LAWLER, METZGER, MILKMAN & KEENEY, LLC

2001 K STREET, NW
SUITE 802
WASHINGTON, D.C. 20006

RUTH MILKMAN
PHONE (202) 777-7726

PHONE (202) 777-7700
FACSIMILE (202) 777-7763

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Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Ex Parte* Notice, CG Docket No. 03-123 & WC Docket No. 05-196

Dear Ms. Dortch:

On October 1, 2008, Joe Romriell, Vice President, Engineering, and Mike Maddix, Regulatory Affairs Manager, for Sorenson Communications, Inc. ("Sorenson") and the undersigned, counsel for Sorenson, met with Thomas Chandler and Gregory Hlibok of the Consumer and Governmental Affairs Bureau; William Dever, Heather Hendrickson and Nicholas Degani of the Wireline Competition Bureau; and Richard Hovey of the Public Safety and Homeland Security Bureau to discuss the above-referenced proceeding. During the meeting, Sorenson described its progress in implementing the FCC's numbering and E911 requirements for Internet-based relay services. Sorenson also urged the Commission to retain its current rule regarding the treatment of routing information when a user of Internet-based relay receives a device from one provider and then switches to a new default provider.

Sorenson has devoted considerable time, effort, and resources to devising E911 solutions. Sorenson has been working closely with Intrado for many months and has been preparing the software and other system changes required to pass the registered location of Internet-based relay users electronically to the appropriate PSAP. In addition, Sorenson has begun collecting registered location information from its users and will ramp up that process in the fourth quarter of 2008. Sorenson plans to roll out E911 in advance of the December 31, 2008 deadline for E911 implementation.

Sorenson also has made considerable progress in implementing the new numbering mandates. On September 30, 2008, Sorenson and other Internet-based TRS providers met with NeuStar, Inc. ("NeuStar"), which the FCC recently selected as the administrator of the TRS numbering database. Sorenson has begun assigning local numbers to VRS users and

will ramp up that effort in the fourth quarter. Sorenson's experience with its toll-free DirectVP numbers has been invaluable in the process of making the assignment of local numbers a reality.

As part of its June 2008 *Numbering Order*, the FCC delineated the obligations of default providers of Internet-based relay providers as well as the obligations of the "former default provider," in cases where a user ports his or her number to a new default provider. In particular, in paragraphs 60-61 of the *Numbering Order* and section 64.611(c) of its rules, the FCC mandated that after a port occurs, devices must cease providing routing information to the old provider and only send routing information to the new provider.[1]

After careful deliberation, including assessment of whether to seek reconsideration, Sorenson concluded that it could implement the routing information rule. Sorenson determined that its videophones would need to do the following in order to comply with both the routing information rule and the FCC's *Interoperability Ruling*[2]: (1) send routing information to the new VRS provider; (2) enable the user to make outbound calls through any VRS provider; (3) enable the user to make 911 calls through any VRS provider; and (4) enable the user to receive inbound calls through any VRS provider. Sorenson realized that the user interface would need to change if the user switched providers, because many features that show up on the Sorenson videophone interface are actually housed in Sorenson's network. These include features like the missed call list and videomail notification. Because these features are housed on Sorenson's server, they would not be available if the Sorenson videophone stopped communicating with the Sorenson server. Sorenson has been working on complying with the FCC's rules, including section 64.611(c), and preparing to educate consumers on a host of issues, including how the user interface will change if the user switches default providers.

On August 15, 2008, CSDVRS, GoAmerica, Snap and Viable – the four other companies that already provide devices or have announced plans to do so – filed a petition for reconsideration of the routing information rule set forth in paragraphs 60-61 and section 64.611(c).[3] These companies argued that it would be extremely difficult to comply

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1 *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, ¶¶ 60-61 (2008) ("*Numbering Order*"); 47 C.F.R. § 64.611(c).

2 *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5442 (2006).

