

September 19, 2022

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Washington D.C. 20510

The Honorable Maria Cantwell, Chairwoman
Committee on Commerce, Science, and
Transportation
U.S. Senate
Washington D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington D.C. 20510

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington D.C. 20510

Dear Majority Leader Schumer, Speaker Pelosi, Chairwoman Cantwell, and Chairman Pallone:

The undersigned grassroots advocates, civil rights, consumer rights, and faith-based organizations write urging Congress to restore the Federal Communications Commission's (FCC) authority to prevent incarcerated people and their families and loved ones from paying predatory prices to stay connected by rapidly passing H.R. 2489, the Martha Wright Prison Phone Justice Act, and S. 1541, the Martha Wright-Reed Just and Reasonable Communications Act. While slightly different, both bills would affirm the FCC's ability to protect consumers from predatory rates to communicate with incarcerated people.

The Senate Committee on Commerce, Science, and Transportation has approved its bill on a unanimous voice vote with the support of the National Sheriffs Association.¹ The time has come to seek unanimous consent on this legislation or pass it on the Senate floor. The House passed the text of H.R. 2489 last Congress as part of the Heroes Act in 2020,² and the Communications and Technology Subcommittee of the House Committee on Energy and Commerce held a

¹ U.S. Senate Committee on Commerce, Science, and Transportation, *Commerce Committee Approves Critical Legislation Including Ocean Shipping Reform Bill*, March 22, 2022, <https://www.commerce.senate.gov/2022/3/commerce-committee-approves-critical-legislation-including-ocean-shipping-reform-bill>; Senate Commerce Committee Passes Duckworth-Portman Bipartisan Martha Wright-Reed Just and Reasonable Communications Act, March 22, 2022, <https://www.duckworth.senate.gov/news/press-releases/senate-committee-passes-duckworth-portman-bipartisan-martha-wright-reed-just-and-reasonable-communications-act>.

² The Heroes Act, H.R. 6800, 116th Congress, 2d Sess., Title VII, §§ 130701 *et seq.*, <https://www.congress.gov/bill/116th-congress/house-bill/6800/text>.

hearing on it last year.³ We urge the House to either move H.R. 2489 or to approve S. 1541 quickly so that prison phone justice legislation becomes law in this Congress.

Improved technology and more choices have reduced communication prices for many people. However, families impacted by the carceral system continue to face high communications costs and unjust and predatory commercial practices. Children cannot speak with incarcerated parents without sacrificing their financial security or giving up food or medication. Counsel cannot communicate with their clients who are in jail, jeopardizing their civil and due process rights. Grandmothers, pastors, and spouses make do with short calls spaced too far apart to maintain their relationships, making it significantly more difficult for people to thrive when they rejoin their communities at the end of incarceration. Passing this legislation would improve the lives of families, especially Black and Brown families, across the country.

Although the House and Senate versions of the bill are not identical, if either bill becomes law:

- All consumers will receive the same protection against unjust and unreasonable rates, no matter whether they are incarcerated or speaking to someone who is incarcerated.
- All calls must meet the just and reasonable standard, no matter where, geographically, the calls start and end.
- The FCC's authority is technology-neutral.

The legislation also ensures that the FCC can use the authority Congress has given it to address these unjust call rates. A federal circuit court opinion in 2017 significantly jeopardized the FCC's latitude to address rates in an efficient and appropriate manner⁴ even though Congress gave the FCC that authority in its amendments to Section 276 of the Communications Act in the 1996 Telecommunications Act.⁵ The Senate bill also reinforces the FCC's obligations under the Administrative Procedure Act.

Ultimately, all phone calls for incarcerated people and their loved ones should be free. These bills would not reach that goal, but they would affirm the FCC's ability to address the egregious rates around the country as a regulatory matter, while advocates and families continue to work for free calls, which has already been achieved in Connecticut, San Diego County, San Francisco, and New York City.

We urge you to move swiftly and take the necessary steps to enact prison phone justice legislation during this Congress.

³ Communications and Technology Subcommittee of the House Committee on Energy and Commerce, Hearing on "Strengthening Our Communications Networks to Meet the Needs of Consumers," October 6, 2021, <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-strengthening-our-communications-networks-to-meet-the-needs>.

⁴ *Global Tel*Link v. FCC*, 859 F.3d 39 (D.C. Cir. 2017).

⁵ 1996 Telecommunications Act, Pub. L. No. 104-104, 110 STAT. 106-07, 47 U.S.C., § 276(b), (d), <https://www.congress.gov/104/plaws/publ104/PLAW-104publ104.pdf>.

Sincerely,

Adult Friends for Youth
Advocates for Change
American Association of People with Disabilities
American Friends Service Committee
American Humanist Association
Americans for Prosperity
Arizonans for Rational Sex Offense Laws
Asian Americans Advancing Justice - AAJC
Black Women's Roundtable
Center for Democracy & Technology
Center for Responsible Lending
Church of Scientology National Affairs Office
Color Of Change
Colorado-CURE, Inc.
Common Cause
Communications Workers of America
Council on American-Islamic Relations (CAIR)
Crossroads of Iowa
DC Justice Lab
Democracy Fund Voice
The Episcopal Church
Fight for the Future
Fines and Fees Justice Center
Florida FreePat
FREE! Families Rally for Emancipation and Empowerment
Free Press Action
Gellybean's Prison Outreach
Hawai'i Health & Harm Reduction Center
Hawai'i Friends of Restorative Justice
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Incarcerated Nation Network
Just Future Project
Media Alliance
MediaJustice
Middle Ground Prison Reform
More Than Our Crimes
Muslim Advocates
Narrative Arts
National Capital Crime Assistance Network
National Coalition on Black Civic Participation
National Consumer Law Center (on behalf of its low-income clients)
National Council of Asian Pacific Americans (NCAPA)

National CURE
NETWORK Lobby for Catholic Social Justice
Oblates of St Francis de Sales
OpenMedia
pa. CURE
Partners in Healthy Communities
Phoenix Reentry Resources
Prison Policy Initiative
The Prison Show
Project Hope to Abolish the Death Penalty
Public Knowledge
The Real Cost of Prisons Project
RIHD, INC
SMU Human Rights Program
Soul Solutions LLC
Southern Poverty Law Center Action Fund
Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
Titus House Ministries
T J W Family Charitable Foundation
Union for Reform Judaism
United Church of Christ Media Justice Ministry
Urbana-Champaign Independent Media Center
UV4SOR
Vermont CURE
Virginia Justice for Life
Voqal
The Washington Lawyers Committee for Civil Rights and Urban Affairs
Worth Rises