



October 4, 2016

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51

Dear Ms. Dortch:

Sorenson Communications, Inc. (“Sorenson”) and its affiliate CaptionCall, LLC (“CaptionCall”) (collectively “CaptionCall”) hereby submit this letter for the record in the above-referenced dockets.

As the Commission enters 2017, we understand it may well begin reviewing the TRS Fund, and its two major components, Video Relay Service and IP Captioned Telephone Service. As it does so, it will be critical that the Commission keep foremost in mind the Americans with Disabilities Act’s promise of functionally equivalent telecommunications for deaf, hard-of-hearing and speech-impaired individuals. These two programs have been a key part of delivering much more functionally equivalent services to these communities.

VRS

The impacts of the 2013 VRS Rate Order continue to manifest themselves. As of January 1, 2017, VRS rates will stand at their lowest levels ever, with rates down almost a third from their June 2013 levels. And the total amount paid by the fund for VRS services has also fallen. For example, in the month of May 2010 the fund expended \$54,491,035 for VRS service¹ and in the most recent month for which the fund administrator has reported (August 2016) the compensation for VRS was \$44,249,734.² VRS usage has been stable for the past two years and is not likely to increase significantly. Over the same period, however, VRS users have also seen

¹ See *TRS Fund Performance Status Report: Funding Year July 2009 – June 2010* at 1, http://media.wix.com/ugd/455e4d_d3c3355db6004bffb0aff8449e3a68c3.pdf

² See *Interstate TRS Fund Performance Status Report* at 1 (Aug. 2016), http://media.wix.com/ugd/455e4d_37e0ca478dc44f4fbb8335ec84104c9c.pdf

greater adoption of mobile VRS, allowing deaf consumers to communicate in their native language even when on the go – largely supplanting IP Relay with much greater convenience.

While VRS providers have absorbed those levels of revenue reductions and been able to deliver service improvements such as mobile VRS, it has not been without costs. As both providers and consumers have pointed out, continued cost-cutting pressures have made it more difficult to maintain high-quality services. In 2016, a smaller provider stopped offering VRS altogether.

As the Commission looks forward, it will be important for the Commission to do two things. First, it must recognize that continued innovation in VRS and its support technology will come from VRS providers, not a government-funded research and development or technology development program. Second, to continue to make those investments in improved service and access technologies to keep up with technological changes, VRS providers will need greater financial stability over the next five years. Because VRS subscribership and usage is not growing significantly, investment-friendly stability can be created without meaningfully increasing total VRS compensation as the Commission continues to transition to a unified, market-based rate.

IP CTS

At the same time, it is clear that IP CTS subscribership and usage is likely to continue to grow for at least two reasons. First, there has been and continues to be a lack of awareness among eligible users of the availability of the IP CTS accommodation, and second, the population that needs IP CTS to be able to communicate effectively on the telephone will continue to grow. This means that IP CTS providers must find ways to deliver more of their services with increased efficiency.

Given these reasons and the current state of the rules governing IP CTS, it will be important for the Commission to take reasonable steps to ensure that IP CTS services are provided to consumers who actually need them to communicate effectively on the phone. But the Commission also must be careful not to create obstacles that block access by those who need IP CTS or that make IP CTS difficult to use, especially in light of the fact that IP CTS users are overwhelming older and less proficient in operating technological devices. Among a basic set of steps the Commission could take would be:

- Require all IP CTS users to be screened by an independent hearing health professional who certifies to the user's need for IP CTS to be able to use the telephone effectively. CaptionCall does this today for all consumers who do not pay at least \$75 for their captioned phone – as it has done since the Commission adopted the since-vacated certification rules. Going forward, we should continue to educate providers about IP CTS for customers who need more than amplification or hearing aid compatible phones. However, the Commission should not make purchase of expensive hearing aids a prerequisite for IP CTS, as that could erect a de facto income barrier to obtaining IP CTS service.

- Require all providers to ship and deliver their captioned phones in a default mode of captions off. CaptionCall does this today, but all other providers do not. The default setting should be up to the consumer to choose, depending upon his or her needs.
- Require captioned phones to permit amplification to be used even when captions are not activated. CaptionCall does this, but a principal competitor does not.
- Require captioned phones to provide amplification that meets TIA 4953 standards for mild, moderate, and severe hearing loss. CaptionCall is upgrading the firmware in all its 67T and 67TB phones to do this, even though it may allow some consumers to forego use of captions for some calls.
- Require all captioned phones to provide hearing aid compatibility meeting the TIA 1098 standard. CaptionCall is upgrading the firmware in all its 67T and 67TB phones to do this, which will allow users with hearing aids or cochlear implants to be able to hear better when using the phone. Again, this may allow some consumers to forego use of captions at least for some calls.

With respect to IP CTS rates, it is clear that the trend of ever-increasing rates under the MARS plan cannot continue. Increasing rates compound fund growth that already occurs from increased volume. The MARS formula has the benefit of being market-based, but the rate increases are likely also being driven by a shift in usage from traditional captioned telephone services, which are largely supported through the states, to IP CTS. Several years ago, CaptionCall proposed shifting from MARS into a price cap mechanism that would start with a market-based MARS rate level to initialize the cap, but then ratchet rates downward in subsequent years.³ The Commission could undertake a similar step now, perhaps initializing the cap at the July 1, 2013 MARS rate levels, which would eliminate the large rate jumps that have occurred over the past three years.⁴ Because IP CTS is labor intensive rather than capital intensive, a real 0.5% price reduction factor (i.e., no upward adjustment for inflation and a 0.5% nominal price reduction) would be a reasonable price reduction factor.

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³ See Petition for Rulemaking, CG Docket No. 03-123 (filed Feb. 20, 2013).

⁴ The July 1, 2013 MARS-based IP CTS rate was \$1.7877 per minute.

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We recognize that there will be much more dialogue between the Commission and all affected stakeholders as the Commission proceeds through 2017. Sorenson and CaptionCall, however, thought it is important to start that conversation and to put some initial thoughts forward to do so.

Please do not hesitate to contact me if you would like to discuss any of the items raised in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Nakahata".

John T. Nakahata

*Counsel for Sorenson Communications, Inc. and
CaptionCall, LLC*

cc: Alison Kutler
Karen Peltz Strauss
Robert Aldrich
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