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	)	CG Docket No. 03-123
Disabilities	)	
	)	
Petition for New Rule on VRS Number	)	WC Docket No. 05-196
Porting	)	
	)	

PETITION FOR RULEMAKING ON VRS EQUIPMENT PORTING

CSDVRS, LLC, Snap Telecommunications, Inc., Sprint-Nextel, and Viable, Inc. (hereinafter, "Petitioners") hereby petition the Federal Communications Commission (FCC or Commission) to eliminate its requirement for providers of video relay services (VRS) to enable the porting of video customer premises equipment (CPE) from one default provider to another. Petitioners believe that this requirement is unworkable and ineffective.

I. **Background**

On June 24, 2008, the FCC released a Report and Order governing the implementation of ten digit numbering for Internet Protocol (IP) and VRS providers.[1] Paragraphs 60 and 61 of that Order, together with Section 47 C.F.R. §64.611(e), explained that when a relay user ports a number from one provider to another, providers who distribute CPE must ensure that

[1] *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Dkt. No. 03-123, WC Dkt No. 05-196, FCC 08-151, 23 FCC Rcd 11591 (2008) (June Numbering Order).

their devices continue delivering routing information to the user's new default provider in order to enable that default provider to provision routing information to the central database. The FCC's new rules prohibit providers who have given out devices, but who are no longer acting as the user's default provider, from acquiring routing information from that user.[2]

Since issuance of these rules, the FCC has received a string of provider petitions to reconsider, waive, and/or revise these equipment porting obligations. This began with a petition filed by four providers (CSDVRS, GoAmerica, Snap and Viable) on August 15, 2008, which explained that the user's new default provider did not have any way to collect routing information from a device supplied by another provider in order to update the database without the assistance of the provider who had given that device to the user.[3] These petitioners explained that the only way for the new provider to be able to begin updating the database

> . . . would be for the device's original provider/distributor to re-program *every* single device that it has distributed to make it work with the network of *every* current and future VRS provider. Stated otherwise, the order would require each VRS provider to create a mechanism to equate routing information to a phone number for each and every device that they *or other VRS providers* have issued, leased or otherwise provided. This would inappropriately force providers to accept responsibility for video devices that they had no role in developing and which have no relationship with their own signaling platforms.[4]

Petitioners concluded that it would be impossible to complete this task by the FCC's implementation date of December 31, 2008, and urged the Commission to reconsider the requirement that only the default provider be allowed to update the central database with the

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[2] 47 C.F.R. §64.611(c)(2)(i); Numbering Order at ¶61.

[3] Petition for Reconsideration and Clarification by CSDVRS, LLC, GoAmerica, Inc., Viable, Inc., and Snap Telecommunications, Inc., CG Dkt. No. 03-123 & WC Dkt. No. 05-196 (August 15, 2008).

[4] *Id.* at 2-3.

appropriate routing information associated with the user's device. Again in October of 2008, Snap Telecommunications notified the FCC in an ex parte presentation that it had considerable concerns about a rule requiring equipment portability.[5] Similarly, on December 3, 2008, Viable filed a petition seeking a temporary waiver of the requirement for providers to ensure that the CPE that they provide to VRS or IP Relay users only deliver routing information to the user's current default provider.[6]

CSDVRS followed with a petition that, in part, questioned the underlying approach behind the FCC's equipment porting rule and its accompanying need for an industry standard:

> [T]he video equipment distributed by a provider would lose many, if not most, of its features and functionalities (e.g., address book, speed dial, and other user interface features), except the basic ability to complete a call, once the user has ported his number to a new default provider. Stripping the phone of virtually all of its features is likely to be wholly unacceptable to consumers, and brings into question what user needs must be incorporated into an industry standard to enable new default providers to acquire routing information from end user equipment that is not their own.[7]

On December 19, 2008, in its Second Report and Order and Order on Reconsideration, the Commission denied the August Petition for Reconsideration on this issue, and upheld its mandate that CPE provide routing information to the user's default provider, even if that provider is not the one that originally gave out the CPE.[8] In addition, the FCC stated that such CPE, after porting to the new provider, must be able to: (1) accept a URI or IP address that the new provider uses so that the new provider can direct the CPE to send routing

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[5] Snap *Ex Parte* Letter and Presentation (October 22, 2008).

