BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:	)	
	)	
Telecommunications Relay Services and	)	
Speech-to-Speech Services for Individuals	)	Dockets: CC 98-67
With Hearing and Speech Disabilities	)	CG 03-123
	)	
Petition for Declaratory Ruling on	)	
Video Relay Service Interoperability	)	

To: The Federal Communications Commission

COMMENTS OF HANDS ON VIDEO RELAY SERVICES, INC. IN SUPPORT OF EQUIPMENT INTEROPERABILITY REQUIREMENTS

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April 15, 2004

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SUMMARY

Hands On Video Relay Services, Inc. ("Hands On") submits its comments in support of the Petition for Declaratory Ruling on Interoperability filed February 15, 2005, by the California Coalition of Agencies Serving the Deaf and Hard of Hearing ("California Coalition"). The California Coalition seeks a declaratory ruling prohibiting Video Relay Service ("VRS") providers receiving reimbursement from the Interstate Telecommunications Relay ("TRS") Fund from purposefully restricting persons who use their services from using other VRS services, either through equipment that blocks access to other VRS providers, or through restrictive agreements. Hands On supports the California Coalition's petition. VRS providers should not be entitled to reimbursement from the Interstate TRS Fund if they employ artifices to block or limit their users from accessing any other TRS service or provider.

This matter arises from the activities of one VRS provider, Sorenson Media, Inc. ("Sorenson"). Sorenson distributes a video-phone device it calls the VP-100 to prospective VRS users conditioned on an agreement that the device may only be used for VRS with Sorenson's own VRS service. Sorenson, also purposefully blocks access to other VRS providers from this device by imposing a block on the IP addresses of all other VRS providers. This is done purposefully to obtain a competitive advantage over other VRS providers, without regard to the needs of the VRS users Sorenson is authorized to serve.

The California Coalition's petition plainly demonstrates why the Commission should issue a declaratory ruling prohibiting VRS providers from restricting access to other providers' services, and Hands On fully endorses that discussion. However, Hands On's analysis goes beyond the California Coalition. Hands On analysis is that the furnishing of non-interoperable relay equipment is an unjust and

unreasonable practice under Section 201 of the Communications Act of 1934, as amended, for at least three reasons. First, non-interoperability violates the policy of this Commission that consumers have equal access to the telecommunications carrier of their choice. Second, the practice of bundling service with equipment that is not interoperable with other providers represents an attempt to leverage market power for anti-competitive purposes. Third, the lack of interoperability, especially in the context of relay, threatens serious risk of harm to consumers, especially given the strong possibility of provider delay in answering emergency calls.

The policy behind Section 201 is one that eschews balkanization of the telecommunications network. That policy favors interconnection of carriers and the interchange of traffic. Blocking access to any portion of the telecommunications network for any but the most compelling reasons is inherently unreasonable because of the potential denial of essential communications. For these reasons the Commission should hold that the furnishing of non-interoperable equipment is an unjust and unreasonable practice in violation of Section 201 of the Act.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	Dockets CC 98-67 CG 03-123
	)	
Petition for Declaratory Ruling on Video Relay ServiceInteroperability	)	

To: The Commission

COMMENTS OF HANDS ON VIDEO RELAY SERVICES, INC. IN SUPPORT OF EQUIPMENT INTEROPERABILITY REQUIREMENT

Hands On Video Relay Services, Inc. ("Hands On"), by its counsel, and pursuant to Public Notice DA 05-509 (March 1, 2005), submits its comments in support of the Petition for Declaratory Ruling on Interoperability filed February 15, 2005, by the California Coalition of Agencies Serving the Deaf and Hard of Hearing ("California Coalition"). In support, the following is shown.

I. Introduction.

The California Coalition seeks a declaratory ruling prohibiting Video Relay Service ("VRS") providers receiving reimbursement from the Interstate Telecommunications Relay Fund from purposefully restricting persons who use their services from using other VRS services, either through equipment that blocks access to other VRS providers, or through restrictive agreements.[1]

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[1]Hands On wishes to make clear it does not interpret the California Coalition's petition as addressed to the issue of a provider's proprietary video computer software which may only allow persons using such software to access the provider's VRS service, assuming that the provider's software does not have the effect of blocking the VRS user from accessing other provider's VRS service. To Hands On's knowledge no provider distributes computer video software that blocks a user's computer from accessing another provider's service. Thus, although Sorenson's En Vision SL software – available for download

Hands On supports the California Coalition's petition. VRS providers should not be entitled to reimbursement from the Interstate TRS Fund if they employ artifices to block or limit their users from accessing any other telecommunications relay service or provider.

