

January 12, 2015

Chairman Thomas Wheeler  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Rates for Inmate Calling Services, WC Docket No. 12-375

Dear Chairman Wheeler:

The undersigned represent a diverse coalition of religious, civil rights, public interest, labor, social justice and community-based organizations—from across the country—who join together to support equitable and fair charges for phone calls to and from prisons, jails, and immigration detention centers. We write to support the new set of proposals put forth by the Commission<sup>1</sup> to eliminate payments from prison phone companies to the institutions that hire them, cap local rates, ensure that related fees are not predatory, and urge the Commission to act with all possible speed on the severe harm to disabled individuals who remain most challenged in their access to adequate and affordable communications.

The FCC's vote in 2013 was historic, ending after a 10 year delay, the predatory rates for long-distance interstate calls. The FCC's leadership in this area was extremely helpful, bringing down immediately long-distance rates for many families, and causing a number of other jurisdictions to become aware of the problem and encourage them to take action on their own.<sup>2</sup> Families around the country are able to telephone their loved ones who are incarcerated or detained far away. This is no small victory and our thanks and gratitude are warmly given to the FCC leaders and staff who have been instrumental in this change.

The new proposal outlined by the FCC this fall is another welcome step. Most important, we are pleased to see the Commission take steps to align the interests of telephone companies and families by eliminating site commission payments from phone companies to the institutions that contract with them for telephone service. The FCC's successful data collection revealed that families of inmates have paid \$460 million in 2013 alone in "pass-through payments" "to pay for programs ranging from inmate welfare to roads to correctional facilities' staff salaries to the state or county's general budget."<sup>3</sup> While this number is an extreme burden on families and friends, it represents 0.3 percent of prison budgets overall.<sup>4</sup> These payments create perverse incentives – encouraging prisons, jails, and detention facilities to hire telephone companies that offer the highest commission payments, which often means hiring the companies with the highest prices. The most beneficial aspect of this decision, from our perspective, is the rapid and simple way in which this will empower normal contracting and procurement processes to perform their functions—competition for the lowest prices. We encourage the FCC to not only eliminate site commission payments, but also to backstop them with local rate caps that reflect competitive rates outside prisons, jails and detention facilities. The overwhelming majority of calls to and from these facilities are local calls. Further, with caps now in

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<sup>1</sup> Rates for Interstate Inmate Calling Services, Second Further Notice of Proposed Rulemaking, WC Docket 12-375 (rel. Oct 22, 2014) (*FNPRM*).

<sup>2</sup> Lee Romney, *Officials looking to reduce price of jail inmates' phone calls*, Los Angeles Times (July 5, 2014).

<sup>3</sup> *FNPRM* at para. 23.

<sup>4</sup> *Id.*

place for long-distance calls, there is a risk that companies and facilities will merely shift the cost centers from long-distance to local calls. Inmate calling service providers are clearly monopoly providers able to charge “supra-competitive prices” because inmates do not have access to competing alternatives. Only a few states and local jurisdictions have begun to respond since the Commission’s action last year. The Telecommunications Act of 1996 granted the Commission broad authority to regulate intrastate payphone rates, which includes rates charged inmates and their loved ones.<sup>5</sup> As a previous letter signed by many of the same organizations explained in 2013, much of the record which supported lowered rates for long-distance calls also support lower local rates.<sup>6</sup>

We are pleased the FCC is taking a serious look at the fees and practices associated with inmate calling and is proposing reforms. As the Prison Policy Institute found, ancillary charges represent 38 percent of all consumer payments for ICS.<sup>7</sup> Consumers are no less damaged when unreasonable costs come in the form of unjust fees and charges related to adding money to accounts, per-call fees, credit and other predatory practices. We have a strong concern about the incentives that per-call fees give to inmate call providers. Many inmates and their families report excessive and repeated call disconnections, ostensibly when third party calls or other violations are detected. If the provider had no financial incentive to disconnect a call, it would be more likely that these disconnections would be limited to instances of rule violations. As the FCC recognizes in its notice, if inmate calling providers are able to increase associated fees without limitation, it is likely that those fees will increase to compensate for lower rates. We encourage the FCC to establish robust consumer education obligations for this uniquely vulnerable population. We also share the concern of the FCC that facilities are starting to charge outrageous rates for access to newer technologies—such as fifty cents for one email—or to limit in-person access by replacing it with video access.<sup>8</sup> We commend the FCC for developing a record on these practices and encourage whatever steps can be taken to encourage competition and fair-dealing in the provision of these services.