[6] Viable Petition for Expedited Modification and Waiver (filed December 3, 2008), seeking waiver of Section 64.611(e).

[7] CSDVRS Petition for Temporary Waiver (December 16, 2008) at 3, n.4.

[8] *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Dkt. No. 03-123, WC Dkt No. 05-196, FCC 08-275 (December 19, 2008) (December Numbering Order) at ¶¶63-64.

information to one IP address and outgoing video connections to another IP address; (2) automatically forward dialed numbers to the new default provider so that consumers are able to dial numbers without finger-spelling those numbers; and (3) continue to provide point-to-point calling using ten digit dialing. The Commission rejected, however, a request that had been filed by GoAmerica, for a rule requiring the original CPE provider to ensure that the device's enhanced features remained usable after the consumer ported his or her number to a new provider.[9] The Commission then granted a one year waiver for compliance with these new requirements for default providers that did not have access to the technical information about the user's CPE that was needed to update the database and continue providing service to the consumer through that CPE.[10] This waiver is set to expire on December 31, 2009.

Finally, on December 31, yet another limited waiver petition was filed – this time by Sorenson – for additional time to make the changes necessary to comply with the FCC's equipment porting requirements. The FCC has not ruled on this or the other provider waiver petitions that were filed in 2008.

Notwithstanding this chorus of objections to the FCC's porting rule, up until now, the FCC has held steadfast to its original requirement directing providers to support the porting of VRS CPE. Yet, to this day, the technical feasibility and practical effectiveness of such a mandate remains in question. No practical means have been developed to enable providers to accept routing information delivered by end user equipment that has been distributed by other providers.[11] Rather, only Sorenson has proposed an interface that would allow other

[9] See Go America *Ex Parte* Letter (December 19, 2009).

[10] December Numbering Order at ¶68.

[11] Nor is there an industry standard for VoIP devices to interface with each other. For example, a subscriber to Vonage receives a Vonage device that only works with Vonage. If that subscriber ports his number to Verizon, he will need Verizon end user equipment.

providers to update the database for customers continuing to use Sorenson CPE, which would only allow users to receive the basic features of that CPE, per the FCC's order.[12] No interface that would transfer more enhanced features has been presented to or accepted by the VRS marketplace, and no such interface is likely to be developed. The current industry discussions have been bogged down as the industry realizes that this effort will only result in an end user product no one will want to use.

For the reasons set out below, petitioners now urge the FCC to revise the requirement for each and every VRS provider to equate routing information to a phone number for each and every device that it *or other VRS providers* have issued, leased or otherwise provided, because such requirement is ineffective, and will not achieve the desired result of functional equivalency for relay consumers.

II. The Equipment Porting Ruling is Unworkable and Ineffective

The purpose of the FCC's number portability rule is a good one: it is to ensure that, like hearing individuals, relay users need not acquire a new telephone number every time that they switch providers. However, as written, the VRS porting rules attempt to go well beyond this level of functional equivalency. As will be shown below, however, the irony is that this attempt to assist consumers will end up providing consumers with inferior products that do not meet their needs.

Although the FCC is now seeking to ensure that each VRS provider's CPE work with every other VRS provider's network, there is no similar FCC requirement for all wireless phones to work with all wireless carriers or for all phones specifically created for VoIP services to work with all VoIP networks. Thus, an AT&T iPhone will not work on the

[12] Sorenson Ex Parte containing proposed Relay Provider Interface (February 13, 2009).