The California Coalition explains that this matter arises from the activities of one VRS provider. That provider is Sorenson Media, Inc. ("Sorenson"). Sorenson distributes equipment in the form of a video-phone device it calls the VP-100. Sorenson distributes this device to prospective VRS users conditioned on an agreement that the device may only be used for VRS with Sorenson's own VRS service. Although that contractual provision is rightly deemed void as against public policy, Sorenson, however, also purposefully blocks access to other VRS providers. Sorenson does this by imposing a block on the IP addresses of other VRS providers. Sorenson blocks access to other providers by programming a blocking algorithm into the Sorenson Internet server through which all VP-100's must access prior to completing a connection with any third party.[2] This is not done accidently. This is done purposefully to prevent any VP-

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from the Sorenson VRS web site – only connects to Sorenson's VRS service, it does not to Hands On's knowledge block the user's computer from accessing other VRS providers. The VRS user who has En Vision SL installed on his or her computer is still able to use Sprint's or Hamilton Telephone's VRS service by employing Microsoft's Net Meeting or another compatible video software, or to access Hands On's service using either Hands On's VideoSign software, Net Meeting to another compatible software. Thus, there is no substantial issue here of absolutely blocking access to competing VRS services with En Vision SL software even though as shown in Exhibit 1 to these comments that Sorenson does intentionally block use of En Vision SL for use with other VRS services. This is an entirely different situation than that presented by Sorenson's blocking access to other providers with its VP-100 device, since VP-100 users may very well not have other VRS capable equipment.

[2]When a person using a Sorenson VP-100 attempts to make a call, the VP-100 is programmed to contact a Sorenson Internet server. The Sorenson Internet server then determines whether the call is allowed to go through. If the caller attempts to make a connection with a competing VRS provider, such as Sprint, Hamilton or Hands On, the Sorenson server refuses to allow the call and gives an error message. As new VRS providers commence operation, Sorenson updates its blocking list. *See* Exhibit 2.

100 user from accessing another VRS provider. This is done purposefully to prevent VP-100 VRS users from accessing the competing services of any VRS provider other than Sorenson. This is done purposefully to obtain a competitive advantage over other VRS providers, without regard to the needs of the VRS users Sorenson is authorized to serve. *See* note three, infra.

The California Coalition's petition plainly demonstrates why the Commission should issue a declaratory ruling prohibiting VRS providers from restricting access to other providers' services, and Hands On fully endorses that discussion. However, Hands On's analysis below goes beyond the analysis of the California Coalition. In Hands On's view, the most appropriate analysis is based on Section 201 of the Communications Act of 1934, as amended. Review of the cases decided under this section of this agency's governing statute plainly requires the conclusion that Sorenson's practice of blocking persons using its equipment from accessing other provider's VRS service violates the Communications Act, and long standing FCC policies designed to promote competition, and is inimical to the public interest.

II. Furnishing non-interoperable relay equipment violates Section 201 of the Act.

Section 201 of the Act, 47 U.S.C. § 201, prohibits any carrier subject to the Commission's jurisdiction from engaging in any unjust or unreasonable practice. Sorenson's practice of furnishing VRS users customer premises equipment ("CPE") which is not operable with other relay providers service, is

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Hands On has confirmed through its engineering staff that all VP-100's are programmed to access a Sorenson Internet server. In fact, each and every Dlink video-phone -- which uses the same Sorenson SVX chipset used in the VP-100 – whether used for VRS or for any other purpose is similarly programmed to access a Sorenson server prior to making a third party connection. This was recently confirmed in deposition testimony by Sorenson Chief Operating Officer Patrick Nola. *See* Exhibit 3. This fact raises a serious question whether Sorenson is unlawfully monitoring Dlink traffic, including traffic among other VRS providers. That, however, is a matter for a subsequent proceeding to address.

plainly an unreasonable practice in violation of Section 201. Such a practice is violative of Section 201 of the Act for three distinct reasons. First, it violates the policy of this Commission that consumers have equal access to the telecommunications carrier of their choice. Second, the practice of bundling service with equipment that is not interoperable represents an attempt to leverage market power for anti-competitive purposes. Third, the lack of interoperability, especially in the context of relay, threatens serious risk of harm to consumers.