Finally, we urge the FCC to be proactive with regard to the needs of prisoners with disabilities. The deaf and hard of hearing community face unique challenges while incarcerated or detained. We are gratified the FCC clarified that no additional charges can be imposed on inmates using the TRS (telecommunications relay services). In the present day and age, when technology is often used to make communications simpler and more seamless for people with disabilities, reliance on outdated technology for incarcerated people is not acceptable. We urge you heed the advice offered by the disabilities communities themselves, including comments filed by Helping Educate to Advance the Rights of the Deaf (HEARD). These stakeholders should be directly involved in any decisions the Commission makes with regard to their needs. This action would be a commendable step to implement your strong commitment to find mechanisms for the Commission to assist people with disabilities.

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<sup>5</sup> Rates for Interstate Inmate Calling Services, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-113, rel. Sept. 26, 2013 (2013) at paras. 135-37.

<sup>6</sup> Letter from the American Civil Liberties Union, *et al.* to Chairman Wheeler (filed December 20, 2013) (explaining that all of the following applied regardless of whether calls were intra or interstate: “the unjustness of the extreme financial burden on friends and family members who have transgressed no laws, the flaws in the market system which do not permit competition to bring down prices, and negative impact on recidivism and reentry when inmates are deprived of the relationships they require to thrive once they are released into society”).

<sup>7</sup> Prison Policy Institute, *Please Deposit All of Your Money* (2013).

<sup>8</sup> See, e.g., Emily Green, “Captive consumers: Corporations reap big profits on inmate finances, video visitations in Multnomah County,” *Street News* (Jan 6, 2015) available at: <http://news.streetroots.org/2015/01/06/captive-consumers-corporations-reap-big-profits-inmate-finances-video-visitations>

For all the above reasons, we urge you to address unreasonable local phone rates to prisons, jails and detention centers and take up the task of addressing the needs of incarcerated people with disabilities. We look forward to working with the Commission as you consider these important issues. If you have any questions with regard to this letter or the issues it raises, please do not hesitate to contact Cheryl Leanza with the United Church of Christ, OC Inc. at [cleanza@alhmail.com](mailto:cleanza@alhmail.com) or 202-904-2168 or Steven Renderos, Coordinator, Campaign for Prison Phone Justice at [steven@mediajustice.org](mailto:steven@mediajustice.org) or 510-698-3800.

Sincerely,

Alliance of Baptists  
American Friends Service Committee  
Arkansas Cradle to Prison Pipeline Initiative  
Asian Americans Advancing Justice | AAJC  
BEST: Building Entrepreneurs for Success in Tennessee  
Center for Media Justice  
Color of Change  
Common Cause  
Communications Workers of America  
Community Initiatives for Visiting Immigrants in Confinement (CIVIC)  
Congregational Church of Algonquin  
Day One  
Demand Progress  
Disciples Justice Action Network  
Franciscan Action Network  
The Greenlining Institute  
Healing Communities USA  
Highlander Research and Education Center  
Holy Spirit Missionary Sisters  
Illinois Campaign for Prison Phone Justice  
Iowa Unitarian Universalist Witness/Advocacy Network  
The Leadership Conference on Civil and Human Rights  
Martinez Street Women's Center  
Darren Mitchell Meade, Investigative Reporter  
Media Alliance  
Media Literacy Project

Media Mobilizing Project  
Mennonite Central Committee U.S. Washington Office  
Metodistas Asociados Representando la Causa de los Hispano Americanos (MARCHA)  
NAACP  
Nation Inside  
National Advocacy Center of the Sisters of the Good Shepherd  
National Council of La Raza  
National Hispanic Media Coalition  
National Religious Campaign Against Torture  
National Urban League  
New Jersey Advocates for Immigrant Detainees  
Open Technology Institute, New America  
Peace Action Group of Plymouth Church Seattle, UCC  
Picture Projects/360degrees.org  
The Peoples Press Project  
Public Knowledge  
Texas Death Penalty Education and Resource Center  
Dr. Artika R. Tyner  
Unitarian Universalist Association  
United Church of Christ, Justice and Witness Ministries  
United Methodist Church, General Board of Church and Society  
Voices for Racial Justice

cc:

Commissioner Clyburn  
Commissioner Rosenworcel  
Commissioner Pai  
Commissioner O'Reilly