

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

In the Matter of	)	
	)	CC Docket No. 98-67
Telecommunications Relay Services and	)	
Speech-to-Speech Services for	)	CG Docket No. 03-123
Individuals with Hearing and Speech	)	
Disabilities	)	
	)	

**COMMENTS OF SORENSON MEDIA, INC.**

Sorenson Media, Inc. (“Sorenson”) hereby submits these comments in response to the Commission’s Public Notice in the above-referenced proceeding, seeking additional comment on whether it should adopt a speed of answer requirement for the provision of Video Relay Services (“VRS”).<sup>1</sup> For the reasons described below, Sorenson believes the Commission should not eliminate the speed of answer waiver for VRS because there is no practical way to meet the suggested speed of answer requirements without greatly compromising the quality of VRS, to the detriment of VRS users and because there are reasonable alternatives.

Deaf consumers have made an informed choice and have demonstrated their desire to use Sorenson for their VRS needs. As a result, Sorenson is the largest VRS provider in the country in terms of conversation minutes conducted on a monthly basis, and currently provides interpretation for over half of the minutes submitted to the VRS fund. Sorenson believes its popularity with Deaf and hearing-impaired consumers is a direct result of the high quality interpreting services it demands of its interpreters.

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<sup>1</sup> See *Public Notice*, “Federal Communications Commission Seeks Additional Comment on the Speed of Answer Requirement for Video Relay Service (VRS),” DA 05-339 (rel. Feb. 8, 2005) (the “Notice”).

Sorenson currently employs the largest trained pool of certified interpreters of any VRS provider and is therefore in the best position to assess the availability of qualified interpreters, which is the central issue when considering speed of answer requirements. Simply put, from a functional equivalency point of view a fast answer from a provider of low-quality service is worse than a slower answer from a provider of high-quality service. Moreover, given the multiplicity of VRS providers, it is best to let the marketplace – that is, VRS users – decide.

**I. The Commission Should Maintain the Speed of Answer Waiver for VRS.**

As Sorenson has described repeatedly in this proceeding, there are important reasons why adopting speed of answer requirements at this time would be an error.<sup>2</sup> First, there is a fundamental difference in labor pools between text relay (both IP and TTY) and VRS. Unlike TRS, which requires relatively little training and therefore can draw from a large pool of individuals who can be trained quickly to serve as call assistants, VRS depends on a very limited supply of qualified interpreters due to the years of training required to become qualified. Indeed, the difference is stark – training for TRS is akin to learning to take dictation or to be a court reporter, while training for VRS requires the interpreter to become fluent in a new language.

In fact, according to a search of the RID membership database<sup>3</sup> performed on February 25, 2005 there are only 5,464 RID certified interpreters in the country, and seven VRS providers compete to hire as many of the certified interpreters as possible, even while there are competing demands for these interpreters' time. This has led to a

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<sup>2</sup> Sorenson Opposition, CC Docket Nos. 90-571 and 98-67, CG Docket No. 03-123, filed Nov. 15, 2004; Sorenson Comments, CC Docket Nos. 90-571 and 98-67, CG Docket No. 03-123, filed Oct. 18, 2004. These comments are hereby incorporated by reference.

<sup>3</sup> See [http://filemaker.rid.org/FMPro?-db=wmember.fp3&-lay=web&-format=search\\_mbr.htm&-view](http://filemaker.rid.org/FMPro?-db=wmember.fp3&-lay=web&-format=search_mbr.htm&-view) (with “certified” chosen in the “Membership Category” field).

significant shortage of interpreters that only would be exacerbated by adopting mandatory answering times. One indication of the depth of the shortage is that some interpreting organizations (including CSD) have asked Sorenson not to hire all of the skilled interpreters in a city so that there will be at least some community interpreters to serve the Deaf. In Phoenix, for example, where a VRS call center opened recently, complaints from Deaf individuals that they cannot obtain interpreters for business meetings, medical appointments and other needs have skyrocketed.<sup>4</sup> While reducing wait times to promote functional equivalency is an important goal, it also is necessary to weigh that benefit against the negative effects of continuing to deplete the limited pool of qualified interpreters available to meet all other needs.<sup>5</sup>

Sorenson's users commonly request that their calls be handled by a specific type of interpreter (*e.g.*, literate in technology or medicine, male or female), which is another important distinction between text-based relay and VRS. Sorenson believes that honoring such requests for interpreters with specialized knowledge is important in achieving a meaningful VRS call in many circumstances. VRS interpreters cannot be analogized to dial tones, which can be readily added by increasing a network's infrastructure, and regulations that rely on such analogies are likely to be inappropriate.

