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Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: *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, Comments of ASL Services Holdings, LLC dba Global to Notice of Proposed Rulemaking Part III and Further Notice of Proposed Rulemaking Sections IV.C-E and G-H

Dear Secretary Dortch:

ASL Services Holdings, LLC dba GlobalVRS ("GlobalVRS") submits to the Commission the attached *Comments of ASL Services Holdings, LLC dba Global to Notice of Proposed Rulemaking Part III and Further Notice of Proposed Rulemaking Sections IV.C-E and G-H,* in the above-referenced matter.

Thank you for your attention to this matter. Questions may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

Andrew O. Isar

Regulatory Consultants to
ASL Services Holdings, LLC dba GlobalVRS

cc: Commissioner Legal Advisors Nicholas Degani, Amy Bender, Claude Aiken (via Email)
Karen Peltz-Strauss (via Email)
Eliot Greenwald (via Email)
Robert Aldrich (via Email)

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
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

COMMENTS OF ASL SERVICES HOLDINGS, LLC DBA GLOBALVRS TO NOTICE OF INQUIRY ON SERICE QUALITY METRICS FOR VRS, PART III AND FURTHER NOTICE OF PROPOSED RULEMAKING, SECTIONS IV.C–E AND G–H

Angela Roth
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May 30, 2017

SUMMARY

ASL Services Holdings, LLC dba GlobalVRS ("GlobalVRS") addresses additional Telecommunications Relay Service Program ("Program") considerations pertaining to performance goals and measures and other proposed reforms addressed in the Notice of Inquiry, Part III, and Further Notice of Proposed Rulemaking, Sections IV.C–E and G–H of the Commission's March 23, 2017 *Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order*.

Should provider performance comparisons be initiated under new Commission performance goals and objectives, GlobalVRS urges the Commission to ensure that comparisons be performed by the Commission in a competitively-neutral manner and only by qualified individuals to ensure meaningful service-to-service comparisons. GlobalVRS also urges the Commission to establish specific policy and guidance to enable providers to combat abusive, fraudulent and threatening video relay service calls more effectively.

Regarding the Commission's further proposed Program reforms, GlobalVRS maintains that visual verification of caller Program eligibility from public phones is the most effective means of combatting fraud; that direct video calling customer support services may be implemented so long as providers are not subject to additional costs without reimbursement; that the manner of provider per call verification remain optional; and that any form of subscriber inducement and non-compete employment provisions for video interpreters be prohibited.

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Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123

COMMENTS OF ASL SERVICES HOLDINGS, LLC DBA GLOBALVRS TO NOTICE OF INQUIRY ON SERICE QUALITY METRICS FOR VRS, PART III AND FURTHER NOTICE OF PROPOSED RULEMAKING, SECTIONS IV.C–E AND G–H

ASL Services Holdings, LLC dba GlobalVRS ("GlobalVRS") submits comments regarding the Notice of Inquiry on Service Quality Metrics for VRS ("NoI"), Part III, and Further Notice of Proposed Rulemaking ("FNPRM"), Sections IV.C, VRS Use of Enterprise and Public Videophones; IV.D, Direct Video Calling Customer Support Services; IV.E, Per call validation procedures, IV.G, Non-Service Related Inducements to Sign Up for VRS, and IV.H, Non-Compete Provisions in VRS CA Employment Contracts, to the Commission's *Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order*, in the above-captioned proceeding.[1]

I. INTRODUCTION

GlobalVRS hereby addresses the next set of Commission Telecommunications Relay Service Program ("Program") reforms raised in the Commission's NoI and FNPRM.

[1] *In the Matter of 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 and 03-123, *Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order*, FCC 17-26 (Rel. March 23, 2017).

GlobalVRS generally supports the Commission's recommendations regarding additional performance goals and objectives, to the extent that such goals, objectives and any comparative analysis are beneficial to the public. Any comparative analysis should be performed in a manner that will result in unbiased, meaningful service-to-service comparisons, performed by qualified individuals.

The potential for abusive, fraudulent and threatening video relay service calls is ever present. Commission policy and guidelines are needed to ensure that providers can effectively combat such calls with a clear understanding of their authority to do so.

