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## Consumers and Political Action

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## CONSUMERS AND POLITICAL ACTION

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**Sy DuBow**

I want to share with you recent developments that can help life communicational barriers confronting deaf people with government agencies, Congress and state legislatures, the courts and in their daily lives.

### **I. TELECOMMUNICATION NEEDS**

The Federal Communications Commission (FCC) has recently ordered an inquiry about TTY needs of deaf and hearing-impaired people. The NCLD filed a petition 2 months ago with the FCC requesting this inquiry.

The purpose of the FCC inquiry is to provide a national forum for telephone companies and manufacturers of communication-related equipment to exchange with the deaf community ways to resolve their TTY needs. The FCC will use this information to develop and pass new rules to resolve deaf people's TTY needs and help support federal legislation.

The FCC is seeking information to answer the following questions:

- Is there a need for a new, specialized communication service for deaf people?
- If there is a need, is it possible for the telephone companies to provide the following services to deaf customers using TTYs: operator, directory, and business office assistance, recorded messages, and pay TTY terminals in public locations?
- Are there any legal, contractual, or regulatory barriers to telephone companies that stand in the way of their offering TTY terminal/modem combinations that are compatible with the existing TTY system?
- Is it necessary for the benefit of hearing aid

users for the FCC to establish standards, such as electro-magnetic leakage, etc., in the manufacturing of telephone handsets?

- Is there a need or justification for preferential rates (i.e., long distance) for the deaf and what economic impact would such changes have? Connecticut has already passed a regulation to reduce Intrastate TTY rates by two-thirds.
- Are there any unmet research needs in bringing new services to the deaf, and what sources of funding are available to support any additional research that may be needed?
- What, if any, Federal research and development funds are needed and is the use of such funds appropriate for demonstration projects in the area?

Interested persons may file comments on or before May 1, 1978. Please refer to CC Docket No. 78-50 when corresponding with the FCC. All relevant comments will be considered by the Commission and will then become part of the permanent record. In Mid-March the FCC will install a special TTY so that members of the deaf community may file their comments in an informal manner. Until that time, all questions should be referred to the FCC's Consumer Assistance Office at (202) 632-6999 (TTY).

The National Center for Law and the Deaf will continue to watch these proceedings and will submit comments in addition to their original petition.

This inquiry provides a wonderful opportunity for deaf consumers and organizations for deaf people such as A.D.A.R.A. to do

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Mr. DuBow is the Legal Director of the National Center for Law and the Deaf.

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something to improve TTY services.

### II. ACCESS TO GOVERNMENT

A major problem for deaf people is that government is not communicationally accessible. If a hearing person wants information from a government agency or wants to tell his legislator of his support or disagreement on bills, he calls on the telephone. But a deaf person who wants to know about government services or tell an agency about his discrimination complaint must make an appointment, drive to the government office, search for parking, then wait endlessly to see the right person. Sometimes the deaf person may need an interpreter, but he/she may not want to discuss private business through an interpreter. If the government had TTYs, deaf people could have direct contact with their government. We have clients who have filed 504 complaints, and HEW writes them and tells them to call (telephone) HEW about their complaint. The Office of Civil Rights of HEW still has no TTYs in its ten regional offices. The Spellman Bill in Congress can change this deplorable situation. The Spellman Bill, H.R. 6711, provides for TTYs in at least 5 Federal agencies and their regional offices. It also provides for grants to state and local governments for TTYs. Congressmen will also be provided funds to install TTYs in their field and Capitol Hill offices. Senator Lowell Weicker of Connecticut and Congresspersons Toby Moffett and Gladys Spellman have already installed TTYs on their own initiative. Finally, the Bill will authorize providing TTYs in over 100 public locations for deaf people who cannot afford TTYs. The Bill is presently stuck in the House Government Operations Committee.

### III. ACCESS TO THE COURTS

Deaf people still do not have an equal opportunity to participate in judicial proceedings in many parts of the country. Deaf people are continually frustrated and denied justice because no qualified interpreters are appointed. In some cities, the courts appoint policemen who can only fingerspell and have an obvious conflict of interest.

There is presently a new federal interpreter

Bill that can serve as a good model for states. The Bilingual Hearing and Speech Impaired Court Interpreter Act provides for qualified interpreters for deaf people in criminal and civil federal court proceedings. The Bill also has some special protections for deaf people and interpreters:

1. Interpreters protected by the attorney-client privilege cannot be compelled to testify as to communications made through an interpreter.

2. If any interpreter is unable to communicate effectively with the deaf person, a new interpreter shall be appointed.

3. The Administrative Director of the U.S. Courts must consult with the NAD, RID and state RIDs and state associations of the deaf in preparing standards for qualified interpreters and keeping the lists updated.

The interpreter Bill passed the U.S. Senate and is now in the House of Representatives before the Subcommittee on Civil and Constitutional Rights. The House Bill number is H.R. 10228.

