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May 2, 2019

**VIA ELECTRONIC FILING**

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

**Re: Notice of Ex Parte – Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123**

Dear Ms. Dortch:

On May 2, 2019, representatives of CSDVRS, LLC d/b/a ZVRS (“ZVRS”), Greg Hlibok, Chief Legal Officer, and Jennifer Richter and Shea Boyd, Counsel to ZVRS, spoke with Barbara Esbin, Robert Aldrich, Eliot Greenwald, and Michael Scott of the Consumer and Government Affairs Bureau and Eric Burger, the FCC’s Chief Technical Officer, by teleconference. ZVRS discussed the draft order and further notice of proposed rulemaking addressing the structure and practices of the Video Relay Service (“VRS”) program (the “Draft Order”),<sup>1</sup> and a recent ex parte filing made by Sorenson Communications, LLC (“Sorenson”).<sup>2</sup>

ZVRS applauds the Federal Communications Commission (the “Commission”) for taking steps to improve the VRS program by prohibiting non-service related incentives to VRS users. In the Draft Order, the Commission establishes a new prohibition on non-service related incentives to address give-aways “that contribute nothing to the provider’s quality of service” and “not only divert provider resources from the provision of functionally equivalent service, but also encourage consumers to select a provider based on the value of such free offers rather than the service provided, thereby reducing providers’ incentives to improve service quality.”<sup>3</sup> The Commission stated that, “[i]n determining whether a free give-away constitutes a non-service related inducement, the Commission will consider, among other things, the extent to which the equipment is designed, marketed, and used for relay communication.”<sup>4</sup>

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<sup>1</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Draft Report and Order and Further Notice of Proposed Rulemaking*, FCC-CIRC1905-07, CG Docket Nos. 10-51 and 03-123, ¶ 20 (rel. Apr. 18, 2019) (“Draft Order”).

<sup>2</sup> See Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission CG Docket Nos. 10-51 and 03-123, 7 (filed Apr. 30, 2019) (“Sorenson Letter”).

<sup>3</sup> Draft Order at para. 33.

<sup>4</sup> *Id.* at para. 34

In the Draft Order, the Commission provides examples of permissible service-related equipment, including “no charge videophones, routers, cables, and TV monitors with built-in speakers for VCO, sufficient picture quality for VRS, and HDMI capability.”<sup>5</sup> The Commission clarified that the “new rule is not intended to discourage innovative VRS provider offerings or products that are intended to enhance the quality or accessibility of relay services” and that service-related equipment need not be able to “support VRS service without any ancillary device.”<sup>6</sup>

The Sorenson *ex parte* filed on April 30<sup>th</sup> seemingly attempts to cast doubt on one videophone product offered by ZVRS, the OneVP, and its component hardware, the NVIDIA Shield,<sup>7</sup> suggesting that the device might not be service-related. As discussed with Commission staff today, the prohibition on giveaways of non-service related equipment does not implicate the OneVP, ZVRS’s most advanced home and office VRS system, which includes a remote, video camera, a hardware interface (the NVIDIA Shield), and the OneVP software. This device is precisely the type of device the Commission must have been considering when it said that service-related equipment need not support VRS alone, without anything ancillary.

The OneVP, which is implemented on the NVIDIA Shield Android device, is designed, marketed, and used as a videophone. The Android operating system, which is available to and widely used by the hearing community for telephone service, has standard ancillary capabilities, including streaming and gaming. However, as provided by ZVRS, the OneVP / NVIDIA Shield product does not function as a gaming system. A customer would need to purchase additional software and peripherals to use the NVIDIA Shield as a gaming device. ZVRS and Purple do not provide these capabilities.

The OneVP is a perfect example of the competition, “technological development,” and service quality improvement that the Commission seeks to foster for the deaf and hard of hearing community.<sup>8</sup> The OneVP is a major advance in VRS technology that affords users high-quality VRS with standard integrated applications and activities. It is incidental that the same equipment performance specifications that are essential to provide high-quality VRS (e.g. high quality HD video, processing power, etc.) also support other applications. These features do not render the OneVP a non-service related device. Such an interpretation would not further functional equivalence for the deaf and hard of hearing community. In today’s world, devices are no longer single function, and all consumers expect devices to have multiple functions that they can

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<sup>5</sup> *Id.* at para. 34, Note 119, Note 122.

