

**Before the  
National Telecommunications and Information Administration**

**In re** )  
 )  
**Preventing Contraband Cell Phone** )  
**Use in Prisons** )  
\_\_\_\_\_ )

**Docket No. 100504212-0212-01**

**COMMENTS OF  
GLOBAL TEL\*LINK CORPORATION**

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Global Tel\*Link Corporation (“GTL”) hereby respectfully submits its comments in the above-captioned proceeding to bring to this very important discussion the perspective of a member of the inmate phone service industry; an industry with a fundamental interest in assisting its customer base of state and county correctional facilities in eradicating the serious public safety threat posed by the illicit use of contraband cell phones within correctional institutions. While this Notice of Inquiry (“NOI”) is largely designed to gather technical information related to the various proposed methods of effecting signals emanating from contraband cell phones, the responses to which will be provided by the manufacturers of this equipment, GTL presents the ancillary issues associated with the ability to deploy and operate the solutions. The search for technically viable and effective equipment is only part of the path to uncovering permanent solutions; the legality of the solutions and the cost of implementation are also critical factors that must be considered.

**I. BACKGROUND**

GTL provides secure, customized, highly specialized telecommunications services to correctional facilities throughout the United States. GTL serves all types of correctional facilities, from the smallest county jails to twenty of the Nation’s Departments of Correction.

GTL has been serving the secure telecommunications needs of the corrections industry for almost twenty years, during which time its service has evolved from traditional public payphone to sophisticated software-based security systems that not only connect inmates with friends and family by telephone but, just as importantly, assist law enforcement and corrections entities in their attempts to prevent illegal activities that may originate within their inmate populations, and prosecute such crimes when they occur. In many instances, due to state and county budgetary constraints under which correctional facilities are forced to operate, the policymakers that influence budgetary spending design an environment in which the inmate phone service industry contributes to the funding of correctional facility essentials. Many correctional facilities are looking to their inmate phone service provider to assist with the deployment of a contraband cell phone solution.

Over the course of the last two years, GTL has been acutely aware of the frustration experienced by its customers in the increasing prevalence of illicitly-gained cell phones within their facilities. With smuggled cell phones garnering anywhere from \$200-\$2,500 apiece, the impetus to take the risk of being caught providing phones or phone components to inmates is strong. GTL has explored each of the known solutions presented—detection, jamming and managed access—and has considered the appraisals of each of these solutions as expressed by its correctional facility customers. Each solution has its pros and cons, from a legal/regulatory and cost perspective, and those pros and cons will be presented here.

## **II. DISCUSSION**

### **A. The Technologies**

## **1. Detection**

Cell phone detection is the most tested contraband cell phone solution available. If it were the answer to the problem, there might not be a need for this NOI. It has the benefit of being legal to deploy, and there is choice in method, but none manages to meet the necessary combination of efficacy and affordability sought by correctional facilities.

The array of solutions spans the spectrum, from full-body scanners and BOSS chairs (for the most intimately sequestered phones and phone components), to human-led sniffer dogs, hand-held sweepers, and hard-wired detection equipment. These detection devices cost anywhere from several hundred dollars to tens of thousands of dollars, and each requires the expenditure of human resources to operate and eventually confiscate discovered phones.

At-the-door detection, such as body scanners and metal detectors, are defeated by launching phones over the fence into prison yards, or leaving them in designated locations accessible by inmates on work detail. Sniffer dogs, which come at a premium price in the thousands of dollars due to their specialized training, also require a handler. A sweep of a facility can only be done one section at a time, and hardly in secret. The most sophisticated signal detection systems can surely announce, via computer workstation, where detected phones are located. However, to be optimally efficient within correctional facility architecture, the wiring requirements alone are not only prohibitively expensive, but subject to discovery and tampering. If successfully wired, a sophisticated signal detection network is only as useful as a facility has staff to scramble to collect the located phones. Given that inmates have learned to assemble and disassemble phones in a matter of seconds, and hide components in hard-to-reach areas, the prospect faced by a warden whose computer workstation is lit like a Christmas tree

with phone detections, but little means to collect them, only adds to the frustration associated with the problem.

