

Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of)
)
Telecommunications Relay Services)
And Speech-to-Speech Services for) CC Docket No. 98-67
Individuals with Hearing and Speech)
Disabilities)

COMMUNICATION SERVICE FOR THE DEAF

COMMENTS IN RESPONSE TO SORENSON OPPOSITION

Communication Service for the Deaf (CSD) hereby submits these comments in response to the Opposition of Sorenson Media to CSD’s Petition for Reconsideration on the speed of answer issue.¹ While many of the points raised below have already been entered into the Commission’s TRS rulemaking docket, they are repeated below to ensure inclusion in this petition proceeding.

Sorenson opposes the request made by other VRS providers and consumers to eliminate the speed of answer waiver for VRS calls.² The Commission may grant a waiver to its rules only if the party requesting the waiver meets the heavy burden of demonstrating that the waiver is in the public interest.³ Because Sorenson has offered no evidence to meet this standard, the FCC should grant petitioners’ request to eliminate the answer speed waiver.

Sorenson suggests that because it is the largest VRS provider in the country, it is the “provider in the best position to assess the availability of qualified interpreters, which

¹ Opposition of Sorenson Media, Inc. (November 15, 2004).

² Petitions for Reconsideration of CSD (September 30, 2004), Petition for Reconsideration of HOVRS (October 1, 2004); Supporting Comments of National Video Relay Service Coalition (November 15, 2004)

³ FPC v. Texaco, Inc. 377 U.S. 22, 39 (1964); See also WAIT Radio V. FCC, 418 F. 2d 1153, 1157 (D.C. Cir. 1969); Northeast Cellular Telephone Company, L.P. v. FCC, 897 F. 2d 1164, 1166 (D.C. Cir. 1990).

is the central issue when considering speed of answer requirements.”⁴ But Sorenson is in fact no expert in the interpreting field, and its statements should not be relied on to defend continuation of a waiver that blatantly violates the Americans with Disabilities Act (ADA). Sorenson has been in the VRS business for less than two years. Its giant market share is more a product of its marketing practices, specifically its failure to make its equipment interoperable with other VRS equipment, than its expertise in this industry.

By contrast, CSD was the very first provider to introduce VRS to the marketplace more than four years ago. Just as relevant, if not more so, is CSD’s history in the field of interpreting. CSD first started providing interpreting services 29 years ago, and now provides more than 470,000 hours of interpreting services nationwide on an annual basis. Combined, CSD employs more than 500 full and part time interpreters for its community based operations, video relay services, and on-line interpreting services in all fifty states. CSD’s wealth of experience in both video relay services and the interpreting field make it uniquely qualified to respond to questions about the demands of VRS and the supply of interpreters that can meet those demands. Based on this extensive experience, CSD can confidently state that not only are there enough interpreters presently in the United States to handle elimination of the speed of answer waiver, but the supply of interpreters will continue to grow as demands for these services continue to increase.

In its Opposition, Sorenson states that there are only 4,900 RID/NAD certified interpreters in the country today.⁵ This figure seriously underestimates the interpreting resources available in America and misleads the FCC into thinking that re-institution of the answer speed standard would wreak havoc on the availability of community interpreters. Nothing could be further from the truth.

⁴ Opposition of Sorenson Media, Inc. at 1

⁵ *Id.* at 2.

It is true that RID provides the most nationally recognized testing system for interpreters in the United States. However, several states, including but not limited to, Texas, North Carolina, California, South Dakota, Missouri, and Nebraska, have also developed their own systems or hybrid testing systems to certify interpreters. Interpreters who receive certification from these and other states are often just as qualified and competent to provide VRS as are RID-certified interpreters.⁶ CSD routinely hires state-certified interpreters to handle VRS calls, as do other providers. In fact, in some states, such as Texas, as many as half the interpreters providing VRS have only state, not NAD/RID, certification because of the strong certification programs that these states have.

Information from RID more fully explains the current state of affairs with respect to the supply of interpreters in the United States. As of June 2004, in addition to the 5118 fully certified and currently practicing interpreters who were members of the Registry, RID reported 3620 associate RID members, defined as “individuals engaged in interpreting or transliterating full time and part time, but not holding RID certification.” This brings the number of practicing sign language interpreters in the United States that are RID members to over 8700 individuals. In reality, the number of *all* sign language interpreters is even greater, as not all state-certified interpreters even join RID.⁷ To the extent that some of these interpreters may not be fully qualified to perform VRS interpreting at the present time, once the FCC standardizes the VRS answer speed, opportunities for VRS interpreter positions will continue to open up, and many

⁶ CSD was able to locate current figures on the number of interpreters in a few states that provide their own interpreter certification or testing: Texas: 1500 interpreters; Missouri: 750 interpreters; Virginia: 200 interpreters; South Dakota: 177 interpreters; and North Carolina: 63 interpreters. The combined number of these 2690 interpreters does not include interpreters in several other states that have state-run certification programs.

⁷ Some state-certified interpreters become associate RID members in order to track their continuing education requirements for purposes of state certification; others might not need to do so.

individuals that now have some interpreter training will have new incentives to upgrade their training to reach certification levels needed for the VRS field.

