

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

In the Matter of)	
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Snap Telecommunications, Inc.'s Request for)	CG Docket No. 03-123
Limited Waiver)	
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**COMMENTS TO
SNAP TELECOMMUNICATIONS, INC.'S REQUEST FOR LIMITED WAIVER OF
VRS INTEROPERABILITY REQUIREMENTS
OF
TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.;
NATIONAL ASSOCIATION OF THE DEAF;
DEAF AND HARD OF HEARING CONSUMER ADVOCACY NETWORK; AND
CALIFORNIA COALITION OF AGENCIES SERVING
THE DEAF AND HARD OF HEARING**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), through undersigned counsel, National Association of the Deaf (“NAD”), Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”) and California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”) (collectively, the “Consumer Groups”) hereby submit their comments in opposition to Snap Telecommunications, Inc.'s ("Snap") request for Limited Waiver of Video Relay Service ("VRS") Interoperability Requirements.

While the Consumer Groups applaud Snap's efforts to upgrade the VRS industry from its current video technology which is rapidly becoming outdated, they must oppose Snap's waiver request as being totally inconsistent with the Commission's recent order requiring VRS

interoperability.¹ Snap appears to be correct in its assertions that SIP and H.264 will soon become the leading standard for VRS technology. This new technology and the upgrades it will provide in quality of service for the deaf and hard of hearing communities are exciting advancements. As Snap suggests, it is likely that SIP and H.264 will significantly add to the quality of the VRS experience in regards to video quality, E-911 solutions and enhanced interoperability with future technologies.²

The technological advancements Snap posits are long overdue in the VRS marketplace. The enhanced video quality will contribute greatly to a deaf or hard of hearing individual's ability to communicate accurately, clearly and without interruption. It is also commendable that such advents will allow people who are deaf and hard of hearing to receive enhanced images through ordinary home based broadband connections such as DSL or a cable modem and with ease in operation and installation. Snap's plans to offer enhanced features such as picture caller ID, 711 VRS and built in video mail are also features that will be appreciated conveniences in the lives of people who are deaf and hard of hearing. Snap's commitment to utilizing new technologies to implement an E-911 solution for VRS users to ensure access to emergency services is highly encouraged. The Consumer Groups also support Snap's use of the newer technologies to associate VRS users with regular North American numbering plan phone numbers. While these are all laudable goals that the Consumer Groups wholly and strongly

¹*In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling and Further Notice of Proposed Rulemaking, FCC 06-57, released May 9, 2006 ("VRS Interoperability Order").

² *In the Matter of Snap Telecommunications, Inc's Request for Limited Waiver*. CG Docket NO. 03-123. Request for Limited Waiver. (July 14, 2006) (*Snap's Waiver Petition*). See pg 31 for significant public interest benefits.

encourage, the Consumer Groups consider it crucial that any such technological upgrades occur in such a way as to maintain interoperability between VRS providers.

In the Commission's recent VRS Order on Interoperability, the Commission emphasized that the functional equivalency standard as mandated by the Americans with Disabilities Act (“ADA”),³ is “the benchmark in determining the services and features TRS providers must offer to consumers.”⁴ The Commission specifically applied the functional equivalency standard to the question of VRS interoperability, finding it a crucial aspect of functional equivalency.⁵ The Consumer Groups are concerned that waiving the interoperability benchmark in this instance would be completely contrary to the Commission's recently stated functional equivalency standards.

The harms that stem from a system in which people who are deaf and hard of hearing cannot reach other people due to the VRS providers' technical inefficiencies are grave, and the Consumer Groups have previously commented on the serious consequences that could take place.⁶ The Consumer Groups have also been very consistent in arguing that relay products and

³ PL 101-336, July 26, 1990, codified at 47 U.S.C. § 225.

⁴ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling and Further Notice of Proposed Rulemaking, FCC 06-57, released May 9, 2006 (“*VRS Interoperability Order*”), at para. 5.

⁵ *Id.* at paras. 30-34.

