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April 7, 2015

VIA ELECTRONIC FILING

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

Re: *Ex Parte* Letter in CG Docket Nos. 10-51 and 03-123

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. ("TDI"), National Association of the Deaf ("NAD"), Deaf and Hard of Hearing Consumer Advocacy Network ("DHHCAN"), Hearing Loss Association of America ("HLAA"), Association of Late Deafened Adults, Inc. ("ALDA"), American Association of the Deaf-Blind ("AADB"), Cerebral Palsy and Deaf Organization ("CPADO"), Deaf Seniors of America ("DSA"), and California Coalition of Agencies Serving the Deaf and Hard of Hearing ("CCASDHH") (collectively "Consumer Groups") submit this *ex parte* letter in support of the proposals to improve functional equivalency for VRS users that are included in the Joint Proposal of All Six VRS Providers[1] (collectively, the "VRS Providers") for Improving Functional Equivalence and Stabilizing Rates ("Joint Proposal"), filed on March 30, 2015.[2] Consumer Groups urge the Federal Communications Commission ("FCC" or "Commission") to adopt the Joint Proposal as it

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1 The "Six VRS Providers" include ASL Services Holdings, LLC, Sorenson Communications, Inc., Convo Communications, LLC, Hancock Jahn Lee & Puckett, LLC (CAAG), CSDVRS, LLC (ZVRS), and Purple Communications Inc.

2 *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, Joint Proposal of All Six VRS Providers for Improving Functional Equivalence and Stabilizing Rates (filed Mar. 30, 2015) ("Joint Proposal").

demonstrates significant progress toward achieving functional equivalence of video relay services ("VRS").

As the FCC will recall, in the TRS Policy Statement filed over four years ago, Consumer Groups developed goals and objectives to ensure that telecommunications relay services ("TRS") achieve and maintain functional equivalency, as required by law.[3] 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, deaf-blind 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, deaf-blind or speech disabled; and (e) provide readily available interoperable communications.[4] The Joint Proposal furthers these goals by improving speed of answer ("SoA"), conducting a trial for skills-based routing and deaf interpreters, and working with the Commission's Disability Advisory Committee ("DAC") to resolve any remaining interoperability issues. It has been four years since we filed the Policy Statement with the FCC, and we ask that consideration be given also to those who are deaf and have a mobile disability.

I. Speed-of-Answer

The VRS Providers propose that 80 percent of calls should be answered within 45 seconds, measured monthly, noting that providers may be subject to random variation in demand and potential fluctuations from outages, weather problems or other circumstances beyond their control.[5] While Consumer Groups ultimately support moving the SoA benchmark to 85% of relay calls being answered within 30 seconds or even sooner to achieve functional equivalence,[6] Consumer Groups support the VRS Providers' proposal in the interim and agree that the sanctions for missing the SoA in a given month should correlate to the percentage by which the provider fell short of the 80% calls answered within 45 seconds benchmark. Consumer Groups also agree that limited waivers from the SoA calculation may be appropriate in the event of extraordinary circumstances beyond a provider's control.

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[3] 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").

[4] *See id.* at 2.

[5] Joint Proposal at 2.

[6] *See 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, Reply Comments of Consumer Groups at 3-4 (Mar. 9, 2012) ("March 9, 2012 Consumer Groups' Comments").

As Consumer Groups have previously noted, while deaf and hard of hearing individuals have sometimes tolerated a two minute wait for answers from a VRS Communications Assistant ("CA"), hearing callers have indicated an unwillingness to wait for any VRS CA to answer. Without prompt answer speed, there cannot be functional equivalence.[7] However, Consumer Groups acknowledge that unanticipated variations could result in harsh penalties and ultimately disrupt the provision of video relay services which is counter-productive.[8] Consumer Groups have noted that a reduction in speed of answer requirements will lead to an increase in costs to providers and have expressed concern that, like IP Relay services, without sufficient reimbursement, consumers will see providers drop out of the market or the quality of services will deteriorate.[9] VRS Providers have submitted that the daily SoA measurement requirement would cause providers to incur significant costs through overstaffing to meet the needs of VRS users, or risk significant non-compliance penalties for failing to anticipate demand, a position echoed by ASL Services Holdings, LLC in a petition for waiver filed with the FCC.[10]

II. Skills-Based Routing and Deaf Interpreters

Consumer Groups support the VRS Providers' proposal that the Commission conduct an eight-month trial of skills-based routing, including the provision of deaf interpreters to assist hearing Video Interpreters, in order to enable deaf and hard of hearing users to communicate in a functionally equivalent manner.[11] Consumer Groups have encouraged the FCC to consider allowing VRS users to opt into a skills-based system that will better match VRS CAs' skills and expertise to callers' communications and stylistic needs, as well as specific call subject areas.[12]

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7 *See 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 at 12 (Mar. 30, 2012).

8 *See* National Association of the Deaf, Position Statement on Functionally Equivalent Telecommunications for Deaf and Hard of Hearing People, http://nad.org/position-statement-functionally-equivalent-telecommunications-deaf-and-hard-hearing-people.

9 *See 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 Ex Parte Letter at 2 (Dec. 28, 2013) ("December 28, 2013 Consumer Groups' Letter").