## **2. Jamming**

Jamming is the solution of choice for some facilities. In the face of insufficient budgets to staff a facility with enough personnel to collect detected phones, jamming cell phone signals is an attractive alternative. There is no need to bother finding hidden phones when they simply won't work. Jamming equipment can be basic and broad and so overpowering that it jams every signal broadcasting from within a correctional facility, and unfortunately, beyond the boundaries of the correctional facility. Or, it can be a technically refined tool that can be tuned to jam selected frequencies within a known set of geographic parameters. Whether clumsy or surgical, relatively inexpensive or moderately-to-somewhat significantly expensive, jamming isn't legal, at least in the strong opinion of the wireless industry.

It is certainly open to debate whether or not the always-cited Section 333 of The Communications Act of 1934, as amended, 47 U.S.C. §333, prohibits the use of jamming technology in limited and defined situations such as a prison setting. The wireless industry proclaims that the law is an absolute preclusion to the use of even the most sophisticated jamming technology. The Federal Communications Commission ("FCC") at first seemed to appreciate its own authority bestowed by Section 333 to at least permit a demonstration of "surgical" jamming, only to quickly reverse its decision and withdraw its approval of a short demonstration at the D.C. Department of Corrections.

Whether it is a simple, relatively inexpensive system, or a more complex, more costly system, the end result of jamming is a constant; a warden can ostensibly flip a switch and forget about his or her contraband cell phone problem. Jamming isn't an investigative tool. It won't

necessarily help convict an inmate and his or her called party for the arrangement of a murder or a drug deal for the defining reason that the deal couldn't have been arranged. For some correctional facilities, the assessment of budget, staff availability and facility architecture may deem jamming as the only solution that is desired. There is no question that jamming interferes with a cell phone signal. However, it must be asked, before damning the technology out-of-hand, whether or not the particular signal being jammed is one that should be considered lawful and therefore protected in the first place.

### **3. Managed Access**

Managed access is the current frontrunner of contraband cell phone solutions from the wireless industry's perspective. It is elegant, scalable, capable of not only thwarting illicit cell phone calls, but informing law enforcement about the call. It is also fairly costly and more complex in its operating parameters than other alternatives, and subject, in some cases, to the cooperation of the wireless industry for its deployment.

At this moment in time, managed access is the only alternative to cell phone detection that can be implemented without fear of sanction by the FCC. GTL is currently working with a managed access provider to arm a small portion of a state Department of Corrections with equipment that will recognize signals emanating from cell phones within the confines of the facility that should not be beaming. Managed access systems can distinguish between signals from cell phones that are permitted to be used within a correctional facility, and those that are not by pre-programming authorized numbers into a "green light" database. "Green-light" signals are allowed to pass through the system's gateway and complete on the respective carrier's network without disruption. "Red-light" signals are not. "Red-light" signals never continue along the carrier's network and unauthorized calls, with the exception of 911 calls, never complete.

There is much useful information that could be gleaned from the detection of an unauthorized call, if only accessing the information could be easier. Because illicit cell phone calls are made on a public wireless network, they are presumed legitimate until argued otherwise, and are protected by wiretap laws from being recorded or monitored unless there is a court order or warrant in place. This time-consuming, potentially after-the-fact requirement diminishes the beauty of the full range of features a managed access system has to offer. When a correctional facility has decided to make the sizeable investment in installing a managed access system, or has asked its inmate phone service provider to fund such a system when the facility's budget cannot, the facility should be able to eat its cake. While these systems accomplish the sought-after objective of preventing inmates from making cell phone calls, how much better would it be if the facility's investigators could earmark certain calls and knowingly let them pass through the gateway to completion, while being monitored and recorded? If this were possible, murders and drug deals WOULD be uncovered, and persons involved would be convicted.

The wireless carriers have publicly supported managed access solutions as a lesser evil than jamming. There are managed access solutions that do not require interaction with the wireless carriers, and solutions that do. The solutions that require wireless carrier cooperation by way of spectrum access would benefit from an "all-in" attitude on the part of the wireless carriers. While it is the case that these managed access solutions are new, at least in this country, and therefore possibly not yet perfect in their operation, there must be conviction on the part of the carriers that they are willing and ready to fully take part in the "firsts," and understand and accept the possible discoveries of imperfections that will be corrected on the road to a truly useful solution.