As to the Commission's further proposed Program reforms, GlobalVRS maintains that visual verification of caller Program eligibility from public phones is the most effective means of combatting fraud; that direct video calling customer support services may be implemented so long as providers are not subject to additional costs without reimbursement; that the manner of provider per call verification remain optional; and that any form of subscriber inducement and non-compete employment provisions for video interpreters be explicitly prohibited.

II. PERFORMANCE GOALS AND MEASURES SHOULD ENABLE OBJECTIVE, DIRECT SERVICE-TO-SERVICE COMPARISON; THE COMMISSION MUST ESTABLISH CONSISTENT PROVIDER POLICIES AND GUIDANCE TO PREVENT ABUSIVE CALLING WITH COMMISSION ENFORCEMENT.

A. If Additional Performance Goals are Adopted, Performance Goals Should Accord Provider Flexibility to Meet Subscriber Needs as Off-the-Shelf Technology Continues to Evolve.

The TRS program has been appropriately built on a foundation of functional equivalence. And the Consumer Groups April 2011 core principals[2] support that foundation. GlobalVRS agrees with, and supports, those Principals.

[2] Consumer Groups' TRS Policy Statement – Functional Equivalency of Telecommunications Relay Services: Meeting the Mandate of the Americans with Disabilities Act, Attach. at 7 (filed April 12, 2011).

There are aspects of the Program that do not easily lend themselves to achievement of full functional equivalency. Issues addressed in the Commission's FNPRM such as subscriber registration and public telephone usage addressed below for example, borrow from the Commission's Lifeline program and existing Commission rules as a necessary means to administer the Program. These administrative considerations are a reminder that while approximation of full functional equivalency is a continuing goal, a fine balance between what might be considered ultimate functional equivalency and specific Program requirements is necessary.

In its initial FNPRM comments, GlobalVRS addressed the Program's historic conflicting challenges between efficiency and competition[3] – development of a meaningfully competitive market while operating under a strictly defined program. Similarly, there is a fine balance between performance and efficiency goals that must also consider the difference between providers, the dubious competitiveness marketplace under the current Program, the unique considerations associated with the provision of specialized services, and reimbursement of allowable provider costs.

Before specific competitive and efficiency goals are considered, the promised reforms must first be implemented and the Program's framework stabilized. The "market" that the Commission and non-dominant providers seek must first be established as a starting point for

[3] *See, In the Matter of 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 and 03-123,*Comments of ASL Services Holdings, LLC dba GlobalVRS to Further Notice of Proposed Rulemaking Sections IV.A-B and F* (April 24, 2017)[*GlobalVRS 2017 FNPRM Comments*] at 3. The Commission asks about establishing a requirement that providers operate "in the most efficient manner." (*2017 NoI* at 29). GlobalVRS agrees to the extent that "the most efficient manner" can be defined. Treatment of all providers with a single broad brush of "efficient operations" has not proven effective to the extent that the Commission has continued to suggest that efficiency and size are synonymous. So long as Commission/Fund administrator audits confirm each provider's efforts to operate as efficiently as possible under Program framework, circumstances, and specialized services, no further standards should be necessary.

broader performance goals.

A growing dependence on off-the-shelf technology too will promote development of a competitive "market." With the significant improvements in off-the-shelf technology, GlobalVRS agrees that the needs of the Deaf community can be served without perpetuation of proprietary equipment that has long held subscribers captive. This evolution in technology will occur without specific Commission policy, as commercial technology companies will continue to improve products in competition against each other.[4]

The challenge for VRS providers is to develop innovative applications that embrace evolving technologies to improve the caller's experience, and on the Commission to inform the Deaf community of the availability of such off-the-shelf technology as an alternative to the conventional dependence on proprietary equipment.

B. Provider Performance Evaluations Should be Performed by the Commission and Result in Meaningful, Direct Service-to-Service Comparisons Between Providers.