A. VRS providers are common carriers subject to this Commission's jurisdiction.

Section 3 of the Act, 47 U.S.C. § 153, defines a "common carrier" as "any person engaged as a common carrier for hire, in interstate or foreign communication by wire, or radio ...." Section 225 of the Act, which governs relay service, similarly defines a common carrier. *See* 47 U.S.C. § 225(a)(1). As the court made clear in *National Ass'n of Regulatory Utility Com'rs v. FCC*, 533 F.2d 601 (D.C. Cir. 1976), the sine qua non of common carrier status is a quasi-public character which arises out of the undertaking to carry for all people indifferently. Particular services offered need not be practically available to the entire public. A specialized carrier whose services are of possible use to only a fraction of the population may nonetheless be a common carrier if it holds itself out to serve indifferently all potential users. It is not essential that there be a statutory or other legal commandment to serve indiscriminately; rather it is the practice of such indifferent service that confers "common carrier" status. *Id.*

In *Beehive Telephone, Inc. v. Bell Operating Cos.*, 78 Rad. Reg 2d (P&F) 1376 (1995), the Commission stressed that the "key feature of common carriage under Section 3(h) of the Act is the provision of service indifferently to all potential customers. There the Commission rejected the claim that access to the SMS 800 number database ("SMS") was not common carriage in the face of a claim that

"SMS access service does not enable customers to transmit anything." It was sufficient, the Commission said that the service was "incidental to a service that provides transmission of intelligence of the customer's own design and choosing" that was sufficient to support a finding of common carriage.

In this case, VRS providers are under a common carrier obligation. This is made plain in Section 64.604(a)(3)(i) which provides that, "Consistent with the obligations of telecommunications carrier operators, [communications assistants] are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services. Similarly, Section 64.604(a)(3)(ii) requires TRS providers to be capable of handling any type of call normally provided by telecommunications carriers unless the Commission finds that it is not technically feasible to do so. These provisions make plain that VRS providers must, by regulation, hold themselves out to serve the deaf, hard of hearing and speech disabled public indifferently.

Since relay providers must hold themselves out to serve the public indifferently, and since they are plainly engaged in providing interstate communication by wire (i.e., Internet and the public switched telephone network), they are thus plainly common carriers subject to Section 201 of the Act. Perhaps it may be argued that the mere provision of interpreting service is not transmission. Regardless of whether this is true, that is not what VRS providers do. VRS providers switch calls among various call centers, and route calls to terminating carriers. At the very least VRS providers provide service "incidental to a service that provides transmission of intelligence of the customer's own design and choosing." *See Beehive*, 78 Rad. Reg 2d (P&F) 1376. Moreover, VRS providers are fulfilling a duty of service Section 225 imposes directly on common carriers. This is plainly sufficient to classify VRS providers as common carriers for the purpose of Section 201's unjust and unreasonable practices provision.

FCC Rule §63.01 provides that "Any party that would be a domestic interstate communications common carrier is authorized to provide domestic, interstate services to any domestic point and to construct any domestic transmission line as long as it obtains all necessary authorizations from the Commission for use of radio frequencies." Section 63.01 thus affords blanket Section 214 certification to all domestic common carriers. *Section 214 Entry and Exit Certification Requirements*, 14 FCC Rcd ___, 16 CR 529 (1999).

If there were any doubt that relay providers are common carriers, that doubt should be put to rest by review of the Commission's hearing designation order in *Publix Network Corporation*, 17 FCC Rcd 11487 (2002). There, in investigating Publix's purported TRS operation, the Common Carrier Bureau sent a letter to Publix questioning whether Publix was operating as a common carrier. Among the issues the Commission designated for hearing in that proceeding were "to determine ... whether Publix Network's authorization to operate as a common carrier should be revoked," and "to determine whether ... the Publix Companies, and/or its principals should be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission." Because TRS providers are providing a common carrier telecommunications service, they must be considered telecommunications common carriers subject to Section 201.