As managed access solutions begin to be deployed there needs to be an appreciation of the fact that, for those solutions that require carrier cooperation, a system is only efficacious if every carrier with coverage in the vicinity of a correctional facility agrees to participate. A system that cannot win the cooperation of one carrier in a group of carriers servicing a facility's location is a sports car with three wheels. Carriers that agree to cooperate, but only tentatively, are failing to understand that the deployment of a managed access system requires considerable investment on the part of multiple players—the solution's manufacturer, the correctional facility that has decided that this is the solution it will deploy, and in some instances, the inmate phone service provider that has agreed to fund and manage the system for the facility. If carriers structure their cooperation on the right to withdraw on a whim, the entire investment is in jeopardy. It is critical that the industry that has gone on the record as an advocate for this solution stand behind its optimism and roll with the discoveries along with the other players seeking to make a managed access solution viable.

## **B. The Laws and Regulations**

A variety of legislative proposals is upon us. If considered in concert and with a singular goal of ensuring that correctional facilities have immediate choices when it comes to battling the contraband cell phone problem, then we are in the midst of a fortuitous opportunity. Conversely, if each of the bills in Congress is considered individually, without regard for the objectives and potential ramifications of other pending bills, the result could be further delay in bringing solutions to market

### **1. Safe Prisons Communications Act of 2009**

The Safe Prisons Communications Act of 2009, companion bills H.R. 560 and S. 251, appears founded on the right principal. Sponsored on each side of the aisle by officials whose states know all too well the dangers posed by inmates accessing cell phones, the objective of the law is to permit correctional facilities to jam the signals of unauthorized wireless devices.

Over the course of consideration, however, S. 251 has been modified to include a considerable amount of concessions to caution, which in effect could require a minimum of 5 months to elapse before a provider could implement a jamming solution. This only follows after the FCC has initiated and completed a rulemaking proceeding to codify the rules governing jamming authorization, which rulemaking need not begin for 180 days from the date the bill becomes law. While the intent is a good and important one, it will be a long time before a correctional facility has the legal ability to choose and deploy a jamming system.

## **2. Cell Phone Contraband Act of 2010**

The Cell Phone Contraband Act of 2010, S. 1749, is a critical piece of legislation for its simple act of placing cell phones on the list of items considered contraband under the law when in the possession of an inmate. See 47 U.S.C. § 1791. If a cell phone cannot be possessed, and therefore operated, legally by an inmate, it would follow that the signal from that illegal device would be an unauthorized signal that does not fall under the protections of the Communications Act. An illegal signal should be no more subject to Section 333 than a pirated radio station should be protected from interference from a licensed broadcaster.

There is an added provision that directs the U. S. Government Accountability Office (“GAO”) to undertake a study of inmate phone rates. There is no connection drawn between the two provisions of the bill, nor are there conference reports or other materials that explain why the GAO provision was added only hours before the bill went to vote in the Senate.

The Honorable Messrs. Boucher and Rush filed joint comments to this NOI, in which they posit a nexus between inmate phone rates and the proliferation of contraband cell phones. It would appear that the GAO study provision of S. 1749 is seeking information that could support or dispel this hypothesis. GTL met with the House Judiciary Committee, where S. 1749 currently awaits action, and discussed the importance of ensuring that a GAO inmate rate study be crafted objectively and without an agenda, to avoid the risk of drawing incorrect conclusions about the existence of this nexus. It is dangerous to lose sight of the reason why inmates pay handsome sums for smuggled cell phones and why contraband cell phones are so threatening to public safety. Inmates need contraband cell phones to conduct criminal activity free from the recording and monitoring associated with inmate phone systems. If inmate calls were free, if or inmates were provided with their own individual cell phones that were recorded and monitored like inmate phone systems’ calls, inmates intent on perpetrating crime would still command contraband cell phones.