As the Commission seeks to incorporate more competitive aspects into the Program, the issue of how to evaluate and compare performance arises. The Commission proposes four metrics: (1) quality and accuracy of interpretation; (2) technical voice and video quality; (3) interoperability and portability; (4) percentage and frequency of dropped or disconnected calls; and (5) service outages.[5]

More objective technical comparisons - metrics 3 to 5 - are reasonable to the extent that independent Commission evaluation. These metrics will also require a, competitively-neutral determination of certain factors. For example, the Commission will need to determine which

[4] Further, demand for off-the-shelf technology by the public stands to spur technology companies to innovate further in meeting specialized consumer demand, and providers to tailor technology to meet subscriber needs..
[5] *2017 NoI* at 30.

provider ultimately maintains responsibility for interoperability and portability; if new proprietary equipment is not interoperable with another provider's platform, despite efforts by another provider to make the equipment interoperable, which provider is ultimately responsible? The Commission should also take into account the basis for dropped or disconnected calls, and service outages that are not subject to a provider's control as has been discussed in the past. As to more subjective metrics - quality and accuracy of interpretation and technical voice and video quality, these too should be determined independently by the Commission over a period of time.[6]

The Commission may publish comparative results as a service to the Deaf community, as it suggests. When reporting on any comparative analysis, however, the Commission should clearly establish the basis for comparative tests so that readers will have an "apples-to-apples" comparison consistent with the comparative analysis done by consumer testing entities in commercial markets.

Specialized interpretation provider-to-provider quality comparisons create a somewhat more challenging consideration as to an evaluator's qualifications to compare and whether a direct service-to-service comparison has been performed. A non-Spanish speaking individual would not be qualified to evaluate whether GlobalVRS Spanish language interpretation is "less good" than another provider's Spanish language interpretation. The evaluation must be made by an individual who is qualified to make the evaluation. And unless specialized translations are compared directly with specialized translation calls made my other providers, a comparative analysis could adversely skew the specialized provider's service quality results. To that end, subjective and objective evaluations must ensure direct comparisons between providers and like services by qualified evaluators are performed if they are to be meaningful comparisons.

[6] A comparison comprised of an exceptionally limited number of calls would fail to provide a meaningful comparison of a providers' capabilities generally.

Beyond these considerations is the immediate question of whether the Program has evolved to a point where even direct comparisons between providers will be meaningful. In a Program comprised of effectively four providers; one dominant, one combined mid-sized provider, and two specialized providers, where each provider exhibits differing characteristics and capabilities, direct comparisons beyond purely objective, measurable performance, might not be entirely accurate in the same manner as the current weighted average reimbursement methodology skews service costs among the providers.

C. A Commission Policy and Enforcement is Needed to Combat Abusive, Fraudulent and Threatening VRS Calls.

On December 31, 2015, GlobalVRS advised the Commission that it had blocked calls received from an individual who "repeatedly engaged in inappropriate and indecent conduct, creating an intolerable affront to interpreters."[7] This instance rose to the level of necessitating immediate action to block the caller from harassing video interpreters, but is by no means unique. Once the individual's number was blocked, the individual proceeded to obtain new numbers from different providers and continued to make harassing calls. Calls from the individual's new numbers were subsequently blocked as well. GlobalVRS alerted its video interpreters of the situation, blacklisted all numbers associated with the individual, and again notified the Commission of the situation and the Company's actions.[8]

Ms. Roth, GlobalVRS President and CEO, noted that in response to the Company's notice, the Commission advised GlobalVRS that it could block the subscriber. The Commission further noted that the nature of the call was a legal, rather than regulatory matter, and that

[7] *See*, Letter to Greg Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, from Andrew Isar, Miller Isar, Inc., regulatory consultants to GlobalVRS, RE: Blockage of Inappropriate and Indecent VRS Caller Advisory (December 15, 2015).

[8] *See* Email from Angela Roth, GlobalVRS, to Greg Hlibok, Karen Peltz-Strauss, and Sharon Lee. (February 17, 2016).

GlobalVRS should report the individual to the police. Per further investigation, GlobalVRS determined that local police in the jurisdiction where the individual resided did not wish to pursue the matter because GlobalVRS was not located in the same jurisdiction. In consultation with other providers, GlobalVRS learned that the most effective way to prevent such calls was to hire a private investigator local to the perpetrator to deliver a cease and desist letter. Yet this approach is not always effective. And in GlobalVRS' experience there is no clear legal recourse. Simply blacklisting an offending individual can become the equivalent of a game of "whack a mole."

Provider responsibility for interpreting other types of abusive or fraudulent calls also remains unclear. In instances where scam calls are identified by the provider, the provider should report the scam to the Commission for action and have broad authority to block the call/caller if there is sufficient basis for documenting the fraudulent nature of the call. In instances where subversive activity might be encountered, such as discussion of terrorist action, providers too should have broad authority to act and report such activity to the Commission for action. And for calls involving domestic violence or behavior of a threatening nature toward an individual or the public, the same considerations apply.

