

## **FACT SHEET: Providing Affordable, Sustainable Inmate Calling Services**

Today, Chairman Wheeler and Commissioner Clyburn ask their fellow commissioners to consider an item that will both ensure that the rates for inmate calling services (ICS) are just, reasonable, and fair for local and long-distance calls, and that the nation's jails and prisons are compensated for reasonable costs of inmate calling services. The proposed item takes a careful look at the costs that facilities incur by providing ICS and covers these ICS-related costs through modest increases in the inmate calling rate caps previously set by the FCC. The Commission will vote on the item at its August 4 Open Meeting.

### **History**

In October of 2015, under the leadership of Chairman Wheeler and Commissioner Clyburn, the FCC capped local and long-distance ICS rates and capped or banned ancillary service charges to correct a market failure and ensure that ICS rates and charges comply with the Communications Act. Several parties, including ICS providers and state and local governments, subsequently filed a Petition for Review of the Order with the U.S. Court of Appeals for the District of Columbia (D.C. Circuit). Several of those parties also requested that the Court delay implementation of the new rates, pending the outcome of that litigation. The Court agreed to delay implementation of the new rates, leaving in place the Commission's 2013 interim interstate calling rate caps of \$0.21 per minute for debit and prepaid ICS calls and \$0.25 per minute for collect ICS calls. The Court also delayed the implementation of a rule setting caps for single-call services, but left the new restrictions on ancillary charges undisturbed in all other respects.

### **Hamden Petition**

Michael S. Hamden, a criminal defense attorney with more than 25 years of experience, filed a Petition for Reconsideration with the FCC on January 19, 2016. In his petition, Hamden asks the Commission to reconsider its decision not to prohibit providers from making extra payments to prisons, known as "site commissions," or, in the alternative, to allow a modest, per-minute facility cost-recovery fee, among other matters.

### **FCC Response**

Raising our rate caps to account for jails' and prisons' legitimate ICS costs will help ensure that inmate calling services will at last be available to inmate and their families at reasonable rates for **both** local and long-distance service. The record developed in response to the Hamden Petition and in the litigation before the D.C. Circuit support an approach to inmate calling rate reform that expressly accounts, in the rate cap calculations, for the possibility that jails and prisons bear legitimate costs in providing access to ICS.

### **Rate Modification**

The Order modifies the proposed rate caps to account for costs facilities incur in offering ICS, particularly the higher costs smaller institutions may face. These changes are as follows:

- 13 cents/minute for debit/prepaid calls, in state or federal prisons (up from 11 cents/minute stayed Oct. 2015 rate)
- 19 cents/minute for debit/prepaid calls in jails with 1,000 or more inmates (up from 14 cents/minute stayed Oct. 2015 rate)

- 21 cents/minute for debit/prepaid calls in jails with 350-999 inmates (up from 16 cents/minute stayed Oct. 2015 rate)
- 31 cents/minute for debit/prepaid calls in jails of up to 349 inmates (up from 22 cents/minute stayed Oct. 2015 rate)

Rates for collect calls are slightly higher in the first year and will be phased down to these caps after a two-year transition period.

#### **Additional Facts about Inmate Calling**

- Approximately 71 percent of inmates reside in state or federal prisons.
- Approximately 85 percent of inmates reside in institutions with populations exceeding 1,000.
- With the exception of the rate for smaller jails, the modified rates are substantially lower than or equal to the current 21 cents/minute interim cap on interstate rates.
- The rates would apply to **both interstate and local calls**; the current interim rates apply only to interstate calls.
- These rates will ensure that ICS providers can recover all of their ICS-related costs (including a reasonable return on capital) within the rate caps.