

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

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals)	
with Hearing and Speech Disabilities)	
)	
Misuse of Internet Protocol (IP) Relay Service)	
And Video Relay Service)	

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SUMMARY

The Federal Communications Commission (“Commission”) should be applauded for its efforts to take corrective action to combat the long-standing problem of fraudulent misuse of Telecommunications Relay Services (TRS), particularly Internet Protocol (IP) Relay Service.² IP Relay Service Providers, the speech and hearing impaired community, the business community, and the Commission have a vested interest in safeguarding this service and developing effective procedures for combating fraud and abuse. If IP Relay Service is to remain a trusted communications service for the speech and hearing impaired community – as well as for persons receiving relay calls from these individuals – the Commission must take steps to eliminate fraudulent activity.

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated wholly owned subsidiaries of Verizon Communications Inc.

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities: Misuse of Internet Protocol (IP) Relay Service And Video Relay Service*, Further Notice of Proposed Rulemaking, FCC 06-58, ¶ 1 (May 8, 2006) (“*Further Notice*”).

Specifically, the Commission should allow IP Relay Service Providers to develop criteria for identifying and tracking fraudulent calls; notify call recipients that an IP Relay Service call meets those criteria; and terminate calls that a provider determines are not legitimate IP Relay Service calls. The Commission should also recognize the right of IP Relay Service Providers to terminate calls where the communication assistant (CA) or the IP Relay Service system is subject to abuse or harassment.

In addition, the Commission's rules should take into account the significant costs and difficulties associated with misuse of the IP Relay Service by clarifying that IP Relay Service Providers should not be penalized when fraud causes a provider to miss the Commission's speed of answer requirements of the TRS program's minimum mandatory standards. The Commission should continue to explore potential means to control future TRS fund growth, but, in doing so, TRS providers should not be deprived of compensation for any IP Relay Service communications for which the provider actually provided service, regardless of the content of the communication.

I. IP RELAY SERVICE PROVIDES THE SPEECH AND HEARING IMPAIRED COMMUNITY WITH A VALUABLE NEW COMMUNICATIONS TOOL, BUT IT HAS ALSO BECOME A TARGET FOR FRAUDULENT AND ABUSIVE BEHAVIOR.

Verizon is one of the largest providers of IP Relay Service, handling tens of thousands of calls each week through five call centers. Verizon is committed to ensuring that IP Relay Service provides individuals with a hearing or speech impairment the best possible service.³ IP

³ IP Relay Service allows individuals with hearing or speech disabilities to place and receive telephone calls using a computer instead of a traditional text telephone ("TTY") of similar device. *See Further Notice*, ¶ 5. Using their computers, individuals with speech and hearing disabilities can connect to a website and request to dial a number. That request is automatically routed to a CA, who establishes the connection and initiates the conversation by speaking directly with the called party, while typing the conversation with the calling party. *Id.*

Relay Service is attractive from the speech and hearing impaired community's perspective because of its ease-of-use, the lack of a need for specialized equipment, and the ability to communicate in a manner that is comparable to the hearing community. Unfortunately, IP Relay Service has also drawn the interest of individuals who seek to use the service to engage in fraudulent or other criminal activities.

The *Further Notice* correctly highlights that “IP Relay is being misused by persons without a hearing or speech disability.” *Further Notice*, ¶ 6. In a June 2004 Public Notice alerting the “public regarding the fraudulent use of IP Relay,” the Commission explained that it had received “complaints from vendors, consumers, and TRS providers that people are using the IP Relay to make telephone purchases using stolen or fake credit cards.” *FCC Reminds Public of Requirements Regarding Internet Relay Service and Issues Alert*, Public Notice, DA 04-1738 (June 18, 2004). The *Further Notice* states correctly that the most common fraudulent schemes are attempts “to defraud merchants by making purchases over the telephone using stolen, fake, or otherwise invalid credit cards.” *Further Notice*, ¶ 6. This fraudulent misuse of IP Relay Service has been a significant concern for some time and remains so today,⁴ in part because perpetrators of this fraud continually change their methods to avoid detection, making it difficult for IP Relay Service Providers to keep pace with preventive measures. For this reason, any rules the Commission adopts should give IP Relay Service Providers the flexibility to address the ever-changing nature of this fraud.

