

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

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

COMMENTS OF AT&T INC.

AT&T Inc. (“AT&T”), on behalf of its telephone companies, hereby files these comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”)¹ in the foregoing docket.

INTRODUCTION AND SUMMARY

AT&T supports the Commission’s decision to examine the misuse of Internet Protocol (IP) Relay Service (“IP Relay”) and Video Relay Service (“VRS”). Despite the Commission’s efforts to alert the telecommunications industry and public at large to the use of IP Relay and VRS for fraudulent purposes, such use continues. As the Commission correctly recognizes in the FNPRM, such fraud is detrimental to merchants because they are often duped by the fraudsters and left holding the bag, to legitimate IP Relay and VRS users because merchants may refuse their purchase requests as a result of previous fraud experienced through these services, and to consumers because such fraud drives up the costs associated with these services which consumers ultimately bear through higher TRS surcharges. Thus, it is understandable that the Commission would initiate this proceeding to determine if any additional TRS rules or

¹ *Telecommunications Services for Individuals with Hearing and Speech Disabilities, Misuse of Internet Protocol (IP) Relay Service and Video Relay Service, Further Notice of Proposed Rulemaking, CG Docket No. 03-123 (May 8, 2006).*

modifications are warranted to prevent the use of IP Relay and VRS services to perpetrate business and consumer fraud.

To the extent the Commission determines that regulatory intervention in this area is warranted, it should ensure that any measures or standards it adopts meet certain basic principles. First, any measures or standards adopted should be able to be efficiently operationalized by IP Relay and VRS providers. Providers have valuable insight into the most workable and effective methods of detecting and blocking fraudulent IP Relay and VRS calls. However, IP Relay and VRS providers should not be held responsible for the unscrupulous actions of dishonest individuals. Thus, while it is reasonable, and indeed prudent, for IP Relay and VRS providers to have a role in detecting and blocking fraudulent calls, any liability for such conduct must rest squarely on the fraudsters themselves, not IP Relay and VRS providers.

Second, any standards or measures the Commission adopts must carefully balance the harm to merchants and consumers with the costs and burdens that such measures would impose on hearing and speech-impaired consumers and providers alike. Impaired consumers should have the ability to use Internet-based services to conduct everyday business and personal transactions in the same manner as non-impaired consumers to the extent possible. Overly burdensome measures that restrict or delay their ability to do so would run counter to the “functional equivalence” requirements of Section 225. Further, IP Relay and VRS providers incur legitimate costs in providing these services, whether such services are used by consumers for legal or illegal purposes, and thus are entitled to reimbursement from the TRS fund.

Third, the Commission should ensure that any discussion and adoption of standards or measures do not give the fraudsters a roadmap for circumvention. The FNPRM, for example, identifies ways in which some IP Relay providers identify fraudulent calls. The Commission

should not specifically enumerate the indicia providers should follow in identifying and blocking fraudulent IP Relay calls, as fraudsters would merely alter their schemes, thereby rendering any adopted measures obsolete.

Fourth, it should go without saying that the Commission should ensure that any measures it adopts in this proceeding are narrowly tailored and impose no greater burdens or restrictions than are reasonably necessary to address the problem.

Applying these principles, as AT&T details below, AT&T would support a regulatory approach that relies on industry-approved standards for the identification and blocking of fraudulent IP Relay and VRS calls, and further requires IP Relay and VRS providers to adhere to such standards to receive reimbursement from the TRS Fund. AT&T, however, would not support rules that require IP Relay or VRS providers to intercept and terminate suspected fraudulent calls, or that require user registration, as neither approach is consistent with the functional equivalence mandate of Section 225, or an effective means to curb the fraudulent activity.

DISCUSSION

A. Industry Standards

Use of IP Relay and VRS to perpetrate fraud is not a new phenomenon. AT&T has implemented processes to identify and block such calls and is aware that other IP Relay and VRS providers have done the same to combat such use of Relay services. Further, AT&T and other carriers, through the Telecommunications Fraud Prevention Committee (“TFPC”) of the Alliance for Telecommunications Industry Solutions (“ATIS”),² recently have begun discussions

² ATIS is a U.S.-based organization that is committed to rapidly developing and promoting technical and operations standards for the communications and related information technologies industry worldwide using a pragmatic, flexible and open approach.

regarding industry standards to curtail fraudulent use of Internet-based services on an industry-wide basis.

While AT&T supports Commission action here, it proposes that the relay industry be given an opportunity to develop indicia of fraud and protocols to block such calls on an industry-wide basis. Thus, rather than identifying and imposing specific, enumerated minimum standards to which IP Relay or VRS providers must adhere to receive compensation from the TRS Fund at this time, the Commission should ask the Relay providers to develop minimum standards for identifying and blocking fraudulent IP Relay and VRS calls, and, only after such standards have been approved by the Commission, modify its TRS rules to require IP Relay and VRS providers to adhere to those standards to receive reimbursement from the TRS Fund.

This approach is beneficial and workable for several reasons. First, it allows the industry to vet these issues and develop effective standards that are workable. Like AT&T, many IP Relay and VRS providers have implemented processes and procedures to identify and block suspected fraudulent calls. Through the TFPC, these providers can develop a minimum set of standards, based on their experiences, most appropriate to combat the fraudulent activity on an *industry-wide* basis.