B. Section 201 is a broad grant of authority to regulate the practices of carriers.

Section 201 is a broad grant of Congressional authority to regulate the practices of telecommunications carriers. *See Toll Free Service Access Codes,* 7 CR 559, 12 FCC Rcd 11162, 62 FR 20126 (1997) (warehousing toll free numbers violates Section 201); *Southwestern Bell Telephone Company Revisions to Tariff F.C.C. No. 6*; 69 RR 2d 448, 6 FCC Rcd 3760 (1991) (regulating

alternative access technologies). For example, the Commission has held that Section 201's unreasonable practices provision reaches misleading sales practices of carriers. *NOS Communications, Inc.*, 23 CR 876 (2001); *Business Discount Plan, Inc.*, 14 FCC Rcd 340, 14 CR 784 (1998). Similarly, the Commission has applied Section 201 to prohibit bundling of services where there is a significant risk of leveraging, *Competition in the Interstate Interexchange Marketplace*, 70 RR 2d 968, 7 FCC Rcd 2677 (1992), and significant negative effect on the market. *Competition in the Interstate Interexchange Marketplace*, 72 RR 2d 578, 8 FCC Rcd 2659 (1993). Section 201 plainly is sufficiently broad to reach a TRS carrier's practices with respect to consumer equipment. *See generally Amendment of Section 64.702 (Computer II Inquiry)*, 77 F.C.C.2d 384 (1980).

C. Furnishing consumers equipment that fails to operate with other VRS providers is an unreasonable practice.

The long standing policy of Congress and this Commission is that consumers have access to any telecommunications provider that offers the consumer service. *See, e.g., Implementation of the Local Competition provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996); *Competition in the Interstate Interexchange Marketplace*, 6 FCC Rcd 5880 (1991). This policy of competition and equal access applies without regard to who may have supplied the consumer his or her CPE. This Commission would never countenance an arrangement whereby AT&T furnished a telephone to a long distance subscriber, conditioned on that subscriber only using that AT&T telephone to make calls on AT&T's telephone network. In an analogous situation, this Commission held that Section 201 requires cellular carriers to permit subscribers of other cellular providers to roam on their systems. *See Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services,* 11 FCC

Rcd 9462, 4 CR 452 (1996). Similarly, the Commission has held that it is a violation of Section 201 for a cellular carrier to include an exclusivity provision in an agreement for resale of its service whereby the reseller agrees not to resale the services of a competing carrier. *See Trac Communications, Inc. v. Detroit Cellular Telephone Company*, 5 FCC Rcd 4647, 68 Rad. Reg. 2d (P&F) 30 (1990).

Just last month the Enforcement Bureau approved a consent degree with Madison River Communications, LLC, relating to allegations that Madison River was blocking ports used for Voice over Internet Protocol ("VoIP") applications. *See Madison River Communications, LLC and Affiliated Companies*, DA 05-543 (March 3, 2005). Madision River agreed to make a voluntary payment of $15,000 to the United States Treasury and agreed not to block ports used for VoIP applications or otherwise prevent customers from using VoIP applications. The Madison River case is directly analogous to this situation. Madison was alleged to have blocked VoIP ports to limit competition to its own telephone service. Sorenson is employing the same type of blocking strategy as Madison is alleged to have done.[3]

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[3] Sorenson's Engineering Vice President Edward Armstrong was recently deposed in a Utah state court proceeding. In his deposition, Mr. Armstrong admitted Sorenson blocks access to other VRS providers through its En Vision SL software:

Question: If I want to use En Vision SL to make a individual relay call through Hands On Video Relay Services, Inc., I can't do so, can I?

Answer: No.

Question: Why is that?

Answer: We block the ability to be able to communicate with other VRS services, all other VRS services that we're aware of.

* * *

Question: So as other VRS providers come online, you modify Sorenson SL to block out those other VRS providers, right?

Sorenson is denying users of its VP-100 device the ability to access a competing VRS service by blocking their access to that service. Commission intervention is plainly necessary to limit the harm to competition Sorenson's blocking is causing.

Other provisions of the Communications Act cited by the California Coalition make clear that Congress has chosen interoperability as the policy to govern the United States telecommunications network. Section 251(a) of the Act requires that carriers not install network features or capabilities that fail to comply with the standards and guidelines of Section 255 and Section 256 of the Act. Section 255 specifically requires that manufacturers of telecommunications equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if

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Answer: Modification is made to some component of the system that maintains a list of blocked IP addresses.