The fraudulent and abusive misuse of IP Relay Service adversely affects service providers, consumers, and merchants alike. IP Relay Service Providers have been forced to

⁴ See e.g., Verizon Comments, CC Docket No. 98-67, at 3-7 (filed July 11, 2002); Verizon Comments, CC Docket No. 98-67, at 1-3 (filed May 24, 2004).

dedicate substantial resources and manpower to combat the misuse of IP Relay Service. The variability of fraudulent activity requires significant planning and monitoring to ensure that program requirements and necessary staffing levels can be met during intermittent spikes in call volume due to fraud and misuse. Fraudulent activity has also had a discernable impact on CA morale and retention, further increasing the costs to provide IP Relay Service. The resources necessary to respond effectively to fraudulent calls limits the ability of providers to serve legitimate users. These complications are magnified because IP Relay Service Providers do not have the necessary regulatory flexibility to minimize the costs of program misuse.

Nor are the adverse effects of fraudulent and abusive misuse of IP Relay Services limited to the IP Relay Service Providers and parties directly affected by the criminal behavior. All legitimate users of IP Relay Service – callers and recipients – suffer due to the limited availability of IP Relay Service and longer wait times attributable to artificial increases in non-legitimate call volumes. Legitimate users also face greater challenges in using IP Relay Service for commercial transactions and purchases given the heightened sensitivity of merchants to IP Relay Service misuse. In turn, merchants are required to internalize the costs of notifying and training its personnel to discern legitimate from illegal purchases made over IP Relay Service. The prevalence of IP-Relay Service misuse has also resulted in many merchants becoming needlessly leery of legitimate IP Relay Service communications.

Moreover, the TRS Program as a whole – as well as the Commission in its oversight capacity – is further affected by misuse: the escalating costs of combating IP Relay Service fraudulent activity, as well as the costs associated with non-legitimate IP Relay Service calls, increase the overall cost of the program and the size of the TRS fund. These costs increases are then passed on to all consumers. Accordingly, given these complications and costs – absent

more successful efforts to combat fraudulent misuse in this proceeding – IP Relay Service may cease being an effective communications tool for the speech and hearing impaired community.

II. IP RELAY SERVICE PROVIDERS NEED FLEXIBILITY WITHIN THE TRS RULES TO DEVELOP PROCEDURES TO COMBAT FRAUD AND ABUSE.

Even though IP Relay Service has been adopted by a significant portion of the speech and hearing impaired community, its vulnerability to fraud and other misuse, as described above, puts the long-term viability of the service at risk. In particular, the ability of the end-users to communicate anonymously over IP Relay Service, which differentiates this service from the more traditional TRS services, is the main factor contributing to the misuse of IP Relay Service, and underscores the need for specific IP Relay Service rules designed to reflect the differences inherent in the IP Relay Service.

A. Targeted Reform to Limit Fraud and Misuse of IP Relay Service is Consistent with the Overall Goals and Purpose of the TRS Program.

The Commission notes that “IP Relay providers are developing methods to determine which calls are attempts to make fraudulent purchases, and have successfully prevented some fraudulent purchase calls that can be identified as originating overseas from reaching their intended victims.” *Id.*, ¶¶ 7-8. The lack of explicit flexibility in current Commission rules, however, limits the full effectiveness of such efforts. Specifically, measures to combat the misuse of IP Relay Service Providers may be constrained today by certain TRS regulations highlighted by the *Further Notice*. *Further Notice*, ¶ 9.

As such, the Commission has the opportunity to clarify that common sense precautions adopted by providers to ensure that IP Relay Service is used for only legitimate purposes is fully consistent with the FCC’s IP Relay Service rules in Part 64. If necessary, the Commission may need to modify its rules to provide providers with the necessary regulatory tools to combat fraud.

Specifically, the current rules contain confidentiality and recordkeeping requirements applicable to all TRS services that prohibit CAs from “disclosing the content of any relayed conversation,” “keeping records of the content of any conversation beyond the duration of the call,” and from “intentionally altering a relayed conversation.” 47 C.F.R. §§ 64.604(a)(2)(i-ii). The rules also limit the ability of CAs to refuse to connect relay calls. 47 C.F.R. §64.604(a)(3)(i).

These rules may serve, in their current form, however, as an impediment to the effective prevention and deterrence of fraud. In particular, these requirements could potentially be misread to limit the ability of providers to monitor, track, and flag fraudulent communications and callers; identify and study fraudulent calling patterns; notify call recipients of suspected fraudulent activity; and terminate and prevent the misuse of relay services.

