

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544**

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

**SORENSEN COMMUNICATIONS, INC. COMMENTS
ON VRS IMPROVEMENTS**

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Sorenson Communications, Inc., (“Sorenson”) submits these comments on the portions of the Federal Communication Commission’s (“FCC” or “Commission”) October 21, 2015 Further Notice of Proposed Rulemaking (“FNPRM”)¹ pertaining to proposed service-related changes to video relay service (“VRS”).

INTRODUCTION AND SUMMARY

In their Joint Proposal,² all six VRS providers proposed a unified package of mutually interdependent proposals for changes to the VRS program. While some of these proposals would improve the functional equivalence of the VRS program, the Joint Proposal emphasized that improvements were feasible only if the FCC stabilized VRS compensation rates. In the FNPRM, the Commission seeks to have its cake and eat it, too, by allowing rates to fall but adopting these service improvements anyway—in many cases without any additional compensation for providers.

The Commission should not delude itself into thinking that it can strangle VRS providers with rate cuts but uphold quality through mandates. The Commission can never possibly create service quality mandates that cover all aspects of VRS. And service quality mandates will not reverse the drain of experienced interpreters out of VRS as rate cuts force greater and greater productivity demands on interpreters. There is no substitute for a financially healthy VRS industry in terms of delivering quality VRS.

¹ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, FCC 15-143, 2015 WL 6855270 (rel. Nov. 3, 2015) (“FNPRM”).

² Joint Proposal of All Six VRS Providers For Improving Functional Equivalence and Stabilizing Rates, CG Docket Nos. 10-51 and 03-123 (filed Mar. 30, 2015) (“Joint Proposal”).

While Sorenson supports enhanced speed-of-answer requirements and initiating trials for skills-based routing and using deaf video interpreters, the Commission must compensate providers for all costs associated with any new requirements it imposes. Without rate stabilization or exogenous-cost reimbursement, reality dictates that providers will either be unable to implement the new reforms or will have to decrease quality of service in other ways to meet the new requirements.

I. A STRENGTHENED SPEED-OF-ANSWER REQUIREMENT IS APPROPRIATE IF THE COMMISSION REFORMS PENALTIES AND PROVIDES ADEQUATE COMPENSATION.

Sorenson supports the FNPRM's proposal to strengthen the speed-of-answer rule to require that providers answer 80 percent of all VRS calls within 45 seconds, as measured on a monthly basis.³ Such a standard appropriately balances VRS users' interests in being able to place calls as quickly as possible with limits on the availability of interpreters and other practical considerations providers face. Additionally, the Commission should adopt a sliding-scale penalty for non-compliance and exempt certain calls from the calculation of speed of answer. However, it is inappropriate for the Commission to impose a heightened standard without compensating providers for the costs associated with compliance.

The Commission is correct to consider practical considerations and set the VRS speed-of-answer rule at a different level than other forms of TRS.⁴ Speed of answer is not the only factor in ensuring quality VRS service, and functional equivalence would not be improved by setting the speed-of-answer requirement at a level that does not take into account the supply of skilled interpreters and would lead to poor interpreter working conditions and a reduction in the quality

³ FNPRM ¶ 34.

⁴ *Id.*

of interpreting. The proposed requirement that a provider answer 80 percent of all VRS calls within 45 seconds (measured on a monthly basis) appropriately balances these practical considerations with the legitimate desire of consumers to have their calls answered quickly.

The FNPRM also puts forth reasonable means for calculating speed of answer. Sorenson supports the FNPRM's restatement of the Disability Advisory Committee's ("DAC") proposed formula,⁵ which accounts for all calls where a VRS user waits for longer than 45 seconds, without penalizing providers for callers who hang up after waiting only very briefly to be connected to an interpreter. It also supports retention of the current rule that "the speed of answer for VRS is measured beginning from the time a VRS call reaches facilities operated by the VRS CA service provider," as it adequately defines when the speed-of-answer "clock" starts.⁶ Moreover, the Commission's proposal to clarify that a call is "answered" by "any method which results in the caller's call immediately being placed, not put in a queue or on hold" is appropriate,⁷ as consumers incur no benefit from being quickly placed on hold. As the FNPRM suggests, connecting a caller to an interactive voice response ("IVR") system would not meet this definition of "answered,"⁸ as there is no functional difference between being connected to an IVR system and being placed on hold.