* * *

Question: Do you do that pursuant to a Sorenson company policy?

Answer: We do that pursuant to a request from my management?

Question: Who in your management requested that?

Answer: Pat Nola.

* * *

Question: Did you ever ask Mr. Nola why he wanted to block other VRS providers?

Answer: I don't recall asking that specific question, no.

Question: Did he ever tell you?

Answer: I don't – my understanding is that we do that in order to maintain our competitive edge.

See Exhibit 1 (deposition transcript pp. 80:10-82:14). Plainly, Sorenson's blocking of competitive VRS providers from the VP-100 is for the same reason.

readily achievable. Plainly, telecommunications equipment that can access only one of several relay providers is not accessible to and usable by individuals with disabilities.

Likewise Section 256(a)(1) of the Act states that the purpose of that provision is to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services through, "(B) public telecommunications network interconnectivity and interconnectivity of devices with such networks used to provide telecommunications services; and (2) to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks." It plainly runs against the letter and intent of Section 256 for a relay provider to provide deaf and hard of hearing persons with equipment incapable of operating on the networks of other relay providers.

Similarly, Section 251(b)(3) of the Act requires local exchange carriers to provide dialing parity to competing providers of telephone exchange service and imposes a duty to permit such providers to have non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays. We suggest that for the purpose of Section 251(b)(3), relay providers must be considered the equivalent of local exchange carriers since there are providing local exchange access to deaf, hard of hearing and speech disabled persons. But, whether or not a relay provider is classified as a local exchange carrier, or the equivalent, relay providers participating in state certified programs certainly do so as the surrogate of local exchange carriers. Relay providers, in providing access to deaf and hard of hearing persons, cannot therefore do what local exchange carriers are prohibited from doing.

In *Ronald J. Marlowe, Esquire*, 11 FCC Rcd 10945, 78 Rad Reg. 2d (P&F) 1583, the Common Carrier Bureau held that it would be unlawful for a carrier to restrict access by other carriers to the destination number for an information or entertainment program. The Bureau explained that restricting access to a telephone number that has been assigned for access by multiple carriers is anticompetitive and an unjust and unreasonable practice because it would deprive consumers of their right to use their preferred carrier. Here, Sorenson's practice of blocking use of the VP-100 video-phone device on other VRS provider's networks serves not only to deny the videophone user the VRS carrier of his choice, but also limits the choice of hearing persons seeking to place calls to the deaf or hard of hearing person. Hearing persons seeking to call the deaf or hard of hearing person may only place their calls through Sorenson's network. Although it might be argued that the deaf or hard of hearing person has the right to limit his own access to alternative VRS providers in exchange for receiving a free piece of equipment,[4] there can be no justification for a practice that limits the rights of third-parties to place VRS calls with the provider of their choice. In essence, Sorenson is preventing third parties from contacting deaf or hard of hearing persons who use its equipment, unless calls to the deaf or hard of hearing person are placed through its VRS network. That is plainly anticompetitive and unreasonable.

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[4] In fact, however, the free provision of equipment would appear to have no relevance to whether the practice of preventing that equipment from being used to place calls over the networks of other providers is anti-competitive. In *National Telephone Services, Inc.*, 8 FCC Rcd 654, 71 Rad Reg. 2d (P&F) 1157 (CCB 1993), the Bureau upheld payments of commissions to aggregators for their costs of making service and facilities available to the transient public as a legitimate business practice so long as callers were not prevented by such equipment from using any other carrier to place a call. Here, however, Sorenson does just that.

Lastly, the Commission has specifically applied the requirement of interoperability to information service and Internet providers. In *Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc.*, 16 FCC Rcd 6547, 23 CR 157 (2001), discussed at lenght by the California Coalition, the Commission required that America Online establish interoperability between its instant messaging services and the instant messaging services of other providers.

Since the Commission's policy is to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks, any practice of providers to limit the use of customer premises equipment, must be considered an unreasonable practice in violation of Section 201 of the Act.

