

*Ex parte
filing*

Docket 03-123

November 9

EX PARTE OR LATE FILE RECEIVED

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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Federal Communications Commission
Office of the Secretary

Dear Chairman Martin,

Thank you for taking the time to meet with us on October 20, 2005. At that meeting, we discussed the importance of not preventing citizens from using any publicly funded video relay services they desire.

Blocking VRS access has critical implications on a daily basis. We would like to share some additional examples of why it is urgent for the FCC to act on this quickly. Please keep in mind that each and every example outlined here is true.

- 1) A deaf woman called a friend through a specific video relay service (VRS) when she noticed her husband had started drinking again. The woman wanted to ask her friend to stay with her under the guise of "visiting" because she did not feel safe. Upon connecting to this VRS provider, the woman calling received a male Video Interpreter (VI). Because of the nature of the call, seeing a male VI made her uncomfortable. She requested a female VI and this request was denied. Afraid of using this specific relay service and blocked from using any other VRS, this woman went ahead with the call, but because she was already fearful, she never stated to her friend the reason for calling and hung up. Later that evening, the woman who made the call ended up in the hospital, badly beaten.
- 2) The stepfather of a hearing daughter experienced problems with restrictive VRS practices. When he, tried to call about his wife's conditions before she died using this specific VRS provider, he encountered numerous difficulties in communications. Because of his frustration, whenever he calls his doctor, he now reverts back to using TRS. He says that he does not trust the VI to understand him during critical calls. He prefers to rely on TRS despite the fact that English is not his first language. When once asked why he doesn't try to use another provider, he said, "I can't! That VRS blocks me from calling any other VRS!"
- 3) An elderly woman called her doctor through a specific VRS when her newly prescribed medicine began to make her feel dizzy. After waiting twenty minutes, blocked from any other VRS, she hung up. She then started vomiting and became very ill. Later that evening she received a "call back" from the relay service asking if she wanted to make a call. This woman has since explained in American Sign Language, "I really wished I was able to call another VRS but that VRS wouldn't let me."
- 4) A deaf man had a telephone job interview and called through a specific VRS. The man received a female interpreter. The man requested a male interpreter because the

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prospective employer was not familiar with relay services. This request was denied. Blocked from using another VRS, the man had no choice but to proceed. Confused with hearing a woman's voice instead of the man's voice he had been expecting, the prospective employer hung up and the interview was cancelled.

- 5) A deaf man called a specific VRS with the intent of calling Sprint to discuss his long distance phone bill. The VRS refused to process the call, saying that Sprint was affiliated with another relay service. Blocked from using any other relay service services by this specific relay service, the man had to go to a local service agency to ask for assistance in contacting Sprint to discuss his phone bill.
- 6) The FCC currently has an unaddressed complaint filed by a hearing woman who tried to call a specific VRS in order to talk with her deaf friend. The VRS was unable to process the call because another VRS had blocked the connection between the original relay service and the deaf person. Frustrated, the caller contacted two other services and got the same answer, that the call could not be completed. Unable to use three different VRS providers to reach her deaf friend, she gave up. "I was quite disappointed and frustrated that I was unable to use any of these three major VRS to call my deaf friend. I had a few minutes and needed to discuss something quickly and the VRS would have been the fastest and most effective way to reach her. This is making me crazy and as a hearing person, I know it's not equal access. In fact, it's making me reluctant to contact my deaf friends and deaf consumers in my interpreting business."
- 7) In a final anecdote from Modesto, California, a deaf woman with serious health problems called her hearing adult daughter through VRS to complain that she wasn't feeling right. The daughter could not understand the VI and requested a switch to another VI. This request was denied by the service. This happened several times during the month of June. Blocked from using other VRS providers, the daughter and the mother felt that they were unable to communicate effectively, but could do nothing about it. Because they were prohibited technically and contractually from going outside that provider, they had no access to other providers who might better meet their needs. In August, the deaf woman had her deaf husband call her hearing daughter. Again, the daughter, aware that effective communication was not taking place, made a request to switch to another VI that was more qualified; again the request was denied. However, on this particular occasion, the consequences were disastrous – sometime after the conversation below, the daughter decided to check up on the mother after work and found her at home on the floor in a coma. The mother died less than one week later. In the account below, the daughter conveys what transpired during these last phone calls. Note that Jr. is the deaf woman's husband (the hearing woman's step-dad) and "terp" is slang for interpreter. It is notable that the daughter mentioned that she "didn't have time to argue" with the interpreter. Had VRS been functionally equivalent to voice calls, the daughter could have quickly hung up, and re-connected to another provider to complete the call. Through this case, one can readily see the potential costs of imposing restrictions on VRS provider choice:

"[M]y mom was bleeding from her dialysis site. Jr called cuz he [wasn't] sure what to do. I asked if he collected a sample of the fluid. The terp could not get that question across. I explained to the terp general info about dialysis then gave her signs to use. She still couldn't get the message across. I asked her to switch, she said "she could handle it, give her a minute." I explained the severity of the conversation and requested she switch terps. I told her while she did that I would, I would call my mom's dr, on my other phone.