⁵ *Id.* ¶ 33 ("[Calls unanswered and disconnected by the caller in 45 seconds or less + calls answered in 45 seconds or less] divided by [all calls (unanswered and answered)]."). To improve clarity, the Commission may wish to note—as the DAC did—that the denominator of this formula includes "Calls Unanswered and disconnected by the Originating Caller in 45 seconds or less," "Calls answered by [an interpreter] in 45 seconds or less," "Calls Unanswered and disconnected by the Originating Caller After 45 seconds," and "Calls answered by [an interpreter] after 45 seconds." RELAY/EQUIPMENT DISTRIBUTION PROGRAM SUBCOMMITTEE, *Recommendation of the Subcomm. On Relay & Equipment Distribution to the FCC Disability Advisory Comm.*, at 1-2 (June 23, 2015) ("DAC Recommendation").

⁶ FNPRM ¶ 42 (quoting 47 C.F.R. § 64.604(b)(2)(iii)(B)).

⁷ *Id.* ¶ 42.

⁸ *Id.*

For consumers to reap the full benefits of an enhanced speed-of-answer requirement, the Commission should require a provider to handle all calls that come into its facilities. In other words, providers should not be allowed to artificially inflate their speed-of-answer metrics by dropping calls or preventing the receipt of any new calls during periods of high call volume. If a provider drops or blocks calls, each attempted call should count as a call answered after 45 seconds for speed-of-answer purposes.

The FNPRM's proposal to calculate speed of answer on a monthly, rather than daily, basis is also appropriate. Demand for VRS is variable and subject to substantial spikes. As a result, providers and consumer groups agree that calculating speed of answer on a daily basis is "counter-productive" and would cause "disruption in the provision of video relay services."⁹ The monthly measure allows providers to adequately account for those spikes over time, while the reality that consumers choose VRS providers based, in part, on speed of answer will ensure that providers minimize the day-to-day impact of spikes to the maximum extent possible.

The Commission should also adopt the providers' proposal for a self-executing exemption in extraordinary circumstances beyond a provider's control, including denial-of-service attacks, Internet outages not under the VRS provider's control, periods of declared national or state emergencies covering more than 10 percent of a provider's interpreting capacity, or delays caused by the TRS-User Registration Database of more than 1 second.¹⁰ Providers cannot reasonably be expected to plan for such events, and consumer groups agree that including

⁹ Nat'l Ass'n of the Deaf, *Position Stmt. On Functionally Equivalent Telecomm. for Deaf & Hard of Hearing People* (adopted Dec. 21, 2014), <http://nad.org/position-statement-functionally-equivalent-telecommunications-deaf-and-hard-hearing-people> (last accessed Dec. 18, 2015) ("NAD Position Stmt").

¹⁰ Joint Proposal at 3.

calls during these periods in a speed-of-answer calculation would serve little purpose other than to punish providers for circumstances entirely out of their control.¹¹

Nor should skills-based-routing be included in the speed-of-answer calculation. As the providers previously explained,¹² because the limited supply of interpreters with special skills may, in some cases, decrease speed of answer, including skills-based routing in the speed-of-answer calculation could discourage VRS providers from offering skills-based routing. Users for whom call-processing speed is particularly important can opt to place calls through the general queue after being made aware of the anticipated wait to reach a specialized interpreter.

When adopting enhanced speed-of-answer requirements, however, the Commission should reform the penalties that apply to providers who miss the target for a given month. The current rule, which denies all compensation if a provider misses, is unfair and counterproductive. If a provider is aware that it will fall short of its speed-of-answer target for the month and therefore will not be paid for any additional work done for the remainder of the month, the provider has a strong incentive to decrease service and move calls to other service providers. It can also negatively impact interpreter performance, availability, and morale, as a Draconian speed-of-answer penalty can lead interpreters to worry that their employer may not be able to pay them for their work. The sliding-scale approach would avoid these concerns, as it is not so harsh as to lead interpreters to question whether their livelihood will be at stake if their employers miss the speed-of-answer threshold in a given month.

¹¹ Letter from Telecomm. for the Deaf & Hard of Hearing et al. to Marlene H. Dortch, Secretary, FCC, at 2, CG Docket Nos. 03-123 and 10-51 (filed Apr. 7, 2015) (“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.”) (“Consumer Groups Letter”).

¹² *Id.* at 5.