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<sup>4</sup> See Arizona Commission for the Deaf and Hard of Hearing Comments, CC Docket Nos. 90-571 and 98-67, CG Docket No. 03-123, filed Nov. 5, 2004, at page 4; This is not the only complaint of this nature received by the Commission, Informal Comment of David Zeplin, CC Docket No. 98-67, filed Feb. 21, 2005 (expressing frustration at his inability to secure an interpreter for a community college course in Rochester, New York, where a VRS call center has opened).

<sup>5</sup> See Registry of Interpreters for the Deaf Comments, CC Docket No. 98-67, filed Feb. 14, 2005, at page 3 (explaining that there was a growing shortage of qualified interpreters to meet community needs even prior to the availability of VRS).

There is no short term solution to this shortage of qualified interpreters. Sorenson recently supported a state-wide initiative with the Utah state legislature<sup>6</sup> which enacted legislation to increase funding for American Sign Language training and certification within colleges and universities in the state. Sorenson also works with schools across the country to create VRS curriculum and internships to train more qualified interpreters; however, it will take years for this and other initiatives to create a large enough pool of qualified interpreters to meet the demand.

Further, mandating speed of answer requirements would unreasonably elevate one element of functional equivalency over all of the other requirements of the ADA. The ADA was adopted “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.”<sup>7</sup> As Sorenson previously has described, the goal of providing access is not merely complementary to functional equivalence, but is, at a minimum, co-equal.<sup>8</sup> Indeed, functional equivalence is a real world test of whether the Deaf community can use VRS as a means of carrying out the Commission’s mandate to make communications services “available to all individuals in the United States” and “to increase the utility of the telephone system of the Nation[.]”<sup>9</sup> It is not a mere theoretical construct. As the Commission noted in its *2003 TRS Order*, “the enactment of Title IV was intended to further the universal service mandate of Section 1 of the Communications Act.”<sup>10</sup>

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<sup>6</sup> See Stephen Speckman, *Sign Language Need Called Dire*, Deseret Morning News, Feb. 22, 2005, at <http://deseretnews.com/dn/print/1,1442,600113770,00.html>.

<sup>7</sup> See 42 U.S.C. § 12101(b)(1).

<sup>8</sup> See 47 U.S.C. § 225(b)(1) (requiring the Commission to ensure that TRS is “available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States”).

<sup>9</sup> *Id.*

<sup>10</sup> Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, *Second Report and Order, Order on Reconsideration, and Notice of Proposed*

For that reason, the Commission should not focus on just one element of equivalence when it considers the speed of answer requirement. Given the shortage of interpreters, 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. This net reduction in access would be contrary to the goals of the ADA, and the decrease in quality (which could, among other things, result in less understandable communications between Deaf and hearing users and longer call times) would both reduce access and make the calls that were completed less functionally equivalent than is the case today. In any event, in the current environment, consumers have several choices, and they can choose the providers that offer the shortest wait times if they think that is more important than other characteristics of VRS. Consumers will choose the option that best meets their needs, and Deaf consumers should be given that opportunity.

If a speed of answer rule is implemented, it also will affect those interpreters currently working for VRS providers. If a supervisor at a VRS call center is aware that the hold times have exceeded the mandated limit, it is likely that pressure will be placed on interpreters to forgo needed breaks in an effort to reduce hold times. The result would be lower quality service for VRS users as well as lower job satisfaction, and ultimately an increased risk of repetitive motion injuries, for interpreters, reducing the interpreting pool even further.<sup>11</sup>

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*Rulemaking*, 18 FCC Rcd 12379, 12381, n.3 (2003) (“2003 TRS Order”). The 2003 TRS Order goes on to note that the House, in adopting Section 225, found that “[t]he inability of over 26 million [hearing-impaired and speech-impaired] Americans to access fully the Nation’s telephone system poses a serious threat to the full attainment of the goal of universal service.” *Id.*, quoting H.R. Rep. No. 485, Pt. 2, 101st Cong., 2d Sess. 129 (1990) (House Report).