The Commission must play a role in supporting provider efforts against abusive, threatening, or phony callers and in enforcement. First, the Commission should establish a publicly available policy that puts prospective abusive callers on notice that their actions will be subject to enforcement action. The Commission should next establish a process for providers to report offending individuals including contacting law enforcement, Homeland Security, or other appropriate agencies. And the Commission should take action to preclude callers that have been demonstrated by providers to engage in abusive calling to be blocked from receiving VRS service through the TRS-URD, so that the individual may not simply skip from provider to provider to continue engaging in abusive calling. Ultimately, each provider should have clear Commission guidelines for action to be taken depending

on the type of abusive, fraudulent, or threatening call encountered, and the Commission should take enforcement or other action against proven abusive callers.

III. ADDITIONAL PROPOSED REFORMS SHOULD BE IMPLEMENTED WITHOUT IMPOSING ADDITIONAL NON-REIMBURSED COSTS ON PROVIDERS OR ALLOWING PERPETUATION OF DUBIOUS PRACTICES.

A. Visual Verification of Enterprise and Public Videophones Caller Eligibility is the Most Effective Means for Combat Fraud (FNPRM Section IV.C).

GlobalVRS shares the Commission's ongoing concern over fraudulent "public videophone"[9] usage and its commitment to protect the Fund against this type of fraud. The Commission proposes several conceptually reasonable approaches for caller eligibility when placing calls from public phones, though some of the proposed approaches may not be entirely failsafe in the absence of visual verifications.

The Commission's proposed adoption of a personal identification number ("PIN") to be registered with the provider for use in making point-to-point calls including those made from public phones stands to reduce the potential for abuse, but will not eliminate it. It is unclear from the Commission's proposal how use of a PIN would definitively establish eligibility.

Moreover, proposed PIN usage would not preclude a simple user bypass when a registered caller shares a PIN with an unregistered user any more than a hearing person sharing their cell phone with someone else. Whether the caller is Deaf or non-Deaf, it is far too simple for an individual to access VRS through a "borrowed" PIN. Friends will readily share PINS on request. In instances where a child may not have an assigned PIN, PIN borrowing might further be a necessity for placing calls from public phones – a young caller without a PIN who needs to place a call home from the mall, for example.

[9] Public videophones," for purposes of this FNPRM, are those made available in public spaces, such as schools, hospitals, libraries, airports, and governmental agencies, for use by any individuals who communicate through ASL. FNPRM at page 47.

Even if a fraudulent caller is found to have borrowed or even stolen a PIN, it is unclear what enforcement action could be taken against such an individual. Providers simply do not have the means to police unauthorized usage, nor should they be held accountable for such fraudulent calling if diligently following Commission rules and guidance.

And Consumer Groups have expressed concern that PINs used in public telephones might expose legitimate callers to inadvertently divulging personally identifiable information such as the last four digits of a social security number that could be used for fraudulent purposes.

The Commission's proposal to have a responsible enterprise videophone registrant log in the first time an enterprise videophone is used is reasonable, but suffers from the same potential for fraud. The facility with which an individual can provide logon information or a PIN to an unregistered user undermines the effectiveness of a PIN or logon approach. Use of a PIN offers the potential to combat fraudulent calls made from public telephones, but will not unilaterally prevent fraudulent calls to be made from public telephones.

GlobalVRS maintains that the most effective means to limit use by unregistered users is through visual identity and eligibility verification. Visual determination of a caller's eligibility to call via videophone is the closest way to achieve the goals to validate the person using the phone is indeed the person who has been validated and registered. This approach would provide added protections to ensure use of public/enterprise phones in the manner intended, when coupled with the usage monitoring the Commission proposes.[10]

Public videophone VRS user eligibility could be verified by requiring each registered user to provide a picture that the service provider would retain in the subscriber's profile exclusively for verification purposes. When using a public phone, the caller would then be asked to provide the video interpreter with the caller's registered ten digit telephone number. The

[10] Commission guidelines for what constitutes unusual activity are needed to make this proposal effective.

interpreter could then verify the caller's identity and eligibility. [11]

The Commission proposes that providers obtain specific information from each existing public or enterprise phone in service and submit this information to the Telecommunications Relay Service – User Registration Database ("TRS-URD").[12] GlobalVRS readily agrees with this requirement consistent with current TRS-URD requirements for individual registrants.

