

FCC Meetings – October 17-18, 2005

Communication Service for the Deaf:

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VRS Blocking Should be Prohibited

The Problem: The ADA requires the provision of telecommunications relay services that are functionally equivalent to voice telephone services. VRS is the only type of relay service that can meet this test for deaf people who use sign language. Because VRS allows natural, real time communication in one's primary language, this form of relay service is gradually replacing text telephone communication for the deaf community. Although there are eight VRS providers, only one – Sorenson Media – conditions the provision of free video equipment to consumers on an exclusivity arrangement that technically and contractually blocks VRS customers from making calls through other VRS providers. A consumer petition to the FCC, filed in February of this year, charges that blocking calls is a restrictive and unfair practice that denies functionally equivalent communication service to both deaf and hearing VRS users. All leading national deaf and hard of hearing organizations and hundreds of individual consumers have come out in support of the petition. There are a number of reasons that VRS blocking should not be permitted:

- Functional equivalency is denied. For a deaf individual, accessing VRS is equivalent to accessing a dial tone. When a hearing person picks up a telephone to make a call, that individual can immediately access anyone, at anytime, regardless of the telephone carrier to which that person or the called party subscribes. When consumers are restricted to a single VRS provider, they cannot switch to another provider to make their calls, even when that provider is experiencing long wait times. If consumers must wait until a single provider's interpreters are available (which they likely will have to do even with the FCC's new speed of answer rules), they cannot receive functionally equivalent access.
- Access to Incoming Calls is Not Equal. Under the present scheme, VRS users must acquire multiple video devices in order to have their choice of VRS providers. This is discriminatory, burdensome, and because of technical limitations placed on incoming calls, cannot achieve functionally equivalent telephone service. Specifically, if an individual has multiple

devices, unsolicited incoming calls may be directed to the device that is not turned on, or may be routed to the wrong device by an Internet router, causing the individual to miss those calls. Among other things, this discourages hearing people from using VRS because they can never know whether their VRS calls will reach their destination.

- Blocking Calls is Very Dangerous in Emergencies. Blocking outgoing VRS calls is extremely dangerous in emergencies and urgent situations. If the provider blocking access is operating at full capacity, consumers need a way to access a different provider. This is particularly important if the provider's network is unintentionally shut down or overwhelmed by an influx of calls, for example, when there is a national crisis or a weather disaster. In addition, the FCC's recent IP-enabled E911 Order requiring interconnected VoIP providers to handle emergency calls includes an obligation to provide 911 PSAPs with call back numbers. A restrictive VRS system makes receiving return (incoming) calls more difficult, preventing the individual from getting the help he or she needs. Deaf and hard of hearing people who use VRS need an equal ability to access emergency services, with respect to both incoming and outgoing calls.
- Federally Administered Funds Are Being Used to Support this Practice – It is one thing when a *private* entity does not make its system interoperable with the communication services of another *private* entity and no federal funding is involved. It is far worse when an entity's practice of blocking outgoing calls is receiving financial support through a federal administered program. Money flowing through the federally administered TRS NECA Fund should not be used to support restrictive and anti-competitive practices that block VRS calls. This scheme is already producing a VRS monopoly that is reducing incentives to adequately respond to consumer needs in a free and open marketplace.
- VRS Blocking on Free Equipment Violates an FCC Mandate. On January 26, 2005, the FCC issued an order prohibiting the use of any type of financial incentives to encourage or reward consumers for placing TRS calls. Conditioning the distribution of free equipment and/or free broadband lines on an agreement not to use other VRS provider services should be declared impermissible under this ruling. When a provider distributes equipment to consumers completely free of charge, and then blocks those users from making any VRS calls through other providers, it is essentially rewarding those consumers with a free video device in exchange for having the consumers use its service for VRS. Not only do these consumers have a financial *incentive* to use the donated device for VRS, in fact, they are *forced* to do so because the donating provider has erected a barrier to all other providers.
- Blocking Makes Inefficient Use of the Nation's Interpreters. Maintaining an exclusive pool of sign language interpreters that can only be used to serve a select group of customers makes inefficient use of the presently limited

supply of interpreters in the United States. This is because callers are unable to use the interpreters of an alternate provider when the restricted provider is operating at capacity.

Easy Numbering/Identity of VRS Users Is Needed

At present, there is no uniform means of identifying and accessing VRS users that offers the ease of the North American Numbering Plan (NANP) enjoyed by voice users. Instead, each VRS provider has its own system for enabling hearing people to contact deaf VRS users. This results in serious confusion for hearing individuals, who are forced to have the specific provider information and extension of the individual they are trying to reach. A seamless numbering scheme that allows all VRS users – deaf and hearing – to contact each other with the same ease that VoIP users are able to converse with each other is needed to achieve functional equivalency.

More importantly, if the VRS end-points are not placed on the NANP or some equivalent system, PSAP personnel will not have effective call back numbers for emergency calls. As the FCC is aware, call back numbers are especially critical – and even required under the new VoIP interconnected Order. If calls are “disconnected” due to a failure in the provider’s VRS network, having the ability to call someone back can mean the difference between life and death.