Second, it allows the industry to develop these protocols confidentially. All participants in the TFPC are bound by nondisclosure agreements and thus cannot divulge such standards to third parties. This is especially critical because if the public was aware of the standards providers use to identify and block fraudulent calls, unscrupulous individuals would have a roadmap for circumvention of those standards, thus effectively negating their purpose.

Third, it allows the Commission to review the standards to ensure that the standards are consistent with Section 225 and other federal requirements, and that the standards are directly

targeted to curb the misuse of IP Relay and VRS. In this regard, the Commission could participate in the TFPC, and/or ask the TFPC to issue a final report to the Commission with the industry-approved standards. If the standards are acceptable, the Commission could then modify its TRS rules to require IP Relay and VRS providers to adhere to those industry standards to receive reimbursement from the TRS Fund.

Lastly, it encourages providers to comply with the industry guidelines – otherwise they will not be reimbursed from the TRS Fund – an obvious public interest benefit, while, at the same time, ensuring that providers are not subject to liability should unscrupulous users evade the adopted standards.

AT&T recognizes that this approach does not offer an immediate solution. However, because the TRS Fund is likely to continue to grow significantly, as it has in recent years due to the increasing number of TRS services available to impaired consumers, it is most prudent for the industry and Commission to spend time and resources on the front end to ensure that a long-term workable and effective process is implemented to curtail the fraudulent use of Internet-based TRS services.

B. Termination of Suspected Calls by IP Relay and VRS Providers and User Registration

The FNPRM seeks comment on whether it should waive its rules to permit IP Relay and VRS providers, and their CAs, to screen out and terminate suspected fraudulent TRS calls. Further, the FNPRM asks whether adoption of a user registration requirement would curb the misuse of IP Relay and VRS.³

The Commission should not require or permit CAs the discretion to screen out, or terminate suspected fraudulent calls. Such an approach is wholly inconsistent with and indeed

³ FNPRM ¶¶17-21.

would run afoul of the functional equivalence principle of Section 225. Specifically, Section 225 and the Commission's implementing rules require common carriers to provide hearing and speech-impaired individuals the same telecommunications services afforded non-impaired individuals, to the extent technically feasible.⁴ Any differences in the services should be the direct result of technical differences. Today, impaired customers, like their non-impaired counterparts, have the ability to make Internet-based calls to merchants and others without any interference by third parties, including CAs, and are so entitled under Section 225. This proposal completely changes the role of a CA from being solely a facilitator, to being a *watchman and enforcer*. CAs would have the ability to interrupt calls, to have side-bar conversations with the impaired customer for purposes of fraud detection, and to terminate the call at their discretion. The end result, IP Relay and VRS callers using Relay for legitimate purposes would be subjected to burdens and delays⁵ not equally borne by their non-impaired counterparts. Such disparate treatment in the use of these services would in effect render the functional equivalence principle a nullity.

Further, Section 225 expressly prohibits TRS operators from refusing calls.⁶ The Commission, accordingly, would have to forbear from this statutory requirement, which would

⁴ 47 U.S.C. 225(a)(3); 47 C.F.R. 64.604; *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Report and Order, 6 FCC Rcd 4657 (stating, "The intent of Title IV of the ADA is to further the Act's goal of universal service by providing to individuals with hearing or speech disabilities telephone services that are functionally equivalent to those provided to individuals without hearing or speech disabilities.).

⁵ As an example, the FNPRM identifies the following as indicia of fraudulent activity: the caller does not negotiate price, will not agree to pay in advance via a check, bank wire, or bank draft, has few questions about the product and lacks knowledge about the product, refuses to call back using the state's relay services; and changes the payment or delivery arrangements after an order has been approved. While these facts could lead one to believe the call is fraudulent, many legitimate IP Relay and VRS callers could satisfy these criteria and in such instances could have their calls blocked, or terminated by a CA – all burdensome results for legitimate IP Relay and VRS customers.

⁶ 47 U.S.C. 225(d)(1)(E).

necessitate a demonstration that such forbearance is in the public interest. Even assuming *arguendo* that CAs could be properly trained in identifying such fraud and that such detection on the front end could curb the fraudulent activity at issue, the resulting subjectivity would clearly outweigh any purported public interest benefit. While there may be indicia of fraudulent activity, and even available guidance from the Commission, each CA would have to apply his or her individual reasoning to a specific call pattern to determine whether the caller is in fact making a fraudulent call. Disparate treatment by and between CAs would be unavoidable, further exacerbating the discriminatory treatment of impaired and non-impaired customers in the use of voice transmission services.

A user registration approach fares no better. As a threshold matter, impaired consumers have repeatedly and strongly opposed user registration as a means to curb fraudulent activity. Not to mention, such an approach raises similar functional equivalency and unreasonable discrimination issues, as only impaired customers would face restrictions on their use of Internet-based services. Further, such an approach would be largely ineffective because IP Relay and VRS providers would have no way to verify that a user is in fact the registered user. Without such authentication, fraudsters would continue to be able to misuse these TRS services, user registration notwithstanding.

CONCLUSION

For the foregoing reasons, AT&T urges the Commission to follow its recommendations as outlined above.

Respectfully Submitted,

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