⁶ TDI Comments In Support of CCASDHH Petition for Declaratory Ruling on Video Relay Service Interoperability, April 15, 2005, at 3, *In the Matter of Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Declaratory Ruling on Video Relay Service Interoperability*, CC Docket No. 98-67, CG Docket No. 03-123. The denial of VRS interoperability inhibits the ability of people who are deaf or hard of hearing from integrating into the mainstream of society. When calls cannot go through, a person who is deaf or hard of hearing is limited in his or her social exchanges and effectively cut-off from communicating with the rest of society. This is adverse to the entire

services should be backwardly compatible and interoperable - and cautioned the FCC that "Failure to promulgate rules on interoperability will require petitions every time a company comes out with a new product or service. This will put a tremendous burden on both consumers and the FCC. This also creates ongoing and unlimited opportunities for unfair market conditions for deaf and hard of hearing individuals, by exploiting their need for access to telecommunication networks."⁷ In the *VRS Interoperability Order*, the Commission expressly acknowledged the adversities faced by people who are deaf and hard of hearing people when using VRS that is lacking interoperability. The Commission declared that in order to be consistent with the functional equivalency mandate, the public interest and Congressional intention regarding the TRS regime, "all VRS consumers must be able to place a VRS call through any of the VRS providers' service, and all VRS providers must be able to receive calls from, and make calls to, any VRS consumer."⁸ The Commission foresaw new provider issues and declared that "new providers seeking to offer service have the burden of ensuring that their service is interoperable with existing providers' service."⁹

Shortly after the release of the *VRS Interoperability Order*, the Commission certified Snap to be compensated from the TRS Fund for the provision of VRS.¹⁰ Snap's certification was

premise of the ADA, which was enacted to ensure that people with disabilities are offered the prospect of integration into mainstream society.

⁷ NAD Comments on Relay Service Interoperability, April 15, 2005, at 6, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Service for Individuals with Hearing and Speech Disabilities; Petition for Declaratory Ruling on Video Relay Service Interoperability*, CC Docket No. 98-67, CG Docket No. 03-123.

⁸ *VRS Interoperability Order* at para 34.

⁹ *Id.*

¹⁰ *Notice of Certification of Snap Telecommunications, Inc. as a Provider of Video Relay Service (VRS) Eligible For Compensation From the Interstate Telecommunications Relay Service (TRS) Fund*, CG Docket NO. 03-123, Public Notice (May 8, 2006).

expressly conditioned upon compliance with the *VRS Interoperability Order*. The Commission stated:

We also note, however, that Snap indicates that it plans to offer service only via a particular Internet protocol that, without translation, is not interoperable with videophone devices employed by other VRS providers. We note that the Commission has adopted a declaratory ruling requiring the interoperability of VRS equipment and service. We condition this grant of certification upon compliance with that order.¹¹

Therefore, the Commission specifically reaffirmed the principal of VRS interoperability in the same Public Notice where it certified Snap to receive compensation from the TRS Fund. Snap did not ask for reconsideration of this condition. It is thus incumbent upon Snap to explain the change in circumstances since May 8 of this year that would justify a departure, not only from the Commission's carefully considered general rule requiring VRS interoperability, but also from the interoperability condition directed specifically at Snap. Snap's waiver request fails to meet this challenge.

Furthermore, if an eight month waiver were granted, it would set a poor precedent by allowing any newcomer to the VRS field to test its product on consumers and provide levels of service below the minimum standards while still receiving the benefits of Interstate TRS Fund compensation. This would be unfair first, to consumers, who would receive uneven service, and second, to other VRS providers incurring the costs necessary to meet all of the minimum standards, while being compensated from the TRS Fund at the same rate as providers not incurring those costs as a result of a waiver.

In other words, the Commission should not grant this waiver because it would unfairly allow a VRS provider to reap the benefits of the Interstate TRS Fund while not adhering to the interoperability requirements, which the Commission has just decreed are fundamental.

¹¹ *Id.* at 2.

Granting a waiver to Snap would send a signal to other VRS providers or those who would seek to become providers that the Commission sees the interoperability requirement as a flexible one rather than a strict standard that must be followed. Other providers or putative providers would be encouraged to seek their own waivers as well. A waiver would thus undermine the Commission's commitment to functional equivalency as stated in the VRS Order.¹²

¹² See *VRS Interoperability Order* at paras. 30-34.

