

FCC Consumer Advisory Committee  
Recommendation Regarding Captioned Telephony

**Background:**

The Consumer Advisory Committee requests the FCC to mandate nationwide captioned telephone relay service to the extent this service is provided over the public switched telephone network (PSTN). At present, the provision of captioned telephone relay service varies widely from state to state, and is the only PSTN-based relay service proven to be functionally equivalent that is not uniformly and consistency available to anyone who needs it throughout the United States and its territories.

Description of Captioned Telephone Service

Title IV of the Americans with Disabilities Act (ADA) requires the provision of telecommunications relay service (TRS) to people who are deaf, hard of hearing or speech disabled that is functionally equivalent to voice telephone services.<sup>1</sup> Captioned telephone relay service is one type of relay service that achieves this goal by enabling a person to use his or her own voice to speak directly to another party, while reading responses from the other party in captions and, if he or she has residual hearing, hearing the responses voiced back by that individual. The service works by having the relay operator re-voice everything that the person responding says and then using a speech recognition program to automatically convert the operator's speech into text. The text then appears on the user's captioned telephone device.

Because these services allow conversations to take place in near real-time, they allow for the natural flow and speed of a typical voice phone conversation. In addition, users of one- or two-line captioned telephone can dial their destinations directly, eliminating any need for interaction with the relay operator. Because captioned telephone relay services are so transparent and spontaneous, consumers who previously were reluctant to use relay services – including senior citizens who lost their hearing later in life – are finding these services invaluable to maintaining their independence, privacy, and productivity in ways they previously thought were not possible. They are now better able to secure and retain employment, participate in civic affairs, conduct commerce, engage in recreational activities, and communicate with their families. In addition, captioned telephone service is ending isolation for children and teenagers with hearing loss, who are able to communicate with friends to obtain homework and arrange social events to the same extent as their hearing peers.

FCC Procedural Background

On July 25, 2003, the FCC approved single line captioned telephone as a form of enhanced voice carry over (VCO) relay service.<sup>2</sup> On July 14, 2005, the FCC authorized a two-line version of captioned telephone relay.<sup>3</sup> On January 11, 2007, the FCC released a ruling approving an Internet

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<sup>1</sup> 47 U.S.C. §225.

<sup>2</sup> *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, CC Dkt No. 98-67, FCC 03-190, (August 1, 2003).

<sup>3</sup> *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Dkt No. 98-67, CG Docket No. 03-123, FCC 05-141, (July 19, 2005).

Protocol version of this service.<sup>4</sup> However, the FCC has never mandated any form of captioned telephone relay service; the provision of this service is entirely voluntary. Interstate captioned telephone calls are reimbursed by the Interstate TRS Fund administered by NECA. Intrastate captioned telephone calls are reimbursed through funding mechanisms determined by individual states. The separation of jurisdictions for funding purposes mirrors the funding method for traditional TTY-voice relay services that are carried over the PSTN.

### The Need for a Mandate

Because captioned telephone relay service is authorized, but not mandated by the FCC, states are free to decide whether or not to offer this service to some or all of their residents. As a consequence, two states still do not offer this service at all, and the vast majority of the states that do offer this relay feature allow only a fraction of their populations to participate in their captioned telephone programs. For example, on a monthly basis, Michigan allows only 25 additional program participants, Tennessee allows 16, and Connecticut allows 15 and New Hampshire only 10. At least 36 states impose similar limitations. Some states also limit access through the back door by placing restrictions on the number of PSTN-based captioned telephone devices that can be sold, acquired or used within their jurisdiction. For example, an individual may get a device in one state, but not be permitted to use it to make captioned telephone relay calls when traveling in or after moving to another state. Specifically, some “no roaming” states will not pay for calls made on their state-distributed telephones if those calls are placed outside their state lines, while other states will not allow any “guest users” who have equipment from outside their jurisdiction to make calls within their states. Numerous other states allow interstate calls only if one leg of the call begins or ends within their states.<sup>5</sup>

The combination of these complex and inconsistent jurisdictional restrictions causes considerable confusion and severe hardships for callers traveling from one state to another. Such restrictions deny telephone access to senior citizens who visit family in other states, families who take vacations in other states, professionals who travel for business purposes, and countless other Americans who move around in our very mobile society. These restrictions not only prevent captioned telephone users from receiving functionally equivalent telephone service; by preventing people with hearing loss from being able to freely travel at will, they result in disparate treatment in violation of the ADA and deny access to telephone service in violation of the universal service mandate of the Communications Act.<sup>6</sup>

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<sup>4</sup> *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Internet-based Captioned Telephone Service*, Declaratory Ruling, CG Docket No. 03-123, FCC 06-182 Order (January 11, 2007).