While Sorenson supports a more stringent speed-of-answer requirement, it agrees with the recommendations of the DAC¹³ and the consumer groups¹⁴—as well as the D.C. Circuit’s 2014 holding in *Sorenson Communications, Inc. v. FCC*¹⁵—that rates must be high enough to support increased speed-of-answer requirements. While Sorenson is able to answer 80 percent of all VRS calls within 45 seconds (as calculated on a monthly basis) under current compensation rates, it does not do so “easily,” as the Commission suggests.¹⁶ In order to meet speed-of-answer requirements, Sorenson increases pay and offers other incentives on high-volume days. As VRS continues to grow in mobile markets, the number of high-volume days will likely increase, further forcing Sorenson to devote more money to interpreter wages for current levels of service to be maintained. And even if Sorenson could “easily” meet the enhanced requirement under current reimbursement rates, it would not be able to continue to do so (without compromising other aspects of its service) as rates continue to fall under the Commission’s “glide path” rate reduction schedule.¹⁷

¹³ DAC Recommendation at 2 (“[The DAC] recommends that the Commission ensure that the rates used to support a revised speed of answer reflect the providers’ resources and staffing needed to provide high quality VRS interpreting necessary to satisfy functional equivalency.”).

¹⁴ Consumer Groups Letter at 3 (“[A] reduction in speed of answer requirements will lead to an increase in costs to providers and . . . without sufficient reimbursement, consumers will see providers drop out of the market or the quality of services will deteriorate.”).

¹⁵ 765 F.3d 37 (D.C. Cir. 2014).

¹⁶ See FNPRM ¶ 39.

¹⁷ As the Joint Proposal noted, the Commission may be able to incentivize further improvements in their speeds of answer by offering additional compensation in order to meet the increased costs of providing faster service. Joint Proposal at 4. But the Commission should not consider instituting a program to improve speed of answer even further without first ensuring that providers have sufficient resources to meet the new proposed rule that 80 percent of all VRS calls be answered within 45 seconds (measured on a monthly basis).

The clearest and most balanced way to ensure that providers receive sufficient compensation to support increased speed-of-answer requirements is through the rate stabilization proposed in the Joint Proposal. However, if the Commission refuses to engage in rate stabilization, the Commission must apply an exogenous cost adjustment to its reimbursements under its “glide path” rates—adjustments that would match the costs providers incur to meet new regulatory requirements, independent of the providers’ other costs. Indeed, in its VRS Reform Order, the Commission recognized that when providers incurred exogenous costs, the TRS Fund would need to reimburse providers for those costs.¹⁸ In the case of an increased speed-of-answer requirement, exogenous costs should be calculated as the difference between the cost of staffing enough interpreters to meet the current speed-of-answer requirements and the cost of staffing enough interpreters to meet new, enhanced speed-of-answer requirements.

Consistent with the need to ensure that compensation supports high service quality, Sorenson also supports the Commission’s proposal to provide additional compensation for providers who meet stricter speed-of-answer requirements. Sorenson also does not object to the Commission’s proposal to publish speed-of-answer data—provided that the Commission does so in a way consumers can understand and that makes clear that the data is only an average and not a prediction of how long it will take to answer an individual call.

¹⁸ 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*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd. 8618, ¶ 212 (2013) (“VRS Reform Order”), *aff’d in part and vacated in part sub nom. Sorenson Communications, Inc. v. FCC*, 765 F.3d 37 (D.C. Cir. 2014); see also Interstate Telecomm. Relay Servs. Fund Payment Formula & Fund Size Estimate at 21, CG Docket Nos. 10-51 and 03-123 (filed Apr. 24, 2014) (“During the ‘glide path’ period, however, the Commission may adjust the compensation rate to reflect exogenous cost changes”) (“Interstate Telecomm. Relay Servs. Fund Payment Formula & Fund Size Estimate”).

II. THE FCC SHOULD FUND A TRIAL OF SKILLS-BASED ROUTING.

As explained in the Joint Proposal, all VRS providers agree that skills-based routing can enhance VRS service. When VRS users need to make calls involving certain specialized subjects—such as legal, medical, or technical support calls—their communications can be greatly improved with the assistance of an interpreter with the relevant specialized knowledge.¹⁹ The FNPRM seeks comment on whether and how to authorize a trial of skills-based routing.²⁰ Sorenson believes that the FCC should conduct a trial, and it must be structured to ensure that the added costs of studying skills-based routing do not speed the decline in service already resulting from falling compensation rates.