3 Petition for Reconsideration and Clarification by CSDVRS, LLC, GoAmerica, Inc., Viable, Inc., and Snap Telecommunications, Inc., CG Docket No. 03-123 & WC Docket No. 05-196 (Aug. 15, 2008) ("Petition"); *see also* Public Notice, Report No. 2872 (rel. Aug. 20, 2008), 73 Fed. Reg. 50,971-72 (Aug. 29, 2008).

with the rule, and therefore the FCC should give users the option of having the original provider continue to provision routing information to the central database even after the user ports his or her number to a new default provider.[4]

On September 15, 2008, Sorenson filed an opposition, saying that it would be possible to comply with the routing information rule, at least with respect to Sorenson devices. Sorenson noted that an industry standard is required to ensure that each provider can accept routing information delivered by devices distributed by another provider.[5] Sorenson also identified the benefits of having a single responsible provider instead of two providers as proposed by CSDVRS, GoAmerica, Snap, and Viable.[6] In the October 1 meeting, Sorenson said that fundamentally, the default provider needs to have responsibility for the routing information – both receiving it and updating the database administered by NeuStar. The fundamental nature of this concept becomes even clearer when one thinks about the future, and the likelihood that one number will be associated with multiple devices. Moreover, Sorenson noted that the routing information rule is not unduly burdensome since all providers must make significant changes to their back-end systems to support E911 and local numbers. The acquisition of routing information is just one additional component of these changes.

With respect to the industry standard, Sorenson had anticipated that it would be developed by the industry (rather than the FCC) as part of the group of standards and processes that need to be put in place for numbering to work properly, although there may be a role for the FCC. Once implemented, these standards would enable the user to put in connection information (*e.g.*, a URL) for the new provider, and then the device would begin communicating with the new provider. In addition, the standard should include security measures. Sorenson also has considered a system in which Sorenson could direct the device to provide routing information to the new default provider. Sorenson noted, however, that this would only work the first time when the device was ported away from Sorenson. If the user subsequently ported his or her number to a third provider, Sorenson's network would no longer be in communication with the device, and a different mechanism (such as the user putting in a URL) would be required.

The industry standard should be designed to work well with the NeuStar system. In addition, Sorenson learned at the September 30 meeting with NeuStar that NeuStar has set up the permissions for its database so that once the port is complete, the old provider can no longer update the database with respect to the routing information for that number. Only the new provider will have permission to update the database.

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4 Petition at 3-4.

5 Opposition of Sorenson Communications, Inc., CG Docket No. 03-123 & WC Docket No. 05-196, at 3 (Sept. 15, 2008).

6 *Id.*

When it filed its September 15 opposition, Sorenson thought that the primary reason CSDVRS, GoAmerica, Snap and Viable objected to the routing information rule was that these companies would not be able to make the changes necessary with respect to their own devices to enable routing information to flow to the new provider by December 31, 2008. If that was the case, it seemed to support a temporary waiver of the routing information rule, rather replacement of that rule with an entirely new one.

On September 16, 2008, GoAmerica had meetings at the FCC and filed a deck revealing that GoAmerica's real objective in seeking the rule change is to acquire all of Sorenson's vertical features, for free.[7] In particular, GoAmerica stated that it wants to have full access to the enhanced features of the Sorenson videophone when a user changes his or her default provider from Sorenson to GoAmerica,[8] and therefore the FCC should replace section 64.611(c) with a requirement that Sorenson and other device distributors "maintain responsibility for updating the central database as to that device's IP Address and managing the device."[9]

The FCC has repeatedly recognized that IP-based relay should be regulated in a way that promotes competition and innovation.[10] GoAmerica's proposal would harm competition and vitiate the responsibilities of default providers under the new numbering regime. The enhanced features at issue, like the missed call list and the videomail notification, are neither mandated nor regulated by the FCC. Providers that want to compete on features can devise ways to provide desirable features to their users. For example, providers can distribute feature-rich devices to customers; in fact, Snap and Viable already provide such devices – OJOs and VPADs – to end users.

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7 Letter from George L. Lyon, Jr, counsel for GoAmerica, to Marlene H. Dortch, FCC, CG Docket No. 03-123 (dated Sept. 17, 2007; filed Sept. 17, 2008) (describing meetings with staff from the Consumer & Governmental Affairs and Wireline Competition Bureaus and attaching deck entitled "Presentation on TRS Numbering Issues and Default Provider Obligations" ("Routing Deck")); Letter from George L. Lyon, Jr, counsel for GoAmerica, to Marlene H. Dortch, FCC, CG Docket No. 03-123 (dated Sept. 17, 2007; filed Sept. 17, 2008) (describing meetings with the offices of three FCC Commissioners and attaching the Routing Deck).