<sup>6</sup> *Id.* at para. 34, Note 119, Note 123.

<sup>7</sup> See Sorenson Letter at 7 (“The Draft Order does not, however, address the category of inducements that have been commonly offered recently by some providers—devices such as iPads and tablets, laptops, and streaming media players with video game system capabilities like the NVIDIA SHIELD. These devices can be used for VRS and point-to-point calls but that is not their only function. The broad range of uses of these devices extends far beyond those of television monitors, and thus makes it unclear whether the Commission would consider them to be “non-service related” and therefore not acceptable.”).

<sup>8</sup> See Draft Order at para 34, Note 119, Note 122.

integrate into their daily lives. Relegating VRS users to special, single-use-only devices would not further functional equivalence.

ZVRS noted that the OneVP is no different than other service-related equipment offered by providers and recognized as acceptable by the Commission, such as routers and TV monitors with built-in speakers for voice-carry-over and sufficient picture quality for VRS.<sup>9</sup> The primary function of these devices is to provide VRS even if they may be used in an ancillary manner for non-VRS activities. For example, a router is necessary for the use of wireless VRS products but may be used for non-VRS internet activities by the customer. The OneVP / NVIDIA Shield device is similar. Without the NVIDIA Shield, the OneVP could not function and the fact that the NVIDIA Shield may support other functions does not eliminate its service-related purpose, particularly when marketed and provided as a videophone.

Finally, ZVRS noted that there is an anticompetitive element implicated if the Commission adopts an interpretation of “non-service related” that prohibits use of VRS videophones that have ancillary non-VRS functions. Only Sorenson has a bespoke VRS-only device. Almost all off-the-shelf modern videophone devices, including tablets, laptops, and the NVIDIA Shield used to power the OneVP product, run standard operating systems, such as Android, iOS, or Windows, and therefore have the capability to engage in any number of non-VRS functions if the user wishes. Requiring custom devices and operating systems that only provide VRS functions would significantly increase the development and equipment costs for providers. Only the largest provider, Sorenson, could possibly support development of an entire device ecosystem from scratch, leading to VRS customers only receiving equipment from Sorenson. This would severely limit competition and exacerbate the sign-up incentive problem noted in the Draft Order,<sup>10</sup> as customers would inevitably switch to the only provider now able to provide VRS equipment at low or no cost. This interpretation would also contravene the longstanding objective advocated by the consumer groups that providers should be encouraged to introduce new products to the market, using mainstream technological advancements.<sup>11</sup> ZVRS does not believe this is the result intended by the Commission.

The Commission should not adopt an interpretation of “non-service related” that would encompass the OneVP, or other similar videophones, merely because the systems, which are available to the hearing community today, are capable of ancillary non-VRS functions. As the Commission notes in the Draft Order, the “new rule is not intended to discourage innovative VRS provider offerings or products that are intended to enhance the quality or accessibility of

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<sup>9</sup> See *id.* at para 34, Note 119, Note 122.

<sup>10</sup> See *id.* at paras. 33-34.

<sup>11</sup> See Letter from Telecommunications for the Deaf and Hard of Hearing, Inc., et al to Marlene H. Dortch, CG Docket Nos. 10-51 and 03-123 (filed Apr. 12, 2011) (outlining the following key principles: 1) TRS users must be offered the ability to enjoy high quality relay services using mainstream products and services; 2) Vendors must be motivated to bring products to market that keep pace with mainstream technological advancements, and are continually improving the relay experience; and 3) TRS users must have a wide selection of choices regarding equipment and software interfaces as well as hardware options, TRS program services and methods of making or receiving relay calls.).

relay services” and that service-related equipment need not be able to “support VRS service without any ancillary device.”<sup>12</sup>

Respectfully submitted,

/s/Gregory Hlibok

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<sup>12</sup> *Id.* at para. 34, Note 119, Note 123.