A. Skills-Based Routing Is Essential to Functionally Equivalent Service, and VRS Providers Should Compete to Provide the Best User Experience.

Skills-based routing is crucial for certain types of calls, and should be funded out of the TRS fund. It will improve the quality of interpreting, reduce wasted time on calls, and reduce the need for duplicative calls. Moreover, it is entirely consistent with the fundamental nature of TRS because it improves the accuracy and fluency of interpreting, thereby improving functional equivalence. If skills-based routing were implemented, however, the FCC should waive the sequential-call rule, because VRS users would remain free to opt into the general queue and continue to have their calls answered in the order they were received. (The Commission should also encourage VRS providers to offer wait-time estimates that facilitate this choice.) The Commission should also waive the speed-of-answer requirement during the trial and determine only after the trial whether to impose a speed-of-answer requirement on skills-based calls. Subjecting these specialized calls to the current speed-of-answer requirement may discourage

¹⁹ Interstate Telecomm. Relay Servs. Fund Payment Formula & Fund Size Estimate at 6.

²⁰ FNPRM ¶ 48-50.

providers from participating in the trial, since they do not yet have enough experience with the system to risk losing significant revenue if they find they are unable to meet the current standards.

In determining what kinds of calls qualify for skills-based routing, VRS providers should have flexibility to select categories based on their consumers' needs, both during the trial and when the system is fully implemented. That flexibility will enhance competition, improve service, and give providers an opportunity to adjust to consumer expectations as they learn about the new features.

An eight-month trial will give the public and the Commission enough time to understand the costs and benefits of skills-based routing such that additional rules, if needed, can be thoroughly vetted and implemented. All of the data the Commission has suggested, including “1) quantity of calls and minutes subject to skills-based routing, 2) consumer satisfaction and service quality (including any changes in the quality of interpretation on generalist calls due to diversion of skilled interpreters to specialized calls), and 3) the potential for fraud, abuse, and waste” should be collected during this period.²¹ Sorenson suggests, however, that the Commission work with providers to set more specific data collection criteria so that the results of the trial will more measurable and concrete. At the same time, VRS providers should also test their standards for determining whether an interpreter has sufficient specialized skills to participate in skills-based routing. VRS providers may choose to assess their staff in different ways, and this will be a feature on which they compete—just as providers already compete on quality of interpreting.

²¹ FNPRM ¶ 49.

Finally, the Commission should clarify that if a user wishes to place a subsequent call after completing a call with a specially skilled interpreter, the interpreter may transfer the call to the generalist queue unless the subsequent call also requires that interpreter's specific skill. This ensures that specially skilled interpreters are able to handle calls that require their particular skill.

B. The FCC Should Fund the Trial.

The Commission proposes that the trial's costs not be paid from the TRS fund because participation is "voluntary."²² That proposal both threatens the efficacy of the trial and ignores the unanimous response from VRS providers, users, and interpreters that declining compensation rates have already affected the quality of VRS service.²³

Skills-based routing is unlikely to have a large net impact on expenditures from the TRS fund. Although specialized interpreters will no doubt require higher wages and additional training, some of that cost will be offset by decreased call duration due to higher quality interpreting. More importantly, however, offering skills-based routing is a prerequisite to achieving truly functionally equivalent service, and the Commission should therefore fund it regardless of cost.

But even if the trial's overall costs are not prohibitive to the TRS fund, many VRS providers may be simply unable to participate if doing so requires them to shoulder the burden of interpreter and consumer training, as well as engineering and configuration costs. Wage costs are also a serious concern, because specialist interpreters can demand wages as high as twice the generalist rate. That differential could be even more under certain circumstances, such as holidays, overnight shifts, or assignments requiring extensive preparation. The FCC is asking

²² *Id.* ¶ 50.

²³ *See* Reply Comments of Sorenson Communications, Inc. at 4, CG Docket Nos 10-51 and 03-123 (filed Dec. 24, 2015).

VRS providers to test a service that is essential to functionally equivalent service. The FCC should fund the trial.

III. HEARING INDIVIDUALS SHOULD HAVE ACCESS TO TEN-DIGIT NUMBERS—BUT ONLY AFTER THE COMMISSION FIXES A SECURITY HOLE IN THE NUMBERING DIRECTORY AND ONLY IF PROVIDERS DO NOT BEAR ADDITIONAL COSTS.