The Commission should take steps here to make it clear to all that its rules do not prohibit IP Relay Service Providers from taking steps to prevent fraud. In order to make it more clear, modification of these provisions – through adoption of additional rules or waiver of the current rules – may be appropriate to explicitly give IP Relay Service Providers the necessary tools to develop effective safeguards. The basis for reform in this case is analogous to reforms made with respect to speech-to-speech TRS services in March 2000. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd. 5140, ¶¶ 50, 57 (2000). Notably, in that instance, the Commission modified the same provisions in Part 64 referenced above – the recordkeeping and altering conversation prohibition – to ensure that TRS services were provided in the most efficient and effective manner by permitting CAs to keep limited records of calls and to modify the caller’s conversation. In doing so, the Commission

acknowledged that the “unamended rule substantially reduced the efficiencies that could be attained in an [TRS] call,” and, moreover, that an absolute bar on recording calls or altering conversations operated as “a barrier to effective ... relay service.” *Id.*

The Commission should, therefore, ensure that IP Relay Service Providers can develop criteria for identifying fraudulent or suspicious calls, notify call recipients of the provider’s concerns, and where necessary terminate calls that a provider determines are not legitimate. *See Further Notice*, ¶ 12. The Commission should also permit IP Relay Service Providers to instruct CAs to terminate a call or provide the recipient of the call the option of ending or continuing the call where a CA has made an initial determination of fraud using specified criteria and that determination has been confirmed by a supervisor. The Commission should also permit providers to log the IP address or other identifying information captured during a call identified as fraudulent and to use such information to identify or monitor future calls. The Commission also should ensure that providers adopt safeguards so that procedures designed to combat fraud and misuse do not inhibit legitimate TRS communications.

Given the ability of fraudulent parties to adapt quickly to efforts by IP Relay Service Providers to install preventive measures, any rules the Commission adopts should provide IP Relay Service Providers with sufficient flexibility to revise their processes and procedures to reflect the constantly changing nature of misuse of IP Relay Service. Similarly, the Commission should not adopt a predetermined list of fraud criteria but rather provide a framework for providers to use in developing and monitoring their procedures and criteria list over time.

B. Providers Should be Allowed to Develop Policies to Address Use of IP Relay Services to Abuse or Harass Communications Assistants.

The *Further Notice* also addresses the need for action to address abusive or harassing behavior directed at the CAs and the IP Relay Service system. *Further Notice*, ¶ 9. The

Commission previously sought comment on this issue in 2004.⁵ In doing so, the Commission noted that its TRS standards were enacted prior to the development of IP Relay Service, which “provide[s] anonymity to the user.” *Id.* Experience since then has shown that the anonymity of IP Relay Service emboldens some parties to misuse and abuse both the IP Relay Service and CAs directly. CAs are highly-trained, highly-motivated professionals providing a vital service; nothing in the Commission’s regulations or section 225 requires a CA to withstand personal abuse. Directly analogous to the fraud-related protections addressed above, limiting abusive behavior does not implicate functional equivalence, rather it addresses problems unique to IP Relay Service.

To curb the misuse of IP Relay Service, the Commission should further clarify that Section 223’s prohibition against obscene, abusive, or harassing communications applies with equal force to IP Relay Service and to CAs specifically. In section 223, Congress provided a broad prohibition against the use of interstate communications for obscene, harassing, or abusive purposes. 47 U.S.C. § 223. The Commission has recognized previously that a “TRS call, like any telephone call, is covered by section 223.” *2004 TRS Order*, ¶ 258. IP Relay Service is a form of TRS to which these rules equally apply.

The Commission should ensure that these same bedrock statutory protections against abuse and harassment apply to CAs by recognizing the right of IP Relay Service Providers to protect their employees and operations and to terminate calls where abuse or harassment is directed at the CA or at the IP Relay Service system. By directing abusive language at a CA personally, a party to an IP Relay call effectively abolishes the CA’s role as a transparent

⁵ See *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475, ¶¶ 255-58 (2004) (“*2004 TRS Order*”).

conduit.⁶ In such instances, the public interest in not having any means of communication be used for harassment and abuse far outweighs any related transparency and functional equivalency concerns. Accordingly, providers should be allowed to delineate what conduct should be considered abusive or inappropriate and to train CAs to notify their supervisors of any abusive or inappropriate conduct and, where appropriate, terminate such calls.

C. An IP Relay Service Registration System is Not Necessary.

The Commission suggests that a user registration system “might be adopted to curtail the misuse of IP Relay.” *Further Notice*, ¶ 134. Verizon recognizes the potential benefits that such a system might have in the abstract, but shares the concerns of many in the speech and hearing impaired community that such a system may not ensure functional equivalence or adequately protect the privacy expectations of legitimate users. As noted in earlier proceedings, the costs associated with such a program and the technical limitations on the development and accuracy of such a registry further caution against such a requirement.⁷ Lastly, it is not clear that a registration system could be designed in such a manner as to effectively curtail the misuse of the IP Relay Service (*e.g.*, prevent fraudulent users from re-registering with new user names), while also providing a non-burdensome means of access for legitimate users.