<sup>5</sup> Prior to 7-1-1 dialing, when states used statewide numbers for traditional TRS, it was not uncommon to restrict use of those numbers to calls made within their state boundaries. However, this did not pose a problem because where one state dropped off, another picked up. With the introduction of 7-1-1 dialing, this became even less of a problem because calls made via 7-1-1 automatically connected the caller with the relay service physically located in the state where that code was dialed. By contrast, the policies that restrict captioned telephone relay service to jurisdictional boundaries create significant gaps in communications access for users of this service.

<sup>6</sup> 47 U.S.C. §151.

The consequence of these arrangements is that captioned telephone relay service is now the *only* form of relay service that is not equally available to all Americans who need relay services, more than six years after it was first approved by the Commission and even though the FCC has touted this form of relay service as the single most effective means of providing certain people with hearing loss with functionally equivalent telephone service. This was not Congress's intent when it enacted the ADA; rather, that statute was designed to put an end to telephone discrimination against individuals with hearing loss. Nor was it Congress's intent when it directed the FCC to ensure that universal telephone service be "made available so far as possible, to all the people of the United States .for the purpose of promoting safety of life and property through the use of wire and radio communication." One has only to imagine the absurdity of placing a quota on the number of hearing people who can receive telephone service in a given state in a given month to understand the impact of quotas on people who need this service.

In order to remedy this situation, on October 31, 2005, more than thirty organizations representing people with hearing loss filed a petition with the FCC to mandate captioned telephone relay service.<sup>7</sup> The lack of a response from the Commission prompted a second FCC petition, filed on June 10, 2009, in which various consumer groups renewed and supplemented their petition to request the FCC initiate a rulemaking for the purpose of mandating captioned telephone relay service.<sup>8</sup> Both the 2005 and the 2009 petitions described at length the significant ways in which captioned telephone relay service has enhanced the ability of people with hearing loss to communicate by phone, as well as the severe restrictions imposed on this population of relay users.

Although captioned telephone relay service provides a phone experience that closely approximates the experience that conventional voice users have when making telephone calls, without a mandate for this service, the provision of in-state captioned telephone services has been subject to the vagaries of internal state political and budgetary processes, which often treat the service like a charity that the state can grant or rescind at any time. When this service is denied or restricted, it significantly affects an individual's independence and livelihood, threatening that individual's well-being.

As a service that has, over the past seven years (including its trial period), proven itself to be technologically feasible, cost efficient, and most importantly, the most appropriate and functionally equivalent form of communications access for its intended user population, The Consumer Advisory Committee recommends to the Commission that PSTN-based captioned telephone service be mandated along with other mandated relay services regulated by the FCC.

## RESOLUTION

**WHEREAS**, the FCC has found captioned telephone relay service to be the only functionally equivalent relay service that can meet the unique needs of a particular population of individuals

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<sup>7</sup> "Petition for Rulemaking to Mandate Captioned Telephone Relay Service and Approve IP Captioned Telephone Relay Service" (October 31, 2005). As noted above, the FCC did approve an IP version of the service. However, it has never addressed that portion of the petition seeking a mandate for a PSTN version of this service.

<sup>8</sup> "Supplement to Petition to Mandate Captioned Telephone Relay Service" (June 10, 2009).

with hearing loss whose needs have not been met by other relay services approved by the Commission; and

**WHEREAS**, the FCC's record, compiled in response to petitions filed in 2005 and 2009 requesting a captioned telephone relay service mandate, contains extensive comments from captioned telephone relay users attesting to the ways that this service has restored their independence, privacy, and productivity and enabled them to end their isolation, secure and retain employment, participate in civic affairs, conduct commerce, engage in recreational activities, and communicate with their families; and

**WHEREAS**, current state limitations on the number of individuals who may have access to captioned telephone relay services is impeding the ability of such individuals to have access to telephone service, in violation of the Americans with Disabilities Act's (ADA's) guarantees of nondiscriminatory telephone service and the Communications Act's universal service mandate; and

**WHEREAS**, current state limitations on the ability of captioned telephone users to access captioned telephone relay services when they change state jurisdictions is impeding the ability of such individuals to have access to telephone service, in violation of the ADA's guarantees of nondiscriminatory telephone service and the Communications Act's universal service mandate; and

**WHEREAS**, the above state restrictions on the provision of captioned telephone relay service have been in existence for the six years since the FCC first approved this service in 2003, and are not likely to end without direction from the FCC,

*now, therefore, be it*

**RESOLVED**, that the FCC's Consumer Advisory Committee urges the FCC to grant the 2005 and 2009 petitions referenced above, by initiating and completing a rulemaking proceeding for the purpose of mandating captioned telephone relay service nationwide to the extent this service is provided over the public switched telephone network (PSTN).

Adopted, December 4, 2009

National Association of Broadcasters & Consumer Electronics Association – Abstaining

Respectfully Submitted:

Debra R. Berlyn, Chairperson  
FCC Consumer Advisory Committee