The FNPRM proposes “to allow VRS providers to assign ten-digit iTRS numbers to hearing individuals so that they are able to place and receive direct (point-to-point) video calls to and from other VRS users.”²⁴ Sorenson agrees that some users could benefit from this service but believes that it would be irresponsible to add new classes of users to the iTRS Numbering Directory until the Commission eliminates a security hole in the present database. As Sorenson explained nearly four years ago in a petition to fix the problem, the Numbering Directory currently permits any provider to perform a “reverse lookup” search identifying “which ten-digit number or numbers are associated with a particular IP address.” Because providers utilizing server-based routing can, and at least some do, associate a single IP address with many or all of their subscribers’ ten-digit numbers, this “reverse lookup” capability effectively makes a provider’s list of assigned numbers readily available to all other iTRS providers. This function serves no legitimate purposes and should be eliminated before the Commission adds a new class of users.²⁵

Moreover, it bears emphasis that VRS providers are unable to bear additional costs associated with this offering. The Commission is correct that direct video communications between deaf individuals and hearing people who know ASL could ease the burden on the TRS

²⁴ FNPRM ¶ 60.

²⁵ Sorenson’s Petition to Limit Access to Data in the iTRS Numbering Directory, CG Docket Nos. 10-51, 03-123 (filed Feb. 16, 2012).

fund by reducing the number of compensable minutes covered by the fund. But if the Commission wants to undertake these changes in order to realize those savings, it should compensate VRS providers for the cost of supporting that initiative. Otherwise, the Commission's proposal would force VRS providers to make new, uncompensated expenditures that will necessarily cut into their ability to maintain existing quality.

To avoid waste, fraud, and abuse, Sorenson agrees that numbers assigned to hearing people should be marked as such in the TRS Numbering Directory, and that the user should be marked as hearing in the TRS-URD. The Commission needs to ensure, however, that deaf visitors to a hearing user's home are still able to place calls from a hearing person's phone. This could be achieved, for example, by permitting a phone registered to a hearing user to place compensable calls if the user self-certifies eligibility before each compensable call—which is how Sorenson currently handles phones in public locations. Self-certification by hearing users themselves should be unnecessary, however; because they do not take part in compensable calls, there is nothing for them to self-certify. Finally, the Commission should clarify that hearing numbers may be ported to other providers using the same processes used by deaf users.

IV. ALLOWING THE COMPENSATED USE OF DEAF INTERPRETERS WOULD IMPROVE THE FUNCTIONAL EQUIVALENCE OF VRS.

The FCC should sanction the use of deaf interpreters where needed to achieve functionally equivalent service on VRS calls. Sorenson commends the Commission for recognizing that deaf interpreters should be encouraged but not required, and that interpreters' time must be compensable.²⁶

²⁶ FNPRM ¶ 51.

The providers and consumer groups agree that deaf interpreters help to offer functionally equivalent services to VRS consumers whose age, language proficiency, or disability makes communication with a standard interpreter difficult.²⁷ While Sorenson interpreters and customers have frequently raised the need for deaf interpreters, and the company believes the need to be great, it does not possess data on the percentage of calls requiring a deaf interpreter.

As a result, Sorenson supports the Commission's proposal to conduct a trial of deaf interpreting before launching a full-scale program.²⁸ During the trial, providers should be required to record the frequency of use of deaf interpreters, the duration of calls when a deaf video interpreter is used, and the frequency of calls where a deaf interpreter is requested but not received. During the trial period, providers should also be required to solicit consumer feedback on the success of using a deaf interpreter during the call.

As with other VRS interpreters, VRS providers should maintain flexibility in selecting and hiring the most skilled deaf interpreters. The Commission should apply similar minimum standards for deaf interpreters as it does for VRS communications assistants generally. Deaf interpreters should be required to have "familiarity with hearing and speech disability cultures, languages and etiquette" and the ability "to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary."²⁹ The specialized vocabulary necessary for a deaf interpreter would include the sign language used by individuals

²⁷ See Joint Proposal at 6; Consumer Group Letter at 2; Letter from Video Relay Services Consumer Association to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (filed Apr. 27, 2015); NAD Position Stmt.

²⁸ See FNPRM ¶ 55.

²⁹ 47 C.F.R. § 64.604(a)(1).

whose age, language proficiency, or disability makes communication with a standard interpreter difficult.

