



Deaf and Hard of Hearing Consumer Advocacy Network

May 13, 2021

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission 9050 Junction Drive
Annapolis Junction, MD 20701

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

The undersigned groups (collectively “Communications Equality Advocates”) represent the 48 million Americans who are deaf or hard of hearing whose civil rights to access telephone services on equal terms are guaranteed by Title IV of the Americans with Disabilities Act (ADA), enforced by the Federal Communications Commission (“Commission”) and will be impacted by the draft Notice of Proposed Rulemaking and Order related to video relay service (“VRS”) rates, which is scheduled for consideration at the Commission’s May 20, 2021 Open Meeting.

Many of us rely on different forms of relay services for the needs of everyday life taken for granted by those who are not deaf, hard of hearing, DeafBlind, or deaf with mobility disabilities¹- including but not limited to: making telephone calls in the course of work; calling loved ones; calling one’s doctors; calling to order food and other products; and calling for all sorts of information and services. Until the advent of relay services, deaf and hard of hearing people were left behind in terms of telecommunications.

Since then, the deaf and hard of hearing community has come to depend greatly on relay services for employment, family relations, professional services, shopping and other orders, and all other aspects of daily life. However, Communications Equality Advocates are greatly concerned about the impact of rates on the quality of TRS now and in coming years at a time when we need improvements and not deterioration.

¹ Any references to “deaf and hard of hearing people” also includes those who are deaf, hard of hearing, or deaf with mobility disabilities.

Communications Equality Advocates believe that the Commission has made earnest efforts to protect the integrity of relay services and applaud their efforts in this regard. However, at the same time, the Commission has been extraordinarily focused on costs. This is contrary to the mandate of the ADA for functionally equivalent telecommunication services for deaf and hard of hearing individuals. While fiscal efficiency is important, improvements must be made to ensure relay services are functionally equivalent to current telephone standards.

In April 2011, Communications Equality Advocates (filing as “Consumer Groups”) filed a TRS Policy Statement with the Commission, defining functional equivalency as:

“Persons receiving or making relay calls are able to participate equally in the entire conversation with the other party or parties and they experience the same activity, emotional context, purpose, operation, work, service, or role (function) within the call as if the call is between individuals who are not using relay services on any end of the call.”²

The ten core functional equivalency principles set forth in the TRS Policy Statement sought, among other things, to (a) provide a call experience for individuals who are deaf, hard of hearing, DeafBlind or speech disabled equivalent to that of a call between two hearing persons; (b) provide the full benefit of TRS to all parties on a call, regardless of the complexity and/or cost; (c) motivate vendors to continually improve the relay experience; (d) address diverse needs of individuals who are deaf, hard of hearing, DeafBlind or speech disabled; and (e) provide readily available interoperable communications.³

To that end, Communications Equality Advocates (filing as “Consumer Groups”) have consistently advocated for adequate compensation to all TRS providers for their services.⁴ Providers are dependent on reimbursement rates that cover the entirety of their legitimate costs. Without such, providers will be financially incapable of maintaining an adequate quality of service and, at worst, may cease providing TRS altogether. Sufficient compensation is therefore necessary to ensure choices in relay services for individuals who are deaf, hard of hearing, DeafBlind, or deaf with mobility issues.

Reimbursement decisions must be flexible enough to also allow reimbursement for expenses generated in developing and delivering continuously higher quality VRS service, while still ensuring expenses are relevant and ensure the financial stability of the TRS program. Quality of service is paramount, and the FCC should not lose sight of that in its quest to fulfill other goals. The Commission should concentrate on the quality of service to deaf, hard of hearing, DeafBlind, and deaf with mobility issues, even while considering goals to reduce waste. Consumers that rely on TRS service for functionally equivalent communications should not bear the burden of inadequate compensation that results in lower quality of service.

² Consumer Groups’ TRS Policy Statement (April 12, 2011) (attached to *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Consumer Groups’ Notice of Ex Parte Meeting (April 12, 2011)) (“*TRS Policy Statement*”).

³ *Id.* at 2.

⁴ See e.g., *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Comments of Consumer Groups (filed Dec. 9, 2015); Consumer Groups and Registry of Interpreters for the Deaf Comments on Provider Compensation Rates, Funding Requirement, and Carrier Contribution for the Period from July 1, 2015 through June 30, 2016 (filed June 4, 2015); and Comments of Consumer Groups on Further Notice of Proposed Rulemaking, at 2 (filed April 24, 2017); Comments of Consumer Groups In Response to the Petition for Reconsideration of the Report and Order and Order, FCC 17-86, on Behalf of the Interstate Telecommunications Relay Service Advisory Council (filed November 9, 2017).

For years, we have been unable to objectively measure whether the rates are reasonable or not as we do not have access to actual financial data so we take no position on specific rates or rate proposals. However, in recent years, we had been especially alarmed by the deterioration of service quality as the Commission constantly reduced the rates. The Commission had not spent much time on our requests for service improvements but instead had been single-mindedly obsessed with cutting rates.

The Commission at last took steps forward in this regard in the last VRS ratemaking proceeding which created an emergent tier and increased the rates for Tier I and Tier II. This fosters competition and choice. However, we cannot simply stop there. Additional steps are necessary to fill critical gaps in service and achieve functional equivalence. The Commission should encourage innovation rather than stagnant levels of service. Relay users need direct-dial access to 911 and other N11 services (including geo-location), the ability to maintain one phone number for both relay services and SMS messaging (also known as “Project IRIS”), little-to-no delays in signing up for and receiving relay services, the ability to use relay services while traveling internationally (longer than a few weeks at a time), and innovations in technology.

Although we are not in a position to determine specific relay compensation rates, providers must be compensated sufficiently to improve the quality of relay services through innovation, and to adequately train and pay their Communications Assistants. The rate for relay services must be sufficient to ensure there are interested companies competing to provide relay services to give deaf and hard of hearing individuals choices in telecommunication options. Moreover, we believe that the Commission needs to find ways to make sure that the rates reward quality service and features.

Communications Equality Advocates ask you to help us not just preserve but improve the relay services we have and include language prioritizing functional equivalence in the draft NPRM.

Please let us know if you have more questions or wish to discuss this further.

Respectfully submitted,

/s/

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