National Hispanic Media Coalition  
National Organization for Women  
NETWORK Lobby

The Refugee and Immigrant Center for Education (RAICES)  
Sisters of Mercy of the Americas Justice Team  
Union for Reform Judaism  
United Church of Christ, OC Inc.  
Wind of the Spirit Immigrant Resource Center

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<sup>1</sup> HEARD *et al.* Comments at 5-6 (citing examples of people denied legal representation or *any* communication).

<sup>2</sup> Leadership Conference 2020 IP Transition Comments, GN Docket No. 19-285 (filed Feb. 4, 2020).

<sup>3</sup> 47 U.S.C. § 225.

<sup>4</sup> Massachusetts Prison Legal Services Comments.

<sup>5</sup> *Id.* at 6-8 (citing ICE's Performance Based National Detention Standards).

<sup>6</sup> *Id.* at 5.

<sup>7</sup> New Jersey Advocates for Immigrant Detainees NYU Immigrant Rights Clinic Comments and LatinoJustice and AILLA comments, WT Docket 12-375 (filed June 30, 2015) at 4.

<sup>8</sup> *See, e.g.*, Verizon Wireless international rates, <https://www.verizon.com/solutions-and-services/international-long-distance-in-us/> (free 10-digit dialing for approximately 30 international destinations at no extra cost; \$15/mo for unlimited calling; unlimited calling to Mexico and Canada for \$5 per month; \$0.05/min plus \$5/mo to 230 countries); T-Mobile international calling, <https://www.t-mobile.com/coverage/international-calling> (\$15/mo for unlimited calling to 70 destinations);

<sup>9</sup> Worth Rises Comments at 4.

<sup>10</sup> The companies' complaints with respect to the Commission's methodology should be rejected. GTL, for example, complains that the Commission's proposed rate must compensate for each and every call and then criticizes the Commission for subjecting it to rate of return regulation by reviewing the accuracy of its cost data, indicating that the Commission is relying on a rate cap methodology which takes into account rates charged to consumers. GTL cannot have the law both ways. GTL Comments at 16-24. Under GTL's proposal even one phone call in the company over the proposed cap would invalidate the cap nationwide.

<sup>11</sup> Prisoners' Legal Services at 4 (Securus charges Worcester County Sheriff's Office 2.5 cents per minute, the Illinois Department of Corrections 0.9 cents per minute and Dallas County, Texas 1.2 cents/minute; GTL charges the New Hampshire Department of Corrections 1.3 cents per minute). Taking into account revenue sharing via rate caps, they cite another example of 1.8 cents/minute.

<sup>12</sup> MediaJustice *et al.* Comments at 1-2.

<sup>13</sup> Worth Rises Comments, San Francisco Financial Justice Project City and County of San Francisco Comments.

<sup>14</sup> Free Press Comments at 6.