On a state level there is a need to train and appoint qualified interpreters. Some states have good interpreter laws but few qualified interpreters and courts are unaware of where to find them. Three states offer a solution to this problem. In Georgia, the state pays the Georgia RID to train, appoint and monitor qualified interpreters. In Connecticut, the state pays the Connecticut Commission of the Deaf to provide qualified interpreters. In Virginia, a Bill passed the General Assembly to give money to the Virginia Council for the Deaf to provide state-wide qualified interpreter services for courts, administrative proceedings, legislative meetings, doctor and lawyer interviews and agency interviews.

### IV. ENFORCEMENT

The passage of good comprehensive legislation will not alone guarantee that a deaf person will be provided with a qualified interpreter at all stages of judicial proceedings. Enforcement of these laws has been sorely lacking. In Oklahoma, their interpreter statute requires the appointment of a qualified interpreter from the time of arrest.

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But in Oklahoma City, the police have refused to enforce this statute. In the case of *Kiddy v. The City of Oklahoma City*, a deaf person was arrested for drunkenness in public. Mr. Kiddy was jailed for two days before his arraignment. During these two days, the police denied him interpreter services. Without an interpreter, the deaf defendant was unable to know the charge against him or to communicate his desire and ability to post bond. Mr. Kiddy and the Oklahoma Association of the Deaf have filed a class action suit to enforce the state statute. The Oklahoma Supreme Court ruled that Oklahoma law requires the appointment of an interpreter for deaf people at the arrest stage and applies to arrests made by municipal corporations. This court victory demonstrates the importance of judicial action to enforce interpreter laws already on the books but ignored by the police.

Dr. Schein talked about all the wonderful rights deaf people now have with Section 504, but Section 504 will only be empty promises without strong legal enforcement. The Law Center is confronting many schools, hospitals and welfare agencies refusing to follow 504.

Last summer, a deaf teacher, Nelda Barnes, needed to pass two summer school classes to keep her teacher's certification or be fired. She needed an interpreter to understand and participate in the classes. Converse College refused. The NAD Legal Defense Fund sued and the Federal Court, in the 1st case since the signing of the HEW Regulation, ordered the college to pay for the interpreter. Judge Hemphill recognized that handicapped persons can first sue in Federal Court for help without going through HEW. The private right of action is very important, especially since HEW's new enforcement plan says the Office of Civil Rights will only investigate 26 of 664 expected new handicapped complaints in 1978. In many regions, HEW will not investigate any handicapped complaints.

NAD and especially Fred Schreiber and Merv Garretson, have seen the need for legal action to win and enforce deaf people's rights. NAD has established the NAD Legal Defense Fund to fight discrimination through court action.

Some of the recent LDF cases are class action suits against the Illinois Department of Public Aid for refusing to provide interpreter services for deaf applicants for food stamps and against the University of Texas for refusing to pay for interpreter services for a college student.

Effective enforcement requires continuous vigilance and pressure. In the years ahead, we will need more deaf lawyers to fight for deaf people's rights, the same as black, women, and Mexican lawyers have been fighting for their minority's rights.

When the NCLD began in 1975, there were only 4 deaf lawyers for 2 million deaf people. Now, with the help of our training program, eleven deaf students were accepted and are participating in law schools. We will continue our efforts to convince law schools to accept more qualified deaf applicants and encourage and help deaf students interested in a legal profession.

At the same time, there is a great need for persistent deaf consumer action to destroy communicational barriers on a local level. Here are some examples of local deaf consumer action:

1. In L.A. and Pittsburgh, deaf groups are fighting for more captioning of T.V. programs.

2. In Maryland and D.C., deaf groups are lobbying for laws to install TTYs with police, fire, and ambulance emergency services. Deaf groups in D.C. requested TTYs in the gas company, and were successful.

3. In Philadelphia, Pa., the Community Service Center for the Hearing-Impaired, under the direction of Betty Broecker, developed a training program for deaf people on how to use telecommunication devices for the deaf (T.D.D.'s). After a deaf person successfully finishes the training program, he/she can buy a TTY at a reduced price. There have been, to date, more than 270 graduates of this program.

4. N.Y.U. and NAD are evaluating how hospitals are providing effective communication for deaf patients.

5. Gallaudet Public Services Department has a training program for nurses on communication problems of deaf patients.

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These are only a few examples of direct consumer action. If deaf people are to win equal opportunity in our society, more must be done. Many other groups are competing for government services and benefits. Legislators and agency people need to be continually confronted and reminded about deaf people's needs.

The most effective way to advocate deaf consumer issues is through local and national coalitions of handicap groups. We have recently seen positive results of handicapped coalitions. Last spring, handicapped groups demonstrating around the country forced the Secretary of HEW to sign the long delayed 504 Regulations. Last summer, the White House Conference on the Handicapped, with 800 delegates, 50% handicapped, from all 50

states, worked together on developing recommendations for priorities for legislative action. The American Coalition of Citizens with Disabilities (ACCD) is a positive step toward strong coalitions.

Ben Franklin said: "We must all hang together, lest we all hang separately."

New laws for the handicapped such as P.L. 94-142, and Sections 501, 503, and 504 of the Vocational Rehabilitation Act of 1973, provide an opportunity for input and evaluation by handicapped groups. This organization, NAD, ACCD, and the deaf consumer must emphatically inform federal agencies, federal contractors and recipients of federal financial assistance of their responsibilities to provide equal opportunity and equal access for deaf citizens.