

**Statement of Commissioner Michael J. Copps,
Approving in Part, Dissenting in Part**

Re: Telecommunications Relay Services and the Americans with Disabilities Act of 1990

Over a decade ago when it passed the Americans with Disabilities Act, Congress recognized the importance of access to telecommunications for the millions of Americans with disabilities. In that statute, Congress directed the Commission to implement its vision that those with disabilities should have access to functionally equivalent services. I dissent in part from this Order because I conclude that a significant part of this decision is at odds with Congress' statutory mandate.

Last month, this Commission took action that could eliminate access to wireless services for those who are deaf or hard of hearing. In that order, the Commission phased out the analog wireless standard with inadequate commitment to ensure hearing aid compatible devices for digital wireless services.

This month, the Commission adopts an Order that could increase the cost of another option – payphones – for those with disabilities. Under Section 225(d)(1)(D) of the Act, the Commission has an obligation to ensure that “users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communications services.” In accordance with this mandate, the Commission required carriers to handle coin calls for consumers using telecommunications relay services (TRS). Due to concerns about technical problems with coin relay calls, the Commission for the past decade adopted an alternative plan proposed by carriers. Pursuant to this plan, carriers would not need to offer coin relay calls, but instead must offer free local TRS calls, must allow customers to make toll relay calls using prepaid or calling cards at rates equivalent to or less than the coin rate, and must develop programs to educate TRS users about alternatives to coin calls.

In today's Order, the Commission backs away from that alternative plan. The majority here eliminates entirely the requirement that carriers provide coin TRS calls from payphones. In addition, although the Commission maintains the rule that carriers provide free local TRS calls – which I support -- the majority no longer requires that carriers provide alternatives for toll calls at rates equal to or less than the coin rate. I fail to see how these actions satisfy the Commission's statutory obligation under section 225. Moreover, the Commission makes it even more difficult for consumers by eliminating requirements for outreach to inform consumers of the least expensive options.

Some may view this order as only a small step back from the functional equivalence mandated by Congress. But when we are talking about the millions of Americans with disabilities, and the millions more who communicate with these citizens, any step back from Congress' directive is unacceptable.

Some may also argue that there are competitive alternatives available for TRS users with rates less than the coin rate. Yet, in this Order, the majority requires neither educational efforts nor outreach to ensure that consumers are aware of these options. The majority reaches this conclusion notwithstanding its finding that “the current educational and outreach programs have not been sufficient” and notwithstanding comments in this docket that carriers often impose surcharges on TRS calls using those alternative options that render the rates higher than the coin rate.

I sincerely hope that these two orders do not indicate the start of an assault on the gains in accessibility made by those with disabilities over the past decade. As technology advances, we should be moving forward on accessibility, not retreating.