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

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

To: Secretary, FCC
For: The Commission

REPLY COMMENTS OF HAMILTON RELAY, INC.

Hamilton Relay, Inc. ("Hamilton"), by its counsel, hereby replies to the comments submitted in this proceeding regarding the misuse of Internet Protocol relay services ("Internet Relay") and Video Relay Services ("VRS").[1] In its comments, Hamilton supported adoption of a registration system for these relay services would be a workable means of providing the same level of accountability present in traditional relay services ("TRS").[2] There is little to no accountability with Internet-based relay services presently, because of the degree to which Internet communications can be made anonymously without corresponding Automatic Number Identification or Automatic Location Information. Accountability in the system is critical to deterring fraudulent uses of the relay system. Hamilton believes that a mandatory, one-time

[1] *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, CG Docket No. 03-123, FCC 06-58 (rel. May 8, 2006) ("*FNPRM*").
[2] *See id.* para. 14.

registration with a neutral third party would provide the deterrent needed without unduly burdening relay users or compromising their privacy rights.

Other providers have offered different solutions. Two providers suggest that Communications Assistants ("CAs') should be permitted to intervene during relay calls.[3] Hamilton joins AT&T in opposing CA intervention,[4] because that practice would be fundamentally at odds with the plain language of the Americans with Disabilities Act ("ADA"). The ADA is clear on this point: CAs are prohibited from "intentionally altering a relayed conversation."[5] The plain meaning of this language, which Congress purposefully made broad, is that all relay conversations are protected from alterations or substantive interjections by the CA, regardless of the content of the conversation, in order to ensure the functional equivalence to voice communications guaranteed by the ADA.[6] To the extent, however, that the Commission interprets the statute to permit CA intervention in certain circumstances, Hamilton would not oppose the intervention proposals suggested in other providers' comments, provided that the Commission confirms that the CA intervention solutions adopted are consistent with the ADA and Commission rules and policies.

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[3] *See* Sorenson Comments at 6-7; Sprint Comments at 3-5.

[4] AT&T Comments at 5-6. Hamilton also concurs with AT&T that Internet 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." *Id.* at 2.

[5] 47 U.S.C. § 225(d)(1)(G).

[6] *Id.* § 225(a)(3); *see* Michael F. Kelleher, Comment, *The Confidentiality of Criminal Conversations on TDD Relay Systems*, 79 CAL. L. REV. 1349, 1350, 1385 (1991) (arguing that all relay conversations, regardless of content, are protected under the ADA). It is axiomatic that a statute's plain language should be given effect if the text is clear and unambiguous. Consumer Electronics Association v. FCC, 347 291, 297-298 (D.C. Cir. 2003); Citizens Coal Council v. Norton, 330 F.3d 478, 482-483 (D.C. Cir. 2003). In addition, "statutes written in broad, sweeping language should be given broad, sweeping application." CEA v. FCC, 347 F.3d at 298 (citing New York v. FERC, 535 U.S. 1 (2002)).

Consumer groups also strongly oppose CA intervention.[7] CA intervention opens the door to potentially invasive intrusions by CAs into non-fraudulent relay calls, and Hamilton therefore urges caution in adopting any rule authorizing the CA to intervene in any substantive way. In contrast, Hamilton submits that a registration system would be no more burdensome than registering for the "Do Not Call" list which has proven extraordinarily popular with consumers.

In the final analysis, however, Internet Relay and VRS are just as susceptible to fraudulent use as the Public Switched Telephone Network — those intent on defrauding other users likely will find a way to do so regardless of the communications vehicle used. However, Hamilton believes that a registration system is legally permissible under the ADA, and will serve as a moderate deterrent to much of the fraudulent uses currently plaguing Internet Relay, without unreasonably burdening legitimate users.

Respectfully submitted,

HAMILTON RELAY, INC.

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[7] TDI/NAD/DHHCAN/CCASDHH Comments at 4-5.