Messrs. Boucher and Rush offer one example to support the theory that the cost of inmate phone calls drives the incidence of smuggled cell phones. They use the State of Nebraska as an example of a corrections system that experienced a dramatic drop in contraband cell phone use when the State eliminated inmate call-derived commissions and lowered inmate phone rates. GTL offers one counter-example. In August, 2007, the State of California enacted SB 81, which ordered a scheduled reduction in inmate phone rates and State

commissions over a four-year period, culminating in a 0% commission beginning July 1, 2010. According to news articles reporting on the contraband cell phone issue, the California Department of Corrections and Rehabilitation (“CDCR”) confiscated approximately 1400 phones in 2007, approximately 2800 phones in 2008, and 5000 phones in 2009. See CDCR figures presented in [http://www.cdcr.ca.gov/news/2009\\_Press\\_Releases/April\\_14.html](http://www.cdcr.ca.gov/news/2009_Press_Releases/April_14.html), and <http://www.washingtontimes.com/new/2010/jan/27/drugs-inside-prison-walls/>. Should CDCR be looking to deploy a contraband cell phone solution, it will have a difficult time with the funding given the State’s budget woes and loss of inmate phone service commissions to serve as a potential funding source.

Contraband cell phones must be added to the list of contraband codified at 47 U.S.C. § 1791. It is imperative that the gain to be had from this exercise not be diminished by poorly rationalized tampering with inmate phone rates and commissions.

### **3. Prepaid Phone Anonymity**

The majority of contraband cell phones are of the prepaid variety, available for purchase at nearly any convenience store. The attraction, of course, is the complete anonymity afforded the purchaser, such that the caller is that much more difficult to trace. As a result of the foiled car bomb left in Times Square, Senators Schumer and Cornyn announced on May 26, 2010 that they were sponsoring legislation that would require purchasers of prepaid cell phones to present identification at the point of sale. The states of Texas, Massachusetts, Pennsylvania, Missouri, Georgia and South Carolina have each proposed their own legislation, but a federal mandate is timely and efficient. In and of itself, the loss of ease of anonymity should have an impact on the usefulness of contraband cell phones.

#### **4. Communications Act of 1934, as Amended**

The crux of the debate about whether or not contraband cell phone signals can be legally jammed is focused on Section 333 of the Communications Act. 47 U.S.C. § 333. Opponents of jamming technologies cite Section 333 as a blanket prohibition on permitting interference with such signals that even the FCC is powerless to overstep. What is often left out of the debate is the fact that these signals are being transmitted from phones that are not rightfully being used, and soon will be illegal contraband. Nor would this particular jamming be willful or malicious in the manner contemplated by Congress when it passed the law.

The legislative history to Section 333 explains that the law was created to address a then-recent increase in willful or malicious interference to various radio services, such as amateur radio, and CB radio. The law was intended to “give the FCC authority to suspend a license upon sufficient proof that the licensee has willfully or maliciously interfered with radio communications.” See Senate Report 101-215, p.7. The bill gave the FCC “the explicit authority” to halt such types of interference. *Id.* It does not say that the FCC shall never permit a signal to be jammed.

In the event that the results achieved through the passage of the Safe Prisons Act of 2009 and the Cell Phone Contraband Act of 2010 do not eliminate the need for continued debate over whether the Communications Act remains a strict prohibition on jamming, there is always the impending rewrite of the Communications Act of 1934 that can address the issue. It would be preferable not to wait the many years this undertaking will consume in order to clarify this point of contention, and there shouldn't need to be a

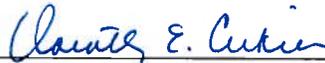
wait. The authority of the FCC to make sound decisions regarding this issue has been there all along.

### III. CONCLUSION

There are significant issues being considered in the telecommunications industry at present, with broadband initiatives attracting much of the limelight. NTIA is to be applauded for recognizing that the contraband cell phone issue is of such critical importance that its consideration cannot wait while more publicly pervasive issues are debated. Each cell phone that finds its way into the hands of an inmate possibly puts a life at risk.

GTL will continue its participation in this endeavor, and stands ready to lend its knowledge and experience in service to the corrections industry in order to preserve momentum and hasten the availability of multiple contraband cell phone solutions.

Respectfully submitted,



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