Dr said to immediately take my mom to ER. When I got back on the phone I was irritated to find the same terp was on the line. She said she was able to get the question across to Jr, and that he did not save any of the fluid draining from my mom. She would not switch. I didn't have time to argue with her, so I resumed our conversation. I told Jr via the terp, that he was to take my mom to ER immediately, she likely had a life treating infection. The terp whispers while she terps, so I heard her tell my step dad, to fill my mom again with the solution, then drain it, save some fluid, then take her and the fluid to the ER.

I exploded. The terp obviously did not know the process she "interpreted" would take several hours. My mom's dr was on his way to the ER and my mom needed to be there now. I explained to her, by "interpreting" more that I said she put my mothers life at risk. She STILL would not switch terps. I asked her for her interp number, and she said "yeah right" and hung up.

I called back, got another terp, explained to Jr to take mom to ER right away ... The end result was that my mom had a severe infection which spread to the rest of her body and caused a great deal of problems. She eventually died from her illness (August 21, 2005). Could this in part have been prevented, had she arrived at the hospital sooner??? Maybe .. maybe not ... but now we will always wonder."

As you can see, constant intentional blocking has serious ramifications on a daily basis. All of the above problems would have been avoided had VRS blocking been banned and the ability to fully interconnect with others through VRS been required. Full access is needed to allow deaf, hard of hearing, and hearing consumers to use the most appropriate VRS as they see fit.

The FCC is currently allowing publicly-funded and administered VRS to create and manage a closed network that denies basic access to telephone services. We believe that this is a gross abuse of public funds. The FCC must act quickly to re-assume stewardship of public funds to ensure that it is not a tool to promote excessive corporate profits at the expense of our well-being, employment opportunities, and communication access. Deaf and hard of hearing individuals should be able to use relay anytime with anyone using any relay provider, just as two persons who can hear can call each other, regardless of their telephone product or service provider.

Title IV of the ADA was intended to help close the communication gap so that people who were deaf and hard of hearing could participate equally in a telecommunications network seamlessly enjoyed by all other Americans. Prior to the ADA's passage, states varied widely in

the restrictions that they imposed on relay service users. Limitations on the number, length and time of day that relay calls could be made were common, and waiting times were extremely high. The ADA was designed to put an end to these restrictions and state variations, so that all TRS users would have the same seamless access – with full interoperability – to the nation’s telephone network that the hearing community enjoyed.

Congress directed the FCC to include within its TRS rules a mandate for all carriers to “provide telecommunications relay services on a non-discriminatory basis to all users within their serving area.” Restricting calls to and from other individuals violates this mandate. Allowing a practice that cuts deaf people off from hearing people who are attempting to communicate with them via relay services also is contrary to Title IV’s goals to further the independence and productivity of TRS users.

In addition to being discriminatory, blocking VRS access is extremely dangerous in emergency or 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 a particular 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.

The FCC’s overriding interest in keeping network architecture open and interoperable among communication carriers was demonstrated in the Commission’s decision to fine Madison River Telephone Company for blocking its ports to calls made over the Internet. The decision, brought under the authority of Section 201(b) (requiring carriers to provide “just and reasonable” communication service practices), is consistent with the FCC’s longstanding policy to ensure a seamless communications network that is equally available to all Americans, and further highlights the need for all VRS providers to keep their ports open to all VRS calls, regardless of the providers handling those calls.

A notice of rulemaking has already been released to the public on this matter. Hundreds of consumers have written in to request an end to VRS blocking. Proposed solutions have already been submitted. It is critical for the FCC to act quickly to eliminate VRS blocking and ensure interconnection between and among VRS providers and video relay equipment and software. Each day that goes by without definitive action by the FCC means an additional day that communication access is denied.

Sincerely,

Kelby Brick
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CC: Commissioner Kathleen Q. Abernathy
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-----Original Message-----

From: Kelby Brick [mailto:Brick@nad.org]

Sent: Wednesday, November 09, 2005 12:31 PM

To: KAQuinn

Subject: Blocking letter

Chairman Martin,

Please find attached a letter on the matter of Video Relay Services blocking.

Sincerely,

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