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

In the Matter of	)	
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
E911 Requirements for IP-Enhanced Service Providers	)	WC Docket No. 05-196

PETITION FOR PARTIAL RECONSIDERATION OF TELECOMMUNICATIONS FOR THE DEAF AND HARD OF HEARING, INC.; ASSOCIATION OF LATE-DEAFENED ADULTS, INC.; NATIONAL ASSOCIATION OF THE DEAF; DEAF AND HARD OF HEARING CONSUMER ADVOCACY NETWORK; HEARING LOSS ASSOCIATION OF AMERICA; AND AMERICAN ASSOCIATION OF THE DEAF-BLIND

Telecommunications for the Deaf and Hard of Hearing, Inc. ("TDI"), through its undersigned counsel, Association of Late-Deafened Adults, Inc. ("ALDA"), National Association of the Deaf ("NAD"), Deaf and Hard of Hearing Consumer Advocacy Network ("DHHCAN"), Hearing Loss Association of America ("HLAA") and American Association of the Deaf-Blind ("AADB") (collectively, the "Consumer Groups"), pursuant to Section 1.429 of the Federal Communications Commission ("FCC" or "Commission") Rules,[1] hereby petitions for reconsideration of that portion of the Commission's decision in its December 19, 2008 Second Report and Order and Order on Reconsideration[2] to not authorize individuals *without* a hearing or speech disability ("hearing individuals" or "telephone users") to obtain ten-digit

[1] 47 C.F.R. § 1.429.

[2] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities,* CG Docket No. 03-123 and CC Docket No. 98-67; *E911 Requirements for IP-Enhanced Service Providers,* WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, FCC 08-275 (2008) ("*Order*").

numbers from Video Relay Service ("VRS") providers for the purpose of telecommunication using the requisite video conferencing equipment ("videophones") with people with a hearing or speech disability (individuals who are "deaf or hard of hearing or who have a speech disability" or "VRS users"). The Consumer Groups believe that the Commission has incorrectly framed the functional equivalency and cost issues involved and assert instead that allowing hearing individuals to obtain ten-digit telephone numbers from VRS providers furthers the purposes of the Communications Act, will actually result in functional equivalency for VRS users, will improve the efficiency of TRS, and result in cost savings to the Interstate Telecommunications Relay Service ("TRS") Fund.

On June 24, 2008, the FCC adopted an order authorizing Internet-based TRS providers to implement the use of ten-digit telephone numbers for telecommunication.[3] The Commission found that the use of ten-digit numbers would allow Internet-based TRS users to enjoy the same calling method currently used by telephone users and would facilitate the connection of emergency telephone calls. In the recent *Order*, the FCC limited the assignment of such numbers by authorizing Internet-based TRS providers to assign ten-digit numbers *only* to individuals who are deaf or hard of hearing or who have a speech disability, and establishing that hearing individuals would not be authorized to obtain a ten-digit number from a VRS provider.[4]

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[3] *Telecommunications Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enhanced Service Providers*, WC Docket No. 05-196, Report and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) ("*Report and FNPRM*").

[4] *Order* at ¶ 34.

As the Consumer Groups articulated in their Comments,[5] it is critical that *all* individuals, including hearing individuals, be able to obtain ten-digit numbers for the purpose of communicating with individuals who are deaf or hard of hearing or who have a speech disability who use videophones. At this time, a hearing person has no ability to obtain a ten-digit number *from any source* to engage in direct (also called "point-to-point") videophone telecommunication with an individual who is deaf or hard of hearing or who has a speech disability or vice versa. It is the position of the Consumer Groups that it is imperative and within the FCC's mandate and authority to enable direct videophone telecommunication between hearing family members, friends, co-workers, service providers and others and individuals who are deaf or hard of hearing or who have a speech disability. For example, access to such numbers would enable videophone telecommunication between a deaf child and a hearing parent, a deaf parent and a hearing child, and between a hearing service provider and a deaf or hard of hearing client. The facilitation of parent-child telecommunications is vitally important because ninety percent (90%) of deaf children have hearing parents.

Unfortunately, the Commission's *Order* failed to properly consider the purposes of the Communications Act, the functional equivalency benefits of point-to-point calls, as well as the cost savings that would result from allowing hearing individuals to receive and use ten-digit numbers from TRS providers. The Commission's *Order* mandates that "proxy" or "alias" numbers will no longer be permitted or used after June 30, 2009. Hearing individuals who have and use videophones obtained from VRS providers that use "proxy" or "alias" numbers, are equally impacted by this mandate. The Commission's *Order* excludes hearing individuals from

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[5] Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., et al., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities,* CG Docket No. 03-123; *E911 Requirements for IP-Enhanced Service Providers,* WC Docket 05-196, filed on Aug. 8, 2008.

obtaining ten-digit telephone numbers for the purpose of engaging in direct videophone telecommunication with people who are deaf or hard of hearing or speech disabled. Such exclusion is contrary to the purposes of the Communications Act.

