July 10, 2008

Via Electronic Filing

Amy Bender
Legal Advisor to Chairman Martin
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Notice: *HOVRS et al. Petition for Declaratory Ruling and Complaint Concerning the Provision of Video Relay Service by Sorenson*
CGB Docket No. 03-123

Dear Ms. Bender:

This letter addresses a question that you asked during our meeting on June 25, 2008 to discuss issues surrounding the petition for a declaratory ruling concerning the covenants not to compete contained in Sorenson Communications, Inc.'s VRS interpreter employment agreements.

At the June 25 meeting, you inquired whether state courts have enforced covenants not to compete with respect to employees that are necessary to the provision of an important service to the community. The answer, as we indicated at the meeting, is yes. Courts throughout the country have enforced covenants not to compete in the context of many different important services including, for example, physicians, surgeons and medical emergency personnel, and have found that such covenants are not against public policy. *See, e.g.*, *Mohanty v. St. John Heart Clinic*, 866 N.E.2d 85 (Ill. 2006) (enforcing covenant not to compete against cardiologist); *Albany Medical College v. Lobel*, 745 N.Y.S.2d 250 (N.Y. App. Div. 2002) (enforcing covenant not to compete against specialist in urogynecology and reconstructive pelvic surgery); *Medical Specialists, Inc. v. Sleweon*, 652 N.E.2d 517 (Ind. Ct. App. 1995) (enforcing covenant not to compete against infectious disease specialist).

Moreover, courts have found that covenants applicable to surgeons and other medical personnel actually advance public policy because they enable hospitals and established medical practices to invest in the recruitment and training of inexperienced professionals, thus growing the pool of medical professionals that are able to serve the community. *See, e.g., Mohanty*, 866 N.E.2d at 95 ("[r]estrictive covenants protect the business interests of established physicians and, in this way, encourage them to take on younger, inexperienced doctors."); *see also Albany Medical College*, 745 N.Y.S.2d at 252.

These established principles are consistent with Sorenson's position in this proceeding. Sorenson's covenants not to compete are critical to its ongoing ability to make very significant investments to recruit and train under-qualified interpreters, thereby benefiting the community by expanding the pool of highly qualified interpreters capable of handling VRS calls.

Sincerely,

/s/ Michael B. DeSanctis
Michael B. DeSanctis
JENNER & BLOCK LLP
1099 New York Avenue, NW, Suite 900
Washington, DC 20001

/s/ Ruth Milkman
Ruth Milkman
Lawler, Metzger, Milkman & Keeney, LLC
2001 K Street, NW, Suite 802
Washington, DC 20006

Counsel for Sorenson Communications, Inc.

cc: Marlene H. Dortch, Secretary