Applying this flexible approach is particularly appropriate in the deaf interpreter context. Providers will compete on the quality of deaf interpreters that they provide. Sorenson will hire only highly skilled deaf interpreters and invests the time and energy to properly train them. As a result, it expects that consumers needing deaf interpreters will select it as a service provider more at a much higher rate than any competitor who chooses to hire less skilled interpreters or engages in less effective training.

Additionally, the supply of skilled deaf interpreters is quite low. As a result, adopting rigid qualification requirements would prevent providers from being able to meet staffing needs. In particular, the Commission should not require providers to hire only individuals with a Certified Deaf Interpreter credential from the Registry of Interpreters for the Deaf (“RID”) or other designated national certifying agency or agencies. As Sorenson has previously explained, Sorenson has not found particular certifications to be a good proxy for interpreter quality—in some cases certified interpreters do not meet Sorenson’s demanding quality standards, and in other cases non-certified interpreters do. In addition, requiring RID certification would arbitrarily limit the supply of interpreters by requiring applicants to hold a bachelor’s degree before they can sit for the performance portion of the certification exam, ignore the state-based certifications that many highly skilled interpreters have obtained, and immediately shrink the pool of available interpreters at a time when there is already a limited number of interpreters.³⁰ These concerns are especially important given that the supply of deaf interpreters is even lower than the

³⁰ See Reply Comments of Sorenson Communications, Inc. at 71-73, CG Docket Nos 10-51 and 03-123 (filed Nov. 29, 2012).

supply of general ASL interpreters, and that RID will suspend testing and issuing new certifications for an undetermined period of time, beginning on the first of the year.³¹

The limited supply of deaf interpreters also means that the Commission should allow these individuals to be added to a call remotely from another VRS call center. Although some consumers may request a deaf interpreter at the beginning of a call, the need for a deaf interpreter may not be apparent until after a call has begun, and a consumer who communicates in non-standard ASL experiences difficulty communicating with a given communications assistant. As a result, providers will not be able to route calls in advance to locations where a deaf interpreter is available or likely to become available shortly. Requiring a deaf interpreter to be in the same location as the communications assistant would put providers in the position of having to hire a critical mass of deaf interpreters at every location—which would be inefficient and raise costs—or forcing consumers to wait longer for a deaf interpreter. Encouraging the overstaffing of deaf interpreters would be particularly inappropriate when providers will already face challenges in hiring enough quality interpreters from a limited pool.

The mechanics of when a deaf interpreter is added to a call will impact the speed-of-answer metric.³² When the need for a deaf interpreter is identified during the course of the call, the Commission should look only to the speed at which the call was initially answered. Where the consumer requests a deaf interpreter in advance, the call should be excluded from speed-of-answer requirements. As with other forms of skills-based routing, including calls where a consumer requests a deaf interpreter in advance in the speed-of-answer calculation could discourage VRS providers from offering this service. And because providers will compete for

³¹ REGISTRY OF INTERPRETERS FOR THE DEAF, INC., *RID Credentialing Moratorium FAQ*, <http://rid.org/rid-credentialing-moratorium-faq/> (last updated Sept. 15, 2014).

³² See FNPRM ¶ 54.

consumers who seek a deaf interpreter based on speed of answer, the market will provide an effective check on the speed of answer.

Of course, launching a trial (including recruiting, training, and managing a new team of deaf interpreters), evaluating its efficacy, and engaging in recordkeeping will involve costs. To prevent the trial from being offered at the expense of reducing the quality of providers' core VRS offerings, all costs associated with the trial should be compensated.

V. THE COMMISSION SHOULD NOT ALLOW AT-HOME INTERPRETING, WHICH WOULD REDUCE QUALITY OF SERVICE AND WOULD NOT LOWER COSTS.

In 2011, the FCC recognized that at-home interpreting raises the risk of fraud, breaches of confidentiality, and reduced quality-of-service in a way that substantially outweighs any potential benefits, and the Commission banned the practice.³³ The intervening four years have not eliminated the downsides to at-home interpreting, and the costs associated with providing an appropriate level of service in the at-home environment would be astronomical. Accordingly, the practice should continue to be banned.

Providers simply cannot reliably provide the needed supervision and support to interpreters who are off-site, so the practice necessarily raises the risk of fraud. As the Commission previously determined, “although most [interpreters] have high ethical standards, if even a small percentage of [interpreters] are predisposed to commit unscrupulous acts absent supervision, allowing [interpreters] to work from home could cause a significant increase in waste, fraud, or abuse.”³⁴ In a call center, direct supervision serves to prevent interpreters from

³³ See *Structure and Practices of the Video Relay Services Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 5545 (2011) (“*VRS Practices R&O*”).