Section 225(b)(1) of the Communications Act of 1934, as amended, mandates that the FCC make available TRS "*to the extent possible and in the most efficient manner*, to hearing-impaired and speech-impaired individuals in the United States" in order to carry out the purposes of the Act, which are "to make available to *all* individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation."[6] Section 255(a)(3) further defines TRS to mean "telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is *functionally equivalent* to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio."[7] The term "TRS" includes, *but is not limited to*, "services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device."[8] The FCC acknowledged as much when it determined that it possessed "ample authority to regulate the provision of point-to-point calls between Internet-based TRS subscribers."[9] As such, enabling direct videophone telecommunication between hearing individuals and VRS users furthers the purposes of the Act and results in telecommunications services that are closer to or result in the actual functional equivalency mandated by the Act.

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6 47 U.S.C. § 225(b)(1) (emphasis added).
7 47 U.S.C. § 225(a)(3) (emphasis added).
8 *Id.*
9 *Order* at ¶ 66.

Elimination of this exclusion will also, in fact, reduce costs to the TRS Fund by decreasing the number of relay calls and telephone calls made through VRS. Direct videophone telecommunication between hearing individuals and VRS users do not require the assistance of a video interpreter communications assistant. By enabling direct videophone telecommunication, costs incurred by VRS providers will be reduced and hence their draw upon the TRS Fund will be less. While the Commission's *Order* correctly states that the assignment of a telephone number to a hearing individual raises cost recovery issues,[10] such issues can be properly identified and addressed. Cost recovery issues were similarly raised with respect to the assignment of telephone numbers to Internet-based TRS users. The Commission resolved those issues in the *Order* as follows:

> . . . we conclude that certain costs, which typically are borne by consumers of voice communication services, are not compensable from the Fund and, at the election of each provider and subject to Commission approval (as explained below), may be passed on to Internet-based TRS users who are registered with that provider. These costs include: (1) costs associated with an Internet-based TRS consumer's acquisition of a ten-digit geographic telephone number, (2) costs associated with an Internet-based TRS consumer's acquisition and usage of a toll free telephone number; and (3) any E911 charges that may be imposed on Interstate TRS providers under a state or local E911 funding mechanism.[11]

The Commission may similarly conclude that these costs are not compensable from the TRS Fund and, at the election of each provider and subject to Commission approval, may be passed on to hearing individuals who obtain numbers from and are registered with that provider.

Once a number has been assigned, the cost to facilitate direct videophone telecommunications between hearing individuals and VRS users, through automated look-ups and link-ups of videophone numbers with IP addresses, is negligible, especially when compared to the cost of providing video interpreter communication assistant services for the same call if

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[10] *Order* at ¶ 35.

[11] *Order* at ¶ 47.

placed through VRS. Once a hearing individual who can communicate directly with VRS users receives a number for his or her videophone, he or she no longer needs to place or receive VRS calls. Therefore, that person would be saving the TRS Fund considerable amounts of money each and every time that person places or receives a point-to-point call instead of a VRS call.

The Consumer Groups appreciate the Commission's "paramount concern . . . [to] facilitate calls to Internet-based TRS users with hearing or speech disabilities and provide these users with automatic 911 access consistent with the functional equivalency mandate." However, the Consumer Groups also believe that it makes no economic sense, does not further the purpose of the Communication Act, nor achieve functional equivalency to exclude hearing individuals from obtaining ten-digit telephone numbers for the purpose of engaging in direct videophone telecommunication with people who are deaf or hard of hearing or speech disabled.

The Consumer Groups respectfully ask the FCC to consider the greater principles involved and the Communications Act's purpose of facilitating communications between *all* individuals as well as the functional equivalency mandate of Section 225. Instead of establishing a blanket policy forbidding hearing individuals from acquiring and using ten-digit numbers for videophone telecommunications with VRS users, and vice versa, the FCC should recognize the cost savings that will result from the reduction in VRS calls, the greater efficiencies for users of the system, and the achievement of functional equivalency.

Conclusion

For the reasons stated herein, the Consumer Groups respectfully request that the Commission reconsider its decision in part and allow hearing individuals to receive ten-digit telephone numbers from VRS providers.

Respectfully submitted,

/S/

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Dated: January 29, 2009

CERTIFICATE OF SERVICE

This is to certify that I, Kimberly A. Lacey, have duly served the attached Petition for Reconsideration of the Commission's *Second Report and Order and Order on Reconsideration* in CG Docket No. 03-123 and WC Docket No. 05-196 upon all parties listed herein by depositing copies of same in the United States mail, first class postage prepaid this 29th day of January 2009, addressed as follows:

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