Added public phone user verification processes will require additional operational and technical design and implementation efforts. To the extent that these added verification processes are required, the Commission should reimburse providers for the documented exogenous costs associated with these processes.

B. Direct Video Calling Customer Support Services Should be Implemented so Long as Providers Are Not Required to Assume Additional Obligations or Non-Reimbursable Exogenous Costs. (Section IV.D).

Amendment of Section 64.613 of the Commission's rules[13] to allow direct video calling ("DVC") providers to obtain direct access to numbers could be expected to contribute to a reduction in calls that might otherwise be placed through VRS providers. In concept, the Commission's tentative conclusions would appear reasonable to the extent that VRS providers are not obligated to assume added responsibilities.

In August 2016, the VRS providers jointly raised a number of concerns VTCSecure LLC's ("VTCSecure's") Petition and Request for Declaratory Ruling, requesting access to the Telecommunications Relay Service ("TRS") Numbering Directory.[14] Among these were requiring DVC providers to assume the cost of accessing the Telecommunications Relay Service

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[11] GlobalVRS has encountered instances where a caller wishes to establish a three way conversation with another individual from a public videophone. Commission guidelines on whether such an activity are encouraged as it is unclear how much flexibility a video interpreter should be given to allow such calls to take place.
[12] *Id.* page 48.
[13] 47 C.F.R. §64.313.
[14] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* CG Docket Nos. 10-51 and 03-123, *Response of the VRS Providers to VTC Secure's Petition for Waiver and Request for Declaratory Ruling* (August 17, 2016).

– User Registration Database. The VRS providers further raised concern over assuming additional financial and operational burdens associated with implementation, noting that if providers of direct sign-language support service are permitted to access the database pursuant to rulemaking, the Commission should ensure that they—and not VRS providers—bear the costs of allowing them access to the database.[15]

The VRS providers concluded that "Assumption of an additional obligation to implement interoperability with direct sign-language support services would only exacerbate the VRS Providers' financial condition."[16] GlobalVRS cautions that if the Commission seeks to amend Section 64.313 to provide direct numbering resources and TRS-URD access to DVC providers, it do so without imposing additional obligations on VRS providers. Alternatively, should additional obligations be imposed on providers, that VRS providers be explicitly authorized to be fully reimbursed for their demonstrable implementation costs.

C. Providers Should Retain the Option of Per Call Validation Procedures and be Reimbursed for Associated Documented Exogenous Costs (Section IV.E).

GlobalVRS urges the Commission to either ensure that providers have the option of querying the TRS-URD or TRS Numbering Directory, or to query the TRS-URD only, as originally envisioned. Providers should not be compelled to use both processes.

The TRS-URD implementation process has been challenging for all providers. GlobalVRS has assumed significant additional design and implementation costs to incorporate query functions. Any additional costs would impose further resource burdens on the Company and likely all providers. GlobalVRS urges the Commission to reimburse providers for documented exogenous costs associated with implementation of any additional database inquiry obligations.

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[15] *Id.* at 2.
[16] *Id.* at 11.

D. Any Consideration Offered to Specific Individuals In an Effort to Promote Service Subscription Should be Deemed a Prohibited Inducement. (Section IV.G)

In GlobalVRS experience, the use of inducements has long been abused. Loyal GlobalVRS subscribers have reported being offered money, televisions, laptop computers and other forms of inducement to subscribe to a competing provider's service. Use of inducement in meaningfully competitive markets may be an acceptable business practice, but is not acceptable under the current Program structure. The Commission's proposed extension of the Commission's IP CTS financial and other inducement prohibition to VRS is entirely appropriate and should now be implemented *and enforced*, accordingly.

An "inducement" should be viewed as any offering of a product, service, or other consideration to a prospective or current subscriber as a direct or implied incentive for subscribing to, or remaining subscribed to a provider's service that would not otherwise be available. This includes "rewards" disguised as loyalty programs or user appreciation. Inducements offered to all subscribers as opposed to certain subscribers remain inducements would not make them an acceptable form of inducement. Inducements offered to high-volume callers serves would constitute rewarding those subscribers for maintaining high usage and promote usage, in clear violation of the Commission's cited prohibitions.