³⁴ *Id.* ¶ 16.

engaging in the sort of sham calls that previously plagued the TRS program, and helps to ensure that interpreters do their jobs efficiently and well.

Using cameras and other technology to monitor at-home employees is not an adequate substitute for the in-person supervision in a call center. As the FCC previously noted, monitoring interpreters over video cannot capture everything that is going on in an at-home environment.³⁵ But even assuming technology could be used to monitor enough to reduce the risk of fraud—as well as the additional supervisory time needed to adequately oversee non-centrally located employees—requiring the deployment of such technology would erase any cost-savings benefit associated with at-home work arrangements.

At-home work presents other technological problems. Although broadband service is more widely available today than in 2011, it remains the case that Internet access service to an interpreter's home is likely to be less reliable than the premium business-level service purchased by Sorenson for its interpreting centers. Moreover, few homes have back-up power and system redundancy. As a result, any VRS call routed through an interpreter's home is more likely to experience problems than a call routed through a call center—and in an emergency, a caller using a work-at-home interpreter could be disconnected from a 911 call.³⁶ Allowing such an outcome would deny deaf users functionally equivalent service and put them in physical danger. To avoid a severe reduction in the quality of TRS were it to allow at-home interpreting, the Commission would need to mandate that in-home interpreters have business-level internet connections, back-up power, system redundancy, and the other technological safeguards available in call-centers. Deploying these safeguards in far-flung homes across the country—and

³⁵ See *id.* ¶ 17.

³⁶ See Comments of Sorenson Communications, Inc. at 5-7, CG Docket No. 10-51, (filed Sept. 7, 2010).

employing IT staff necessary to make sure each safeguard in each home remains functional—makes at-home interpreting far from a cost-saving measure.

Even assuming their calls would not be dropped, emergency VRS callers could face other risks if at-home interpreting were permitted. For instance, Sorenson always handles 911 calls with a “team” of two interpreters in order to ensure that these urgent calls are interpreted with the utmost accuracy, at no additional charge to the Fund. It is doubtful that a similar teaming arrangement could be readily implemented for 911 calls placed through an at-home interpreter. Likewise, in some instances a routine VRS call can transform into an emergency call. For example, if a deaf caller suddenly experiences sharp pain in his chest during a routine in-progress VRS call, he may ask the interpreter to connect to 911. This can be easily and quickly handled from a call center. Simply by the push of a button, the translator can transform a routine VRS call into a 911 emergency call and ensure that the call is routed to the proper Public Safety Answering Point. It is far from clear that at-home interpreters would have the same capability.

Last, VRS users are entitled to the strict confidentiality of their calls.³⁷ In call centers, VRS providers can take measures, such as preventing non-employees from entering a call center, to ensure that only an interpreter learns the contents of a call. Providers cannot ensure the same in an interpreter’s home, where third parties may be present. And as the Commission previously determined, monitoring interpreters remotely cannot fix the problem: “Even if a camera’s angle could capture the entirety of a [translator’s] physical station, neither its video or audio capability would be able to capture the presence of a person standing just outside the door to that station, and therefore could not prevent someone from overhearing or intentionally listening in on a

³⁷ 47 U.S.C. § 225(d)(1)(F).

conversation in a home setting without the provider’s knowledge.”³⁸ In-home auditing of interpreters would similarly not prevent breaches of confidentiality, as audits would necessarily be sporadic; moreover, the expense associated with audits undercuts the purported cost-savings of allowing at-home translation.

Today, as in 2011, in-home interpreting is inappropriate. Allowing the practice would expose the TRS fund to abuse, reduce service quality for VRS users, and make the content of VRS calls vulnerable to exposure, all without realistically presenting cost savings.

³⁸ *VRS Practices R&O* ¶ 17.

CONCLUSION

Many of the proposals included in the FNPRM could make meaningful improvements in the quality of VRS service. But these new initiatives cannot be adopted without additional investment. The FNPRM's proposal to let compensation rates continue to decline is fundamentally inconsistent improving service. The Joint Proposal, on the other hand, carefully balances cost and quality concerns. It should be adopted.

Respectfully submitted,

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