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I. SNAP'S PROGRESS ON CURRENTLY WAIVED VRS REQUIREMENTS

The following call types/service requirements continue to present significant technical, cost, practical, and/or other challenges for VRS providers, thereby impeding workable solutions. Snap therefore respectfully requests that the waivers for these requirements be extended from the current expiration date of January 1, 2010 at least until January 1, 2011. In certain cases as noted below, Snap suggests that some of the waived requirements are inapplicable or impracticable for VRS, and recommends that the FCC consider eliminating them entirely for VRS providers.

A. Types of Calls (Operator-Assisted Calls, Billing for Long Distance Calls)

The Commission's rules require TRS providers to handle operator-assisted calls, such as 411 directory calls, and certain types of long-distance calls that require operator assistance and billing directly to the caller's telephone bill.³ The Commission waived the requirement that VRS providers bill separately for these calls, because they did not have a billing mechanism to charge users for such calls.⁴ Despite the adoption of the 10-Digit Numbering rules, there are still a variety of issues related to accurately identifying a user's geographic location and billing criteria that make it technically difficult, if not impossible, for providers to offer these services, as well as a number of the other services discussed below, for every VRS user.

First, although the 10-Digit Numbering rules require that VRS users register their location information with their default providers, until the transition to providing all VRS users with 10-digit numbers is completed, providers will only have location information for some, but not all, VRS users. The transition is supposed to be completed by July 1, 2009, but because we cannot foresee at this point whether the transition will fully occur as contemplated by the FCC, it

³ See 47 C.F.R. § 64.604(a)(3); see also 2004 TRS Order ¶¶ 113-15; *In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 17 FCC Rcd 157 ¶¶ 9-10 (2001) ("2001 VRS Waiver Order").

⁴ See 2001 VRS Waiver Order ¶¶ 9-10; 2004 TRS Order ¶¶ 113-15; 2008 Waiver Order ¶¶ 12-13.

is difficult to predict when providers will have location information for all VRS users. Moreover, even after the transition is completed, the onus will be on VRS users themselves to provide accurate location information in the first instance when registering and to update their default provider if their information has changed. While Snap validates each user's location during registration to ensure the location is E-911 ready, if VRS users provide inaccurate location information during registration, or subsequently move to a new location without informing Snap or their default provider, VRS providers will not have an accurate method for sending a bill to those customers.

Second, because VRS providers do not currently bill VRS users for their VRS calls, providers have no established billing relationship with their customers that would facilitate the continuous tracking of customers' locations or the automatic recording/pass through of charges for certain types of calls.

Third, such a billing system would likely provide only a marginal benefit to VRS users (very few operator-assisted calls are made), yet it would impose significant new burdens, complexities, and costs on VRS providers to set up such a billing mechanism, costs that would further increase the size of the TRS Fund.⁵

Finally, the Commission has previously concluded that using a calling card is not a viable option for VRS,⁶ and calling cards remain unavailable for VRS users. Credit cards present similar issues for VRS. Neither Snap nor to its knowledge any other VRS provider is currently set up to accept credit card billing, and the implementation of a billing and accounting

⁵ Among the complexities, a billing system would require VRS providers to have different service offerings for different classes of customers depending on their creditworthiness, which would fundamentally alter the nature of VRS for deaf users, all of whom currently receive the *same* services from VRS providers without cost.

⁶ *See 2001 VRS Waiver Order* ¶ 10. The Commission stated that the use of calling cards hinders a user's ability to make use of VRS if a user is unaware that he or she needs to have a calling card or if the user cannot qualify for or have access to calling cards.

mechanism that could support charge-backs and bad debt would require considerable research and development that is especially difficult for VRS providers to undertake given the Commission's current rules precluding reimbursement for such R&D costs.

For the above reasons, Snap respectfully requests that the FCC extend the current waiver until January 1, 2011. In the interim, consistent with the Commission's waiver condition,⁷ Snap will continue to offer free long distance calling and free 411 assistance to VRS users.

B. Equal Access to Interexchange Carriers

The Commission's rules require TRS providers to permit TRS users access to interexchange carriers of their choice.⁸ The Commission waived this requirement for VRS providers because: (1) the deaf-to-Communications Assistant ("CA") portion of a VRS call is carried over the Internet, and thus the VRS provider does not necessarily know the user's identity or the VRS user's interexchange provider of choice, and (2) the Internet-based nature of the call prevents the VRS provider from determining whether the call is actually a long distance call.⁹ Although the 10-Digit Numbering rules have now made it technically possible for providers to know where VRS customers are located, there are still a variety of reasons why this requirement should continue to be waived, or should be eliminated altogether.

First, as explained above, VRS providers can still not be certain that they have accurate location information for their customers to determine the interexchange carrier of choice or whether a call is long distance. As long as the transition to 10-digit numbers is in flux, VRS providers do not have registered location information for all of their customers, and pre-existing VRS users still have the option of using their proxy numbers until July 1, 2009. Moreover, even

⁷ See 2004 TRS Order ¶ 115; see also *id.* ¶¶ 127-29.

