

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matters of)	
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Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
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Telecommunications Relay Services and Speech- to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
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Consumer and Governmental Affairs Bureau Seeks Comment on the Request by Convo Communications, LLC for Clarification of Section 64.604(c)(8)(v) of the Commission’s Rules)	
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Reply Comments of Consumer Groups and Accessibility Researchers

**Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
Hearing Loss Association of America (HLAA)
National Association of the Deaf (NAD)
Association of Late-Deafened Adults (ALDA)
Cerebral Palsy and Deaf Organization (CPADO)
Deaf Seniors of America (DSA)
Deaf/Hard of Hearing Technology Rehabilitation
Engineering Research Center (DHH-RERC)
Rehabilitation Engineering Research Center on Universal Interface &
Information Technology Access (IT-RERC)
California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH)**

The above-referenced Consumer Groups and Accessibility Researchers submit their reply comments in response to the Public Notice (“PN”) issued by the Consumer and Governmental Affairs Bureau (“CGB”) of the Federal Communications Commission (“FCC” or “Commission”). The PN requested comment regarding Convo Communications, LLC’s (“Convo”) request for clarification of the rule prohibiting Video Relay Service (“VRS”) providers from offering

incentives to VRS users to register for or use the VRS providers' service.¹ In its request, Convo asked the Commission to provide further guidance regarding the difference between VRS service-related and non-service-related equipment as well as the circumstances under which giving away service-related equipment to induce users to port their VRS ten-digit telephone number ("TDN") is prohibited by the rule.² For the reasons stated below, the Consumer Groups and Accessibility Researchers oppose any clarification of the rule that disallows distribution of VRS equipment. Additionally, regarding classification of equipment being distributed by VRS providers including CSDVRS, LLC d/b/a ZVRS ("ZVRS") and Purple Communications, Inc. ("Purple"), the Consumer Groups suggest the Commission refer the question to the iTRS Advisory Council. The iTRS Advisory Council would then make specific recommendations to the Commission for any necessary further action.

I. The Commission Should Not Prohibit Distribution of VRS Hardware

The foundational principle of Section 225 of the Communications Act is for the Commission to ensure persons who are deaf, hard of hearing, deaf-blind, deaf with mobility issues or speech-disabled have a functionally equivalent communications experience to persons without these disabilities.³ The Commission has embraced this principle dating back to 2011 when it

¹ *Consumer and Governmental Affairs Bureau Seeks Comment on the Request by Convo Communications, LLC for Clarification of Section 64.604(c)(8)(v) of the Commission's Rules*, Public Notice, DA 19-847 (CGB 2019).

² *Convo Communications, LLC, Request for Expeditious Clarification of 47 C.F.R. § 64.604(c)(8)(v)*, at 1-2 (filed Aug. 19, 2019) ("Convo Petition") <https://www.fcc.gov/ecfs/filing/108190980017508>; see also 47 CFR § 64.604(c)(8)(v) ("A VRS provider shall not offer or provide to any person or entity any form of direct or indirect incentives, financial or otherwise, for the purpose of encouraging individuals to register for or use the VRS provider's service.").

³ 47 U.S.C. § 225(a)(3), (b)(1). To achieve functional equivalency, the Commission's rules contain operational, technical, and functional minimum standards that govern the provision of TRS. See 47 CFR § 64.604 *et seq*; *Structure and Practices of the Video Relay Service Program Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, FCC 19-39, para. 3 (May 15, 2019) ("2019 VRS Order").

recognized the importance of functional equivalence as outlined in the Consumer Groups TRS Policy Statement.⁴ The Commission and stakeholders have worked closely throughout the years to ensure individuals with disabilities are not relegated to second-class service offerings due to restrictive rules on the funding mechanism meant to ensure access. Consumer Groups and Accessibility Researchers recognize the importance of protecting the TRS Fund from abusive practices and wasteful spending. However, the Commission balanced these considerations with its current VRS equipment rules requiring distributed equipment to be “service-related.”⁵ When evaluating if equipment distributed at no or minimal cost was a violation, the Commission stated it would consider “the extent to which the equipment is designed, marketed, and used for relay communication.”⁶ The Commission explained that the new rule did not include “VRS-related items, such as videophones and video monitors.”⁷

This rule, as with all TRS rules, must be designed to ensure functional equivalent experience of VRS users to the experience of hearing users of telecommunications services. VRS providers distribute a variety of off-the-shelf consumer equipment optimized to support VRS. The Commission recognized the distribution of generally available consumer equipment like videophones and video monitors is permitted. Further clarifying the rule to be limited to such equipment, or outright banning equipment distribution, would deprive VRS users of functionally equivalent equipment to non-VRS users. Any restrictive guidance limiting equipment functionality to only VRS services would deprive VRS users of often helpful features and capabilities inherent

⁴ See Consumer Groups’ TRS Policy Statement – Functional Equivalency of Telecommunications Relay Services: Meeting the Mandate of the Americans with Disabilities Act at 2 (Apr. 12, 2011) (“*TRS Policy Statement*”), <https://ecfsapi.fcc.gov/file/7021748016.pdf>; *Structure and Practices of the Video Relay Service Program, et al.*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 17367 (2011).