D. The provision of free non-interoperable equipment is an example of anti-competitive leveraging.

Sorenson is leveraging its market position by bundling the provision of its videophone device with its VRS service. As the Commission has explained, "The essential characteristic of an illegal tying or bundling arrangement 'lies in the seller's exploitation of its control over [one] product to force the buyer into the purchase of a [second] product that the buyer either did not want at all or might have preferred to purchase elsewhere." *Competition in the Interstate Interexchange Marketplace,* 5 FCC Rcd 2627, 2648 (1990) (quoting *Jefferson Parish Hospital District No. 2 v. Hyde*, 466 U.S. 2, 15 (1984)). By providing the video-phone device to the consumer for free – plainly below its cost – and preventing use of that video-phone with other VRS services, Sorenson is leveraging the market power it has acquired as the developer of that video-phone device in order to monopolize the market for VRS. Such bundling is a violation of Section 201 when, as here, there is a significant risk of leveraging. *Competition in the*

Interstate Interexchange Marketplace, 70 RR 2d 968, 7 FCC Rcd 2677 (1992). The Commission's Computer II decision specifically prohibited the bundling of service and CPE due to leveraging concerns. *See Customer Premises Equipment*, 102 F.C.C.2d 655 (1985), *modified in part on recon.*, FCC 86-341 (August 7, 1986). The Commission should bar this practice in the VRS context as well.

E. Denial of interoperability of VRS equipment is a serious safety of life and property issue.

Aside from the innate anti-competitive concerns surrounding the lack of interoperability of VRS equipment, there is a much more compelling issue. Lack of interoperability of VRS equipment endangers the safety and lives of deaf, hard of hearing and speech disabled persons, and risks loss or damage to their property. Although the Commission and VRS providers caution the deaf, hard of hearing and speech disabled public not to rely on VRS for emergency communications, the reality is that many in the community use VRS exclusively for their communications needs. This is particularly the case for persons with limited English or typing skills who cannot or do not use TTYs.

The lack of interoperability of VRS equipment means that these persons must rely on one and only one provider in an emergency situation. That is exceedingly dangerous. The Commission has no speed of answer requirement. Even if it did, a speed of answer requirement would not guarantee immediate VRS access on a 24/7 basis. With interoperability of equipment, however, with or without a speed of answer requirement, a deaf, hard of hearing or speech disabled person facing an emergency would be able to resort to a second, third or fourth VRS provider if his preferred VRS provider were fully engaged in handling other calls or were experiencing system difficulties.

Anecdotal evidence suggest that Sorenson averages a very long wait to answer VRS calls.[5] In fact, Reports filed with this Commission indicate wait times as long as 30 minutes to place a VRS call.[6] Seconds count. Either in a fire, a medical emergency, or a crime in progress, seconds count. Persons could die, suffer irreparable personal injury, destruction or damage of property, or financial loss waiting minutes for a VRS interpreter to handle a call. If, as some have argued, there may be a shortage of video interpreters to handle the demand for VRS traffic with an answer speed comparable to the public telephone network, interoperability of equipment to allow deaf and hard of hearing persons access to any and all interpreters available and on duty is critical from the standpoint of handling emergency calls. *See Telecommunications Relay Service*, FCC 04-137, paras. 120, 122 n.355, (June 30, 2004). To allow a provider to block VRS users from a substantial number of available interpreters – thereby risking death, serious injury, destruction of property, or financial loss – is plainly unjust and unreasonable as well as irresponsible and inhumane.

It is plain that Sorenson's interest here is one of leveraging its video phone technology to the VRS market. Sorenson admits that it blocks access to its En Vision SL software in order to enjoy a competitive advantage. It is plain it blocks access from the VP-100 for the same reason. We well understand why Sorenson wishes to do so since it is to its financial advantage. However, the public's interest in full access to emergency services far outweighs any financial interest Sorenson has at stake here. Any practice of

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[5] The Commission has not required public reporting of VRS provider wait times.

[6] *See, e.g.*, Petition for Reconsideration of Communications Service for the Deaf at 14 n.37 (citing Telecommunications For the Deaf, Inc.) Indeed, Sorenson seems to suggest that an answer speed equivalent to that provided hearing persons is impossible to achieve without "greatly compromising the quality of VRS." *See Opposition to Petitions for Reconsideration* (November 15, 2004).

VRS providers to limit interoperability of provider supplied equipment should be declared an unjust and unreasonable practice in violation of Section 201 of the Act.