8 Routing Deck at 6-7.

9 Routing Deck at 8.

10 *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Order on Reconsideration, 20 FCC Rcd 20577, ¶ 21 (2005) (adopting FCC certification rule because doing so "will enhance competition in the provision of VRS and IP Relay" and encourage "new providers [to] bring innovation to the provision of VRS and IP Relay, both with new equipment and new service features"); *see also* 47 U.S.C. 225(d)(2) (FCC shall adopt TRS regulations that "do not discourage or impair the development of improved technology").

Under the current version of section 64.611(c), all providers will have a strong incentive to continue to improve all aspects of their video relay services, including their features, as providers compete to acquire and retain as many registered users as possible. Under the rule proposed by GoAmerica, however, this healthy incentive to compete for registered users would be replaced by a perverse incentive to free ride on the investments of other providers. For example, instead of investing resources in "building a better mousetrap," providers would simply channel all their resources to marketing, knowing that once they induced a port the winning provider would be able to offer all the features supported by the losing provider while bearing none of the associated costs. The Commission should not sanction such free-ridership.[11]

Adopting the rule proposed by GoAmerica also would undermine the foundation of the new default provider regime. That regime is predicated on the assumption that a default provider will enjoy certain benefits but also bear certain responsibilities: a default provider will benefit by having incoming calls routed by default through that provider; in exchange, the default provider must comply with certain obligations, including the need to ensure that the user's information is up-to-date in the numbering database. GoAmerica would have the Commission delete the second half of this equation. For example, if a user has a Sorenson VP-200®, and chooses GoAmerica as his or her default provider, GoAmerica would have the FCC require that device continue to provide routing information to Sorenson, and Sorenson also would have the responsibility for updating the database. In other words, Sorenson would incur obligations and liability, while GoAmerica reaped financial benefit. Under this arrangement, GoAmerica would not be the responsible "default provider" in any meaningful sense of the term.

GoAmerica and CSDVRS recently filed additional pleadings responding to Sorenson's opposition.[12] GoAmerica's pleading generally repeated the arguments in its September 16 deck, though omitting the IP Relay discussion. CSDVRS described some

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[11] GoAmerica's Deck included a slide on IP Relay, incorrectly arguing that end point modifications would also be required for devices used for IP Relay. Routing Deck at 10. IP Relay applications are device-independent and run on open platforms, and users can load any client software they want. If users want Sorenson IP Relay, for example, they load Sorenson's software on their BlackBerry® smartphones. If users want i711®, they load that software. Or they use AOL instant messaging, which is ubiquitous on handheld devices. Given this unfettered freedom to load applications, GoAmerica's claim that "many text devices" would require "end point modifications" under section 64.211 appears to be premised on a factual mistake. *Id.*

[12] GoAmerica Reply to Sorenson Opposition to Petition for Reconsideration and Clarification, CG Docket No. 03-123 & WC Docket No. 05-196 (dated Sept. 25, 2008; filed Sept. 24, 2008); CSDVRS Reply to Sorenson's Opposition to the Petition for Reconsideration and Clarification by CSDVRS, LLC, GoAmerica, Inc., Viable, Inc., and Snap Telecommunications, Inc., CG Docket No. 03-123 (Sept. 25, 2008).

issues that Sorenson has been evaluating, including how best to develop an industry standard in the relevant timeframe, the need to inform users about changes in the user interface, and how to make emergency calls. Sorenson agrees with CSDVRS that the user needs to be able to easily make emergency calls through the default provider, which will have the user's registered location. In addition, of course, the user needs to be able to make emergency calls through other providers.

Sorenson will move forward expeditiously with efforts to create an industry standard to enable each provider to accept routing information delivered by devices distributed by another provider. Sorenson is aware that the December 31 deadline is fast approaching and that users must have a way of porting numbers to a new provider while continuing to use their Sorenson videophone.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record of the above-referenced proceeding.

Sincerely,

/s/ Ruth Milkman
Ruth Milkman

cc: Thomas Chandler
Nicholas Degani
William Dever
Heather Hendrickson
Gregory Hlibok
Richard Hovey