RID also reports over a thousand student members who are enrolled in interpreter training programs. These individuals are on their way to developing interpreting skills that will enable them to qualify for VRS in the not-so-distant future. Indeed, the actual number of sign language interpreting students in the United States is again likely to be much higher than the number reported by RID, as many students do not even choose to join associations until they have graduated from their studies and entered their chosen profession.

The surge in the number of sign language interpreters that came about as a result of the ADA's obligations under Titles I, II and III should be enough to convince the FCC that there will be enough interpreters to meet the demands of functionally equivalent VRS once those demands have been established by the Commission. At the time that the ADA was under Congressional review, Congress had no assurances that there would be enough interpreters to fulfill the Act's many requirements for communication access. But when Titles I, II and III of the ADA began to place steep demands for sign language interpreting services on employers, local governments and places of accommodation in the early 1990s, a literal boom in the sign language interpreter industry took place. Membership roles in both state and national certification programs swelled to meet the need for interpreting services in public and private schools, courts, hospitals, and other entities covered by the ADA's new provisions. For example, the number of RID's certified and associate member interpreters in June 1990, a month before the ADA was enacted into law, was 2576. By June of 2004, this figure multiplied by more than three

times to reach 8738.⁸ Just as or even more impressive was the increase in the number of RID's student interpreter members. This figure increased by nearly five times, starting at 250 in June 1990, and reaching well over 1000 this past June. It is without question that eliminating the answer speed waiver (and mandating VRS) will continue this upward trend in the interpreting profession.⁹

It is estimated that almost 25% of the nation's sign language interpreters are presently self employed. The benefits of working as a VRS interpreter – the steady hours, insurance benefits, and job security – are already proving attractive to individuals who had been reluctant to stay in an industry that used to be largely characterized by free lance employment and unsteady wages. If the answer speed standard is set at a level that can meet consumer needs for functionally equivalent VRS, the trend for more people to enter and stay in the interpreting field will continue. If, on the other hand, things remain stagnant and the answer speed remains where it is, there will be less reason for this to happen and consumers will be the ultimate losers.

In addition to the lack of an answer speed standard, current marketing practices perpetuate the inefficient use of interpreting services. Sorenson, at present the largest provider of VRS, prohibits individuals from using its video equipment to access the services of other video relay providers. When these customers log onto Sorenson's network, they are only able to reach a finite number of interpreters, and can go nowhere else if that network is blocked in any way. With full interoperability of VRS, the nationwide pool of interpreters would be able to expand and offer the flexibility needed

⁸ The specific breakdown is as follows: June 1990: 1705 RID certified interpreters and 871 associate member interpreters; June 2004: 5118 RID certified interpreters and 3620 associate member interpreters.

⁹ As CSD noted in prior comments, concerns about a shortage of sign language interpreters also are reminiscent of personnel concerns that came up when the FCC was drafting its mandates for closed captioning in the late 1990s. But since mandates for nearly 100% television captioning were implemented in 1998, the number of skilled captioners has soared to respond to that demand.

to appropriately respond to consumer demands. Future efforts to avoid opening up multiple VRS centers in the same locations will also allow for the more even use of interpreter resources and not pull excessive numbers of interpreters away from their roles in any one community.

CSD disagrees with Sorenson's suggestion that instituting a functionally equivalent answer speed will cause the FCC to unnecessarily focus on one element of functional equivalence to the detriment of all others. Sorenson threatens that should the FCC eliminate the answer speed waiver, "it is inevitable that providers of VRS would reduce actual access (perhaps by cutting hours of service) and that quality of service would decline significantly."¹⁰ This argument is wholly inappropriate, and plays on the fears of consumers that they will not be afforded the functionally equivalent telecommunications access to which they are entitled under federal law. Consumers do not need to trade off other aspects of VRS quality for an answer speed that is already required under the ADA. Indeed, prior to the FCC's decision to cut the VRS rate in June 2003, CSD was already meeting the FCC's answer speed standard and had begun providing high quality VRS 24 hours a day, 7 days a week. Although certainly VRS call volume has risen dramatically since that time, as noted above, even now, the necessary sign language resources are available if the appropriate mandates are put in place and the funds are made available to support these resources. The ADA requires that deaf and hard of hearing consumers be able to enjoy *both* an answer speed that parallels blockage rates for conventional voice telephone users *and* other telecommunications features associated with high quality VRS. As the agency charged with implementing the ADA,

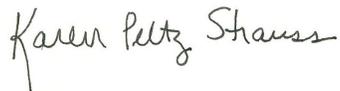
¹⁰ Opposition of Sorenson at 3.

the FCC should require no less.

Respectfully submitted,

/s/

Ben Soukup, CEO
Communication Service for the Deaf
102 North Krohn Place
Sioux Falls, SD 57103
605-367-5760



By: Karen Peltz Strauss
KPS Consulting
kpsconsulting@starpower.net
3508 Albemarle Street, N.W.
Washington, D.C. 20008

November 30, 2004