III. Conclusion.

The policy behind Section 201 is one that eschews balkanization of the telecommunications network. That policy favors interconnection of carriers and the interchange of traffic. Blocking access to any portion of the telecommunications network for any but the most compelling reasons is inherently unreasonable because of the potential denial of essential communications. Here Sorenson blocks access from its VP-100 video-phone device in order to leverage out competition for VRS. Sorenson's competitive reasons for blocking access from that device are not a compelling reason to sanction its denial of access to other providers' service. The Commission should therefore declare Sorenson's blocking of access to other providers' service an unjust and unreasonable practice under Section 201 of the Act.

Respectfully submitted,

HANDS ON VIDEO RELAY SERVICES, INC.

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Exhibit 1

1 A. Yes.
2 Q. Okay. And maybe it would help if you
3 would describe what EnVision was with the hardware
4 version, with the hardware portion.
5 A. I'm not familiar with the product prior
6 to how the product was when I assumed
7 responsibility for it. All I know is it had a
8 hardware portion to it.
9 Q. Okay. And you--you assumed
10 responsibility for EnVision after the hardware
11 portion had been removed?
12 A. Yes.
13 Q. And when the hardware portion was
14 removed, it lost its audio capability?
15 A. I believe that's one of the features.
16 Q. That it lost?
17 A. I believe it lost audio either on or
18 before that.
19 Q. Did the removing of the hardware result
20 in the loss of the audio capability?
21 A. I don't know.
22 Q. You have responsibility for EnVision
23 now?
24 A. Yes.
25 Q. And the version of EnVision that you

1 have responsibility for is called EnVision SL,
2 right?
3 A. Correct.
4 Q. Okay. It's fair to say that EnVision
5 SL only works with Sorenson VRS; isn't that right?
6 A. No.
7 Q. It only works with Sorenson VRS and
8 other Sorenson VRS users?
9 A. No.
10 Q. If I want to use Sorenson SL to make a
11 videoconferencing call to you, I can do so?
12 A. If we both have EnVision SL, yes.
13 Q. Okay. If I want to use EnVision SL to
14 make a individual relay call through Hands On
15 Video Relay Services, Inc., I can't do so, can I?
16 A. No.
17 Q. Why is that?
18 A. We block its ability to be able to
19 communicate with other VRS services, all other VRS
20 services that we're aware of.
21 Q. How do you do that?
22 A. Through IP blocking.
23 Q. You block--you block the Hands On IP
24 address?
25 A. We block its ability to make a call

1 into a competitive VRS service, yes.
2 Q. And you have to know the--don't you
3 have to know the Hands On IP address to make
4 that--accomplish that block?
5 A. Yes.
6 Q. So you block the Hands On IP address?
7 A. Yes.
8 Q. That is a decision that--okay.
9 So as other VRS providers come online,
10 you modify Sorenson SL to block out those other
11 VRS providers, right?
12 A. Modification is made to some component
13 of the system that maintains a list of blocked IP
14 addresses.
15 Q. Who in the company performs that
16 modification?
17 A. It would be someone in my engineering
18 group.
19 Q. Someone who reports to you?
20 A. Yes.
21 Q. Do you know why you do that--strike
22 that. That's not a good question. Let's try
23 again.
24 Do you do that pursuant to a Sorenson
25 company policy?

1 A. We do that pursuant to a request from
2 my management.
3 Q. Who in your management requested that?
4 A. Pat Nola.
5 Q. Do you know if anyone directed him to
6 request that?
7 A. I don't know.
8 Q. Did you ever ask Mr. Nola why he wanted
9 to block other VRS providers?
10 A. I don't recall asking that specific
11 question, no.
12 Q. Did he ever tell you?
13 A. I don't--my understanding is that we do
14 that in order to maintain our competitive edge.
15 Since we are distributing and have invested in the
16 development and manufacture and distribution of
17 that product, we prefer that it feed our own
18 business as opposed to others.
19 Q. Prior to EnVision SL being created,
20 there was a program called simply EnVision, right?
21 A. I don't know.
22 Q. Do you think there was?
23 A. May have been. Again, prior to my
24 involvement with the product.
25 I'm sorry. Did you say EnVision SL?

Exhibit 2

From: <rmorford@sorenson.com>
To: <ccrye@sorenson.com>, <pnola@sorenson.com>
Date: 9/24/2003 9:22:54 AM
Subject: RE: Information about future updates

Clay,

Thank you for the heads up. If you have any conversations with anyone outside of those meetings and they seem to know something that they shouldn't I hope that you will continue to keep silent on those issues and let them know that you don't know that such features will ever come to pass. This is always the truth when it comes to features that have not been released anyway. We can plan for features, and we can hope for many, but until they are in a product that is being shipped we cannot say that we have those features.