⁵ 2019 VRS Order at para. 36.

⁶ *Id.*

⁷ *Id.* at para. 37.

to modern consumer equipment with multi-function operating systems. Featured-limited or single-purpose VRS equipment would in no way be functionally equivalent to the off-the-shelf equipment hearing users have access to. The Commission should reject the arguments of commenters suggesting a total ban on VRS providers' distribution of service-related equipment because such a ban would deprive VRS users of functionally equivalent service. Modern equipment with high processing power and video graphics capabilities have become mainstays in every day communications due to the required demands of mixed-media, video, and enhanced data transmissions. This is especially true for VRS as increased video quality and lower latency applications require more capable equipment. Depriving VRS users from modern equipment in favor of limited-featured or single-purpose VRS equipment would lower the quality of the available VRS service due to the degraded capabilities of the equipment.⁸

Further, VRS users are at a greater risk of being financially limited, unemployed, underemployed, and/or having support from some form of disability income. Contrary to Convo's claim,⁹ many VRS users require some type of support to access everyday consumer devices that offer improved VRS platforms. To this end, the Consumer Groups and Accessibility Researchers support the comments of CSDVRS that classifying consumer devices adapted for VRS as "non-service-related" would harm VRS users and prevent them from accessing functionally equivalent services.¹⁰ By clarifying the rule to prevent VRS providers from distributing modern consumer equipment adapted for VRS use, the Commission would take a step back from a decade of policies to promote equal communications access for deaf, hard of hearing, deaf-blind, deaf with mobility issues or speech-disabled consumers. Modern equipment like videophones, monitors, or tablets

⁸ See Convo Comments at 7-14; GlobalVRS Comments at 4-6; Sorenson Communications at 3-5.

⁹ Convo Comments at 4.

¹⁰ CSDVRS Comments at 7-10.

will always run commercial operating systems capable of ancillary services. However, these modern devices also deliver access to the most capable VRS platforms. Accordingly, the Commission should not clarify its equipment distribution rules to prevent VRS users from receiving modern consumer devices. Any such restriction would subject VRS users to an experience not functionally equivalent to their hearing counterparts.

II. The iTRS Advisory Council Should Provide Recommendations Regarding What VRS Equipment is Service-Related

To the extent that VRS providers need additional clarification on what devices are service-related and what devices are non-service-related, the Commission should refer the issue to the iTRS Advisory Council. The iTRS Advisory Council can study the issue from a non-biased perspective and develop a set of recommendations for the Commission's consideration. The purpose of the iTRS Advisory Council is to advise on TRS cost recovery matters.¹¹ The rule in question, 47 CFR 64.604(c)(8)(v), was enacted to safeguard the TRS fund from "wasteful use of relay services" and ensure the costs of TRS are not unnecessarily increased.¹² Accordingly, the Commission enacted the prohibition on porting inducements to prevent increasing "VRS costs without improving the quality of service."¹³ The question of what equipment is service-related and what equipment is non-service-related flows from the goal of ensuring VRS providers are not diverting resources to improper costs that do not ensure functionally equivalent service.¹⁴ The iTRS Advisory Council's membership of various VRS stakeholders are best positioned to study whether certain equipment is enhancing VRS service offerings or simply being used to "encourage

¹¹ See 47 CFR 65.604(c)(5)(iii)(H); *Interstate Telecommunications Relay Service Fund Advisory Council Bylaws*, at 1, <http://www.rolkaloube.com/wp-content/uploads/2017/12/0202TRSCouncilBylaws-1.doc>.

¹² *2019 VRS Order* at para. 34.

¹³ *Id.* at para. 35.

¹⁴ *Id.*

consumers to select a provider based on the value of such free offers rather than the service provided.”¹⁵

The *2019 VRS Order* solicited clarification requests from VRS providers if the rule required additional explanation.¹⁶ To the extent the Commission finds the record demonstrates additional clarity is needed to inform VRS providers about their practices and options, the iTRS Advisory Council is the best forum.¹⁷ The iTRS Advisory Council can independently study current equipment distribution practices by VRS providers and solicit feedback from VRS users and stakeholders groups. This process would promote a more transparent and less commercially motivated discussion than the current record before the Commission. Further, the iTRS Advisory Council would be able to recommend to the Commission if additional clarification is required or enforcement action is warranted.

¹⁵ *Id.*

¹⁶ *Id.* at para. 36, fn. 124.

¹⁷ Convo Comments at 1-2; GlobalVRS Comments at 4-6; Sorenson Communications at 3-5.

III. Conclusion

For the foregoing reasons, the Consumer Groups and Accessibility researchers respectfully request the Commission consider these proposals in determining whether and how to respond to Convo's request for clarification.

Respectfully submitted,

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Dated: October 15, 2019