

Richard T. Ellis
Executive Director
Federal Regulatory Affairs



1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-2534
(202) 336-7922 (fax)

June 28, 2006

Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Telecommunications Relay Services (TRS) and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123

Dear Ms. Dortch:

On June 27, 2006, the following individuals representing relay service providers met with Monica Desai (by phone), Jay Keithley and Thomas Chandler of the Consumer and Governmental Affairs Bureau to discuss an IP and Video Relay Service Speed of Answer Assurance Plan proposal: Toni Acton (AT&T), David Hoover (Communication Access Center for the Deaf and Hard of Hearing), David O'Connor (Hamilton), George Lyon (Hands On), Anne Rousseau (by phone) and Greg Staple (Nordia), Grace Koh (Snap), Ruth Milkman (Sorenson), Michael Fingerhut (Sprint), Richard Ellis and Sherry Ingram (Verizon).

The companies listed above, as well as Communications Services for the Deaf (CSD) and Go America, have worked together, and in consultation with several leading advocacy organizations representing deaf and hard of hearing individuals, to create a program that encourages compliance with the Commissions' speed of answer requirement for IP and Video relay services. The enclosed handout covers all major points discussed in the meeting.

Please do not hesitate to contact me if you have any questions about this matter.

Sincerely,

A handwritten signature in black ink that reads "Richard T. Ellis".

cc: Monica Desai
Jay Keithley
Thomas Chandler

IP Relay and VRS Speed-of-Answer Assurance Proposal

The relay industry appreciates and shares the concerns of consumers and the FCC regarding adherence to the FCC’s speed-of-answer requirements. However, unpredictable events and circumstances beyond a provider’s control (such as a natural disaster, barrage of “TRS misuse” calls, or service interruption at an unaffiliated relay provider’s location) can negatively impact the speed of answer on any given day, causing the provider to miss its speed-of-answer target. The following proposal was designed to:

- Encourage compliance with FCC regulations
- Ensure that penalties collected remain in the TRS fund
- Penalize non-compliant small and large relay providers with relative equity
- Encourage improvement in speed-of-answer rates even during high call volume periods
- Impose penalties for deficiencies within a provider’s control without severely penalizing the provider for anomalies outside its control
- Minimize resource-intensive waiver preparation and adjudication proceedings

IP Relay Penalties:

Under terms of the proposal, an IP Relay provider would be penalized one percent of its daily revenue for every percentage point that its speed-of-answer results deviated from the FCC’s “85% of calls answered within 10 seconds” regulation. For example, a provider reporting a speed-of-answer rate of 75% calls answered within 10 seconds would be penalized 10% of its revenues for that day. (All fractional results would be rounded up or down, as is the practice for NECA reporting). Speed-of-answer rates of 70% or below would be assessed at a rate of two percent of revenues for every percent deviation from the target. A provider reporting a speed-of-answer rate of 65% calls answered within 10 seconds would be penalized 40% of its revenues for that day.

% Calls answered within 10 seconds	Cumulative Days Missed	
	1st -5th day missed	greater than 5 days missed
84%	1%	2%
83%	2%	4%
82%	3%	6%
81%	4%	8%
80%	5%	10%
↓	↓	↓
71%	14%	28%
↓	↓	↓
70%	30%	30%
↓	↓	↓
65%	40%	40%

If a carrier were non-compliant for more than 5 days in a single month, the penalties would double for any additional days missed that month. Penalties on speed of answer rates of 70% or below would not be subject to this doubling, however.

Extenuating Circumstances: Increased call volumes due to circumstances outside the provider’s control may result in non-compliance with the speed-of-answer requirement. Providers would not be penalized for speed-of-answer non-compliance if the increased total “minutes of use” for the day in question were at least 10% higher than the average “minutes of use” for the same day of the preceding 7 weeks. For example, if a provider failed to meet the speed-of-answer requirement on Monday, April 3 due to a circumstance outside its control, penalties would not be assessed if its April 3rd “minutes of use” total were 10% higher than the average of the “minutes of use” for the last three Mondays in February and all four Mondays in March.

Providers could petition the FCC for an individual waiver if circumstances other than increased call volumes caused non-compliance (such as severe weather that closes one of its centers), or in cases where elevated call volumes did not reach the 10% level.

Public Reporting: A quarterly public reporting of each IP relay provider's success in meeting speed of answer requirements would be posted on the FCC's website (i.e. "Acme IP relay met the speed of answer requirement on 87 days and missed the requirement on 3 days"). Days meeting the "extenuating circumstances" test above would not be reported as "missed" days for the purposes of this reporting.

Confidentiality: Constant with current reporting procedures, all information related to specific penalties would be confidential. Aggregate results (industry-wide, not company-specific) would be reportable, however.

Video Relay Service Penalties

Under terms of the proposal, a VRS provider would be penalized one percent of its monthly revenue for every percentage point that its speed-of-answer results deviated from the FCC's speed-of-answer regulation (currently 80% within: 180 seconds; dropping to 150 seconds as of July 1, 2006 and 120 seconds as of January 1, 2007.)

For example, a provider reporting a speed-of-answer rate of 70% calls answered within 180 seconds would be penalized by 10% of its revenues for that month. (All fractional results would be rounded up or down, as is the practice for NECA reporting). Speed of answer rates of 70% or below would be assessed at a rate of two percent of revenues for every percent deviation from the target. For example, a provider reporting a speed-of-answer rate of 60% calls answered within 10 seconds would be penalized 40% of its revenues for that month.

% Calls answered within 180/150/120 seconds	Reduction in Reimbursement for the Month
79%	1%
78%	2%
77%	3%
76%	4%
75%	5%
↓	↓
71%	9%
↓	↓
70%	20%
↓	↓
60%	40%

Extenuating Circumstances: Increased call volumes due to circumstances outside the provider's control may result in non-compliance with the speed-of-answer requirement. Providers would not be penalized for speed-of-answer non-compliance if their "minutes of use" for the month were at least 20% higher than the average "minutes of use" for the three preceding months. For example, if a provider failed to meet the speed-of-answer requirement in April, penalties would not be assessed if its April "minutes of use" total was 20% higher than the average "minutes of use" for the previous three months (January, February and March "minutes of use" totaled and divided by 3).

Providers could petition the FCC for an individual waiver if circumstances other than increased call volumes caused non-compliance (such as severe weather that closes one of its centers), or in cases where elevated call volumes did not reach the 20% level.

Public Reporting: A quarterly public reporting of each VRS relay provider's success in meeting speed of answer requirements would be posted on the FCC's website (i.e. "Acme VRS met the speed of answer requirement for 2 months and missed the requirement for 1 month"). Months meeting the "extenuating circumstances" test above would not be reported as "missed" days for the purposes of this reporting.

Confidentiality: Constant with current reporting procedures, all information related to specific penalties would be confidential. Aggregate results (industry-wide, not company-specific) would be reportable, however.