<sup>11</sup> See, e.g., RID Comments, CC Docket No. 03-123, filed Aug. 24, 2004 (discussing eye strain and overuse injuries suffered by VRS interpreters).

Another way a provider might choose to maintain low hold times would be to simply block calls from reaching its servers rather than allow them through to wait for an available interpreter. This practice would result in less overall access to VRS. Sorenson believes that providing VRS access to Deaf users by not blocking calls is more important than reducing hold times.

Reimbursement rates are another issue the Commission must consider in deciding whether to adopt speed of answer requirements for VRS. Reimbursement rates would have to increase significantly for Sorenson and other providers to hire the staff necessary to meet those requirements. Although reimbursement rates should not be the only factor the Commission considers, it is important for the Commission to recognize the additional costs that would result from eliminating the speed of answer waiver.

At a minimum, the considerations described above demonstrate that the Commission should consider alternatives to a speed of answer mandate. For instance, VRS providers could be required to provide users with information on the expected wait time while they are in queue. Sorenson is prepared to display such information on the video phone hold server to assist users in determining what they feel to be an acceptable wait time.

For all of the reasons set forth above, Sorenson strongly recommends that the Commission not implement a speed of answer requirement for VRS at this time. Meeting a speed of answer requirement simply is not feasible given the shortage of qualified VRS interpreters without significant sacrifices in quality of VRS service.

**II. Should the Commission Decide to Adopt a Speed of Answer Requirement for VRS, the Requirement Should Be Phased in over a Reasonable Period.**

If the Commission decides to implement a speed of answer requirement, a flash-cut to the new rule would be inappropriate. Sorenson recommends a phased-in approach under which 80 percent of calls would be required to be answered within 240 seconds during the first year of implementation, 180 seconds during the second year, and 120 seconds during the third year. Additionally, VRS providers should be given at least six months notice prior to implementation of any speed of answer requirements. This transition period is essential given the existing shortage of qualified VRS interpreters, and may, in fact, not provide enough time for VRS providers to ramp up.

The Commission also should adopt rules specifying how answer times are to be calculated. The speed of answer measurements should begin with the delivery of the call to the provider's servers from the Internet and end when the call is assigned to an interpreter. Further, because VRS providers are required by the Commission's rules to permit users to make sequential calls,<sup>12</sup> these subsequent calls should be included in the speed of answer calculation, measured from the point when VRS users indicate they would like to make an additional call until they are connected to the interpreter, resulting in a zero second answer time.

To maintain an acceptable quality of VRS service and to ensure that providers do not game the system, it is important that VRS providers' Internet infrastructure (*i.e.*, bandwidth) not be permitted to peak at over 60% capacity to ensure that calls are not blocked before they even arrive at the providers' servers. This requirement is equivalent to a telephone network having the appropriate number of trunks for circuit switched lines.

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<sup>12</sup> 47 C.F.R. § 64.604(3)(i).

Providers who have limited bandwidth available can artificially keep their speed of answer rates low and avoid reporting abandoned calls because calls are blocked before reaching their servers.

Sorenson's VRS users have indicated their strong preference to have the option to receive call backs for VRS calls. Call backs should be permitted as long as the user has the option to either remain on hold or be called back and exercises their option for a call back. The call must maintain its order in the hold queue and be served by the next available interpreter just as it would have been had the caller chosen to remain on hold. Call backs should be included in the speed of answer calculation, measured from the delivery of the call from the Internet to the provider's servers until the call is assigned to an interpreter for the call back.

Finally, the Commission should measure compliance with any speed of answer rule on a monthly basis and require VRS providers to submit reports detailing their call data on a quarterly basis.

### **III. Conclusion**

Implementing a speed of answer requirement at this time will immediately cause a substantial increase in VRS providers' costs, create severe shortages of qualified interpreters to meet community interpreting needs, and dramatically reduce the quality of VRS interpreting services as well as a likely reduction in operating hours. For all these reasons, the Commission should extend the waiver currently in place for VRS and reevaluate the feasibility of a speed of answer requirement once the current shortage of qualified interpreters has been alleviated.

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