Verizon network and CPE that is provided by Vonage will not support a customer using Packet8. While it may be technically possible to port between wireless carriers that use the same air interface (e.g., GSM to GSM), no provider does this for ALL such phone products because there are a myriad of cell phones on the market and there are high costs associated with supporting another company's infrastructure, including costs associated with security, enhanced service capabilities and the need to ensure that service is reliable and meets the needs of a company's customers. Indeed, the only type of service that permits consumers to freely transfer CPE across providers is wireline service, and that is because a single wireline network existed first as an integrated network run by one company, to which other equipment manufacturers built their products. Video relay services are far more akin to the wireless and VoIP markets, which have multiple networks to which end user equipment must be designed. In these networks, as in the VRS network, flexibility exists for the development of innovative end user products to meet the individual needs of consumers. Notwithstanding this difference, the FCC's rules go beyond merely requiring that a consumer be able to port his or her number, as is the case for wireless and VoIP users, and direct that VRS users continue being able to use the equipment they received from former providers but only to a certain extent, with fewer features than the customer is used to having.

The FCC's proposed implementation of equipment portability in the VRS market is neither feasible nor practical. Because the FCC's ruling does not require providers to support enhanced features on devices they have distributed when consumers port to a new default provider, when consumers go ahead and port their numbers, they will lose CPE features upon which they have become dependent for their communication needs. Such features, including the device's address book, last numbers called, frequently called numbers, and missed calls,

are commonplace on telephone devices used by hearing individuals. Disengaging them from a relay user's CPE takes away the very functional equivalency that the consumer had enjoyed.[13] Petitioners urge the Commission to abandon this approach as wasteful and ineffective. Far from achieving functional equivalency, this approach will leave consumers with inferior and unappealing communication devices that offer lesser functionality than those enjoyed by the general population. No consumer will want to continue using a phone that has been "de-featured" in this manner. Rather, it is more than likely that consumers will simply revert to using the provider that first gave them the equipment, or seek to obtain a new device from their new default provider. Given the current distribution of CPE in the VRS market – wherein the overwhelming majority of VRS users (as much as 95%) have CPE that was distributed by a single provider – the net effect of the rule will be to have those consumers stay with that provider as their default provider.

Unless the FCC's porting rules are revised to eliminate equipment porting, providers will also be forced to support the CPE of as many as twelve different providers, some of whom might offer several video devices.[14] In order to achieve this, significant capital investment and long hours will be spent for extensive engineering and equipment infrastructure changes that will be needed for each provider to support every other provider's devices. All of the expenses associated with this effort initially will be borne by providers and a good portion ultimately will be passed along to the TRS Interstate Fund.[15]

[13] In addition, it remains unknown whether and how the reduced functionality of a ported video device will affect the quality of emergency calling, given that the consumer's experience in using the functions of these devices may significantly change after the devices are ported.

[14] For example, there are three versions of the "Z" phone provided by CSDVRS.

[15] Providers are not certain about the extent to which costs associated with the revision of CPE will be accepted for reimbursement from the fund. If these costs are not deemed related

Unfortunately, the end result of this monumental effort will be unacceptable to every consumer, i.e., an inferior videophone that has little or no features.[16] As noted above, to get all of the phone's features functioning again, the consumer will have no choice but to go back to the provider that gave out that CPE.

Another problem with the Commission's rule is that it does not take into account what will occur if the device given out by one provider needs maintenance or upgrades after the user's number has been ported to a new default provider. Because the new provider would not have the wherewithal to modify the phone's configuration or update its firmware to fix any new problems, the consumer's quality of service would suffer and there would be nothing that the new provider could do about it. This could extend to the user's ability to make both VRS and point-to-point calls. The FCC's numbering rules are silent with respect to any obligation that the original provider might have for handling CPE problems after a consumer has ported the equipment to a different provider. It is also silent with respect to how the FCC will treat independently manufactured video devices acquired in retail establishments. Specifically, the Commission has not resolved the extent to which such devices will or even could be subject to the same porting requirements that are imposed on VRS providers.