There are certain promotional activities that should not be characterized as inducements. Such activities could include giving away T-shirts or other promotional advertising, company technical literature, or raffles available to anyone, subscriber or otherwise. In these instances there is no incentive to subscribe to the provider's service, no requirement to subscribe, and no reward or inducement that would not be available to the public.[17] Otherwise, any offering that

[17] Promotional advertising should generally considered the type of low-cost item generally available to anyone attending a trade shows. A provider-branded higher cost items that would only be given to specific individuals would cease to be promotional advertising in the context of prohibited inducements.

could be tied to service subscription, whether directly or indirectly, should be considered a prohibited inducement.

A prohibition against inducements must be coupled with strict Commission enforcement, otherwise the prohibition becomes meaningless. Commission enforcement precludes perpetuation of inducements under the Program that have undermined competition.

E. Non-Compete Provisions in VRS CA Employment Contracts are Harmful to Video Interpreters, Further Constrict a Limited Pool of Interpreters and Have Been Used to Undermine Competitors (Section IV.H)

The Commission cites to those providers who have made the case for prohibiting interpreter non-compete contract provisions. GlobalVRS agrees, and urges the Commission to prohibit any form of provider non-compete provision for video interpreters.[18]

Not surprisingly, the dominant provider maintains that such provisions are necessary to in light of the Company's investment into newly-trained interpreters.[19] This is a specious argument. All providers have an obligation to train and invest in their employees, regardless of the prospect that an employee may ultimately leave. Moreover, effective management and a desirable work environment should motivate employees to stay – in other words, employees should be incentivized to remain with their employees rather than remain through fear of unemployment for extended periods of time.

The dominant provider claims that a six month non-compete clause is reasonable. Statistics show that an overwhelming number of American families live paycheck to paycheck.[20] Restrictive non-compete practices do not acknowledge this fact. Otherwise such restrictive

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[18] GlobalVRS maintains that the Commission is authorized to impose such a prohibition under its role as the responsible agency for TRS Program oversight, whether pursuant to Section 225(d)(1)(A) of the Act, 47 U.S.C. § Section 225(d)(1)(A), or otherwise. Any provider that wishes to participate in the program voluntarily agrees to be subject to applicable Commission rules. The decision to participate in the Program makes compliance with applicable Commission rules and policies discretionary for participating providers, accordingly, and gives the Commission flexibility to impose those requirements it deems appropriate in the operation of the Program.

[19] *2017 FNPRM* at page 53.

[20] *See*, Half of American Families are Living Paycheck to Paycheck, MarketWatch (April 30, 2017).

practices should be clearly understood to create a hardship and unfairly restrict employees from moving to other competing companies. This hardship is further exacerbated by past practices GlobalVRS has observed such as the dominant provider's offering inflated compensation to interpreters who move and then find themselves let go with no immediate opportunity for employment. This has led to an environment of fear that has also precluded interpreters from considering working for other providers even when employed.[21]

Further, it is questionable whether non-compete provisions are entirely enforceable. HR Examiner, notes:

> Non-Compete Agreements Are Often Restricted or Unenforceable. Because non-compete agreements are so restrictive, they are often restricted or not enforceable. In California, non-competes are effectively illegal unless you are selling a business. Other states will enforce some provisions, usually the trade secret protection, but not the work restrictions.[22]

Practically, it is unlikely that most interpreters have the resources to legally challenge non-compete enforceability as a result of the cost of raising legal challenges, or out of the fear of retribution for doing so, even in states that prohibit non-compete clauses.

Non-compete provisions directly bind and harm interpreters, are harmful to providers and the public, may be of dubious enforceability, and should be prohibited.

IV. CONCLUSION.

GlobalVRS supports the Commission's proposals under the additional considerations addressed herein. In so doing, the Commission will enhance the effectiveness of its proposed reforms, and enable providers to continue meeting subscriber needs as technology evolves, while ending dubious practices.

[Signature on following page.]

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[21] Including community interpreting work.

[22] *See, Is Your Non-Compete Agreement Enforceable?*, HR Examiner (June 1, 2011).

Respectfully submitted this 30th day of May, 2017,

ASL SERVICES HOLDINGS, LLC dba
GlobalVRS

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