10 *See* December 28, 2013 Consumer Groups' Letter at 2 (citing Letter from Kathleen M. LaValle, Counsel for Communication Axess Ability Group; Jeff Rosen, General Counsel, CSDVRS, LLC; and Michael D. Maddix, Director of Government and Regulatory Affairs, Sorenson Communications, Inc., to Chairman Tom Wheeler et al., CG Docket Nos. 10-51 & 03- 123 at 2-3 (filed Dec. 6, 2013); *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*, Petition for Waiver, ASL Services Holdings, LLC, CG Docket Nos. 10- 51 & 03-123 (filed Oct. 24, 2013)).

11 Joint Proposal at 4-7.

12 *See* March 9, 2012 Consumer Groups' Comments at 8-9.

Skills-based routing has the potential to allow consumers to select VRS CAs according to: skill sets; specialized communication needs such as choice of interpreting, transliteration and signing styles; and areas of knowledge or expertise. Also those who have experience meeting certain needs of those who are deaf-blind, or deaf and have a mobile disability. Communication needs vary among deaf and hard of hearing calls as does the subject matter of each call, which means that better matching of VRS CAs and callers with specific call subject matters will improve functional equivalency.

Consumer Groups urge the Commission to exempt skills-based routed calls from speed-of-answer compliance during the trial, as proposed by the VRS Providers. Consumer Groups believe that skills-based routing would bring VRS closer to functional equivalency and potentially reduce VRS minutes of use.[13]

Consumer groups also support the use of deaf interpreters to assist deaf and hard of hearing users that may benefit from this option. Some VRS users have limited ASL skills and/or other disabilities that make communicating with the VRS CA alone difficult. The addition of a deaf interpreter will bring such users closer to functional equivalency in their VRS communications.

The goal of skills-based routing is to better use the pool of interpreters available. Agencies regularly assign interpreters to jobs in the community based on their skills and experience. We need the same thing in VRS where somebody who is more skilled or experienced with medical issues can interpret for medical calls and the same for a legal or IT related calls. It makes little sense not to allow interpreters to be matched to callers and their calls based on the skills and experiences of these interpreters. Moreover, the Consumer Groups believe that after the trial period, skills based routing should be permitted under the Commission's rules.

III. Rates

In the past, Consumer Groups have recognized that when setting VRS rates, the Commission must take into account research and development needs to encourage VRS providers to innovate and provide ever improving functional equivalency.[14] As the U.S. Court of Appeals for the D.C. Circuit recognized, the FCC must consider required labor costs associated with improved speed-of-answer requirements and "adjust rates to reflect any increase over the historical costs upon which they were based" to meet its obligation to reimburse providers for all costs incurred to meet the mandatory minimum standards established by the agency.[15] As such, Consumer Groups

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[13] *See 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 at 1 (Jul. 2, 2012).

[14] *See* March 9, 2012 Consumer Groups' Comments at 30.

[15] *Sorenson Communications, Inc. v. FCC*, 765 F.3d 37, 50-51 (D.C. Cir. 2014).

respectfully request that the Commission carefully consider the Joint Proposal's request for rate stabilization.

IV. Interoperability

Consumer Groups applaud the VRS Providers' commitment to work with the DAC to resolve remaining interoperability issues. Achieving interoperability is a core principle of the Consumer Groups' TRS Policy Statement, which identifies the objectives necessary to achieve functional equivalency in relay services.[16] Total interoperability is required for equipment software and services from all vendors (for any form of TRS) with no loss of core functionality. Full interoperability ensures greater protection for TRS users' safety, life, health, and property.[17]

The Consumer Groups have consistently expressed their support for proposals to achieve interoperability and asked the FCC to set deadlines for implementing interoperability and apply any such standards not only to VRS calls, but also to peer-to-peer calls. While all current hardware and software used to make peer-to-peer calls and VRS calls should be interoperable, the increasing use of off-the-shelf equipment makes this issue more pressing.[18] Consumer Groups still have serious concerns regarding interoperability among video mail services, including for example, the inability to leave video mail messages with friends and family who use different videophones. This lack of interoperability seriously impedes consumers' telecommunications access and the freedom to choose among video relay service providers.[19]

Consumer Groups appreciate that the VRS Providers have reported on recent progress made toward achieving interoperability[20] but maintain that continued collaboration among the VRS Providers and with the DAC is necessary to resolve outstanding interoperability issues that impact consumers' VRS experiences. Interoperability requirements will ensure that consumers can seamlessly use either equipment issued by VRS providers and/or off-the-shelf equipment for

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16 Consumer Groups' TRS Policy Statement at 7 (April 12, 2011).

17 *Id*.

18 *See* March 9, 2012 Consumer Groups' Comments at 14.

19 *See 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,NAD Ex Parte Letter at 1 (Sept. 2, 2014).

20 *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, Sorenson Response to Letter of California Association of the Deaf (filed Sept. 23, 2014) (expressing that Sorenson has been working diligently to resolve videomail-interoperability issues); VRS Providers Ex Parte Presentation (filed Jan. 8, 2015) (reporting on progress made in developing proposed VRS interoperability standards).

VRS services. Moreover, the Commission can ensure full compliance with interoperability and other technical standards by overseeing implementation of equipment standards.[21]

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Consumer Groups respectfully request that the Commission adopt the Joint Proposal as it is a significant step forward in the goal of achieving functional equivalence of VRS.

Respectfully submitted,

/s/ Tamar E. Finn

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[21] *See 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, Reply Comments of Consumer Groups at 5 (Mar. 30, 2012).

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