Randon

-----Original Message-----
From: Clay Crye
Sent: Wednesday, September 24, 2003 9:17 AM
To: Pat Nola
Cc: Randon Morford; Matt Cupal
Subject: Information about future updates

Couple weeks ago - Craig Radford, Jon Hodson and myself were in a meeting with Matt Cupal and Randon Morford about future updates / enhancements on VP-100 and Willow. We understand that topics discussed in that meeting never leaves this building.

I've had a number of customers calling me up and asking me when the "dual video" feature will be ready. So the word "ready" leads me to believe that they were told we definately will have dual video (self and remote view) on VP-100. Jon Hodson was contacted by his clients about this same issue.

And this morning, Mark Call called me on VP. He said that Hamilton Relay Service is going video, using D-Link's DVC-1000's. Ditto for Hands On VRS (HOVRS). He says he knows their IP addresses will be blocked on VP-100's shortly.

I thought new ideas, updates, and enhancements on VP-100 and Willow are to be kept confidential.

<http://www.sorensonvrs.com/>
<http://www.sorensonvrs.com/> Got VP-100?

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CC: <matt@sorenson.com>

Exhibit 3

1 A. Correct.
2 Q. Would it be fair to call the D-Link
3 i2eye an OEM version of the Sorenson videophone?
4 A. Yes.
5 Q. Do you know what the LDAP server is?
6 A. At a high level.
7 Q. Okay. By a high level, you mean a
8 general level?
9 A. A general knowledge.
10 Q. Okay. To the extent that you can,
11 could you describe the relation, if any, of the
12 LDAP server to the VP-100.
13 A. It's used as a phone directory, as a
14 phone lookup directory.
15 Q. Any other use of the LDAP server with
16 respect to the VP-100?
17 A. Probably.
18 Q. Okay. Probably but--you're implying
19 probably, but I don't know the answer--
20 A. I don't know the answer to that.
21 Q. Okay. Do you know why the D-Link i2eye
22 VideoPhone device contacts the LDAP server when
23 it's used for a VRS call for someone other than
24 Sorenson?
25 A. You know, I could take a guess, but I--

1 MR. CALL: Well, don't guess. If you
2 know or have a--
3 BY MR. LYON:
4 Q. Well, answer if you know first, and
5 then I might ask you for your guess.
6 A. Yeah. I don't really know.
7 Q. Okay. Now you can guess.
8 A. It's a phone directory. It's a phone
9 lookup directory.
10 Q. Okay. But it's true, is it not, that
11 Sorenson doesn't make the LDAP database available
12 for other VRS providers?
13 A. That's true.
14 Q. Okay. So with that in mind, can you
15 think of any reason why the D-Link nevertheless
16 contacts the LDAP server?
17 A. Our LDAP server?
18 Q. Uh-huh.
19 A. Well, it contacts a version of the LDAP
20 server we developed for D-Link.
21 Q. D-Link has its own LDAP server?
22 A. We have a server for the D-Link system
23 that's dedicated for the D-Link units.
24 Q. Why?
25 A. Because D-Link wanted to have an LDAP

1 server, so we supplied it to them.
2 Q. Okay. Is access to the information or
3 the logs from the D-Link LDAP server restricted to
4 D-Link?
5 A. It's restricted to D-Link and to the--
6 our people who manage it on behalf of D-Link.
7 It's our technology. That's--
8 Q. Okay. Who manages it at Sorenson on
9 behalf of D-Link?
10 A. It's under Ed Armstrong.
11 Q. Okay. Is there a particular engineer
12 who has responsibility for managing the D-Link
13 LDAP server?
14 A. I'm not sure who that would be, but
15 there would be one.
16 Q. Is it fair to say that in June of 2002,
17 Sorenson Media, Inc., was not profitable?
18 A. In June of 2002, Sorenson Media, Inc.,
19 yes, they were not profitable.
20 Q. Okay. And one of Sorenson Media,
21 Inc.'s, product lines was EnVision in June of
22 2002?
23 A. Sorenson Tech--that was still a
24 Sorenson Technology product at that point.
25 Q. Okay. Was Sorenson Technology