⁶ See Comments of Communications Service for the Deaf, Inc, CG Docket No. 03-123, at 35 (filed Oct. 18, 2004); Comments of MCI, CG Docket No. 03-133, at 12-13 (filed Oct. 18, 2004).

⁷ Verizon Comments, CG Docket 03-123 (filed Feb. 22, 2005); Verizon Comments CG Docket 03-123 (filed March 8, 2006).

III. THE COMMISSION SHOULD CONFIRM THAT TRS PROVIDERS MAY NOT BE PENALIZED FOR NOT MEETING MANDATORY MINIMUM STANDARDS WHERE FRAUD IS THE BASIS FOR THEIR NOT DOING SO.

The Commission should also confirm that TRS providers may not be penalized for failing to meet minimum mandatory standards where the failure to do so stems from events beyond the provider's control, such as fraudulent misuse or natural disaster. In evaluating performance metrics, the Commission has excluded failures due to unexpected occurrences or force majeure conditions. For example, in the section 271 context, the Commission has stated repeatedly that if "the reported performance data are affected by factors beyond a BOC's control," the Commission is "less likely to hold the BOC wholly accountable for the disparity."⁸ The Commission has further found that "[i]solated cases of performance disparity, especially when the margin of disparity or the number of instances measured is small, will generally not result in a finding of checklist noncompliance."⁹

Similarly with respect to TRS services, the Commission has noted that, "absolute compliance with the [TRS] rules may not always be necessary to fulfill the purposes of the statute and the policy objectives of the implementing rules, and that not every minor deviation would justify withholding funding from a legitimate TRS provider." *In re Publix Network*

⁸ *Application by Verizon New England Inc. et al. for Authorization To Provide In-Region, InterLATA Services in Rhode Island*, 17 FCC Rcd 3300 (2002) at App. D; *Application by Qwest Communications International Inc. for Authorization to Provide In-Region, InterLATA Services in Arizona*, 18 FCC Rcd 25504 (2003), at App. C; see also *Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding*, 18 FCC Rcd 24423, ¶ 87 (2003) ("Teledesic and Constellation objected to the proposal to hold licensed GMPCS service providers responsible for 'any and all proven infractions' because it could result in imposition of liability for actions beyond the control of service providers. ... We agree on these points.").

⁹ *Application of Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Connecticut*, Memorandum Opinion and Order, 16 FCC Rcd 14147, ¶ 12 (2001)

Corp., Order to Show Cause and Notice of Opportunity for Hearing, 17 FCC Rcd 11487, 11494-95 (2002). This policy of “substantial compliance” is particularly compelling where fraudulent calls are the cause of a providers’ inability to meet the speed-of-answer requirement.

The widespread misuse of IP Relay Service results in higher call volumes and calls of longer duration that substantially exceed reasonable projections. Moreover, the call volume associated with fraud is also exceptionally unpredictable, often concentrated in short bursts within a few hours. This unpredictability is a direct result of the intentional efforts by fraudulent callers to alter and vary their calling patterns to avoid detection. Extensive shifts in call patterns and unpredictable spikes in call volumes frustrate providers’ ability to accurately project call volumes and undermine their efforts to provide appropriate staffing levels to ensure that minimum standards are met at all times. For these reasons, the Commission should confirm that fraud-related calls can be excluded when calculating a provider’s speed-of-answer performance because of the difficulty IP Relay Service Providers face in predicting and preventing fraudulent use. Providers should also be permitted to demonstrate that all minimum standards would have been satisfied for legitimate IP Relay Service calls, but for fraudulent activity or other events beyond their control.

Finally, the *Further Notice* states accurately that the fraudulent misuse of IP Relay Service also has a detrimental impact on the size of the TRS Fund, highlighting the broader need for action to limit future TRS fund growth. *Further Notice*, ¶ 7. Fraudulent calls typically are more expensive and resource intensive than legitimate IP Relay Service calls. The need to train, staff and monitor personnel with respect to the misuse of the IP Relay Service is an additional related expense. Directly addressing the misuse of the IP Relay Service would have a number of cost efficiency considerations: it would reduce overall call volume; limit extra time and expense

dedicated to fraud-related calls; and permit more efficient staffing of call centers. Thus, one of the most effective and concrete means of restraining future TRS Fund growth is to take the steps to combat fraud and abuse outlined herein.

CONCLUSION

For the foregoing reasons, the Commission should provide critical flexibility to encourage and facilitate IP Relay Service Providers' efforts to combat fraud and misuse of IP Relay Service.

Respectfully submitted,

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