Similarly, it is not clear how the rule would work were the FCC to impose future requirements for new relay features on VRS providers. Specifically, should the FCC later extend new requirements to VRS providers, these might not only necessitate a re-engineering of each provider's own CPE; they would also require each provider to re-engineer its host

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to the provision of services and are not accepted for compensation, then the equipment porting mandate becomes even more burdensome and given its questionable benefit, unacceptable.

[16] There have even been rumors that one of the features to be removed from ported devices is the light signaling feature. Without this feature, deaf consumers even will lose the ability to discern when they are receiving incoming calls.

network for the CPE of all other providers. If this task proves to be unduly burdensome, it might be just enough to deter the Commission from directing the implementation of new features and services, and consumers would stand to lose the benefits of enjoying those additions.

In addition to being a waste of money, the equipment porting rule will create disincentives for VRS providers to engage in innovation and the design of new CPE. With 95% of the equipment market now controlled by a single provider and a rule that would reinforce the decision of consumers to stay with that provider, there is little reason for providers to engage in research and development needed to build a better product for consumers. Moreover, it does not make sense for providers to have to spend time figuring out how to de-feature their own devices so that they could be used with the networks of other providers, only to have consumers reject those devices as unacceptable. Nor does it benefit consumers to have providers dramatically scale back R&D in order to ensure that their limited capital goes toward building networks to support diminished quality phones benefiting the dominant provider. While originally intended to benefit consumers, by creating disincentives to produce new videophones, the rule will leave consumers with unacceptably inferior video devices and fewer video product choices – in effect undermining the intended benefits of the interoperability and numbering orders.[17]

III. Benefits of Eliminating the Equipment Porting Rule

A decision to eliminate the equipment porting rule will result in a win-win situation for consumers and the FCC. To begin with, consumers will be able to continue choosing

[17] Indeed, previous practices and statements of the Commission contribute to this inconsistency. On the one hand, the FCC has said that it does not reimburse for video equipment; on the other it is setting up extremely onerous rules relating to the provision and use of such equipment.

whether they wish to stay with their current provider and retain all the enhanced features of the devices that they now have, or port their numbers to a new provider and obtain new, full featured CPE from their new provider (or acquire devices from a retail establishment). In this manner, the VRS market will function in a similar manner to the cell phone market. A user will be able to port a number to a new VRS provider, who may or may not allow the porting of the CPE based on any commercial arrangements the VRS provider may have with the manufacturer of the CPE. Consumer who choose not to port will still be able to enjoy full VRS interoperability while keeping the enhanced features of the equipment by dialing around the default provider.[18]

Elimination of the rule will also result in significant cost savings to the TRS Interstate Fund and VRS providers because providers will not be forced to support ported devices for every single other VRS provider, nor expend resources figuring out ways to remove functionalities from their own devices. Most important to consumers, VRS providers will have market incentives and greater resources at their disposal to continue developing and enhancing new CPE to meet user needs.

IV. Conclusion

For the above reasons, Petitioners urge the FCC to eliminate the requirements for each provider to (1) enable the porting of its CPE from one default provider to another and (2) support the CPE of other providers for the purpose of provisioning the numbering database. The end result of both requirements will be CPE that no one wants to use.

[18] The FCC should apply its CPNI rules to protect the consumer's calling information for such dial-around dialing.

Elimination of these requirements will support an open and interoperable VRS environment that will (1) guarantee consumers freedom of choice; (2) promote VRS market incentives for competition and technological innovation; (3) eliminate incentives to create inferior CPE with diminished capabilities; (4) cut down on Fund expenditures; and (5) eliminate commercially impractical solutions that will not be effective for the user community.

Given the present confusion surrounding the inability of providers to meet the device porting requirement, and the need for consumers to be able to choose from CPE in a robust and competitive equipment market, there is a compelling need for the FCC to act expeditiously in granting this petition.

Respectfully submitted,

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