⁸ See 47 C.F.R. § 64.604(b)(3); see also 2004 TRS Order ¶¶ 124-29; 2001 VRS Waiver Order ¶¶ 17-18.

⁹ See 2008 Waiver Order ¶ 14.

after the transition is completed, because it is up to VRS customers to voluntarily provide accurate location information and to update that information as needed, providers cannot be sure that an incoming VRS caller's registered location information remains accurate.

Second, unlike the local wireline telephone company's central office that is connected to the public switched telephone network ("PSTN") and which allows for a *local* call to be made to all users who are physically located in the same local geographic area, a VRS provider's call center may be located in an entirely different state from the VRS user. Consequently, what may look like a local call from the perspective of VRS caller (since he or she is in the same geographic location as the called party) may in fact be a long distance call for the VRS provider and vice versa. VRS providers are simply not equipped to serve as local telephone companies that operate local rate centers throughout the country to process local PSTN calls. As such, implementing carrier of choice in the VRS context could very well cause considerable confusion, invite consumer complaints, and increase costs without creating any substantial corresponding benefits.

Third, to the extent the waived equal access requirement is rooted in the FCC's desire to afford consumers lower costs and greater choice in their long distance calling options, it is important to highlight that VRS users *already* enjoy *both* these benefits. Regarding the *lower costs* objective, VRS users do not pay for long distance calls and instead VRS providers (and, in turn, the TRS Fund contributors) bear the costs of such calls. As such, VRS providers should continue to be able to decide which long distance carriers to use to complete a given VRS call in order to minimize their costs and the corresponding impact on the TRS Fund. Regarding the *greater choice* objective, due to the FCC's interoperability requirements, VRS users have *substantial* choice in the VRS context, as they are able to decide, easily and on a call-by-call

basis, which VRS provider they want to use to make their VRS calls. Likewise, hearing users who wish to call a deaf or hard-of-hearing individual through VRS have the option of using the VRS provider's 800 number to complete the call to the VRS user if the VRS user's 10-digit number is long distance for the caller, thereby ensuring that long-distance VRS calls remain free to all parties to the call.¹⁰

In short, the technical, cost, and practical considerations noted above strongly favor continuation of the choice-of-carrier waiver for VRS. Alternatively (and preferably), given the inherent distinctions between VRS and traditional wireline telephone systems, the Commission should consider eliminating this requirement for VRS providers altogether. In the interim, consistent with the Commission's waiver condition,¹¹ Snap will continue to provide free long distance calling for VRS users.

C. Pay-per-call (900) Service

The Commission requires TRS providers to relay pay-per-call services, which are calls (*i.e.*, 900 number calls) that are billed back to the user via their telephone bills for services provided over the telephone call.¹² The TRS provider is required to provide the caller's ANI to the 900 service provider, in order to allow the 900 service provider to bill the caller directly. The Commission waived this requirement for VRS providers, because: (1) it recognized that the technology was not available for VRS providers to access the caller's ANI and therefore could

¹⁰ For example, hearing callers may continue to contact Snap toll free at 1-877-711-SNAP (7627) to place a VRS call.

¹¹ See 2004 TRS Order ¶ 127.

¹² See 47 C.F.R. § 64.604(a)(3)(iv); see also *In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140 ¶ 98 (2000) ("*Improved TRS Order*").

not bill the calling party for the 900 call directly or pass along the ANI to the 900 provider;¹³ and (2) the “cost of compliance was high.”¹⁴

As discussed above, even in light of the new 10-Digit Numbering rules, significant technical, practical, and cost issues continue to prevent VRS providers from automatically gathering and passing ANI in all situations and/or billing for these services. Notably, while each VRS provider has ANI information for users of its supplied videophones, there are currently no standards developed among providers that would ensure the provision of ANI during an IP-based call when a VRS user makes a call through a VRS provider using a different provider’s videophone/equipment.

Moreover, since Snap owns the 10-digit numbers that it provides to its users,¹⁵ the uncertainty regarding a VRS customer’s actual location and the general difficulties involved in billing would cause an even greater burden, as Snap would be responsible for the costs incurred during a 900 call where the VRS user cannot be reached for billing. Given that the costs for these types of calls are often astronomical, if Snap had to incur these costs itself, the overall cost of providing relay services would increase substantially, and VRS users who place 900 calls would receive an unfair subsidy.

Finally, as Snap has explained in previous reports, a 900 number call typically terminates to a recorded announcement that is not answered by a live attendant (a circumstance that is outside the control of the VRS provider), thereby further compounding the impracticability of alternate billing in this area for VRS providers.

¹³ See *2007 Waiver Order* ¶ 13; *2001 VRS Waiver Order* ¶ 19; *2004 TRS Order* ¶¶ 130-32.

¹⁴ *2004 TRS Order* ¶ 130.

¹⁵ See *First 10-Digit Numbering Order* ¶ 25-28 (finding that the best process for VRS users to obtain telephone numbers is directly from their VRS providers, either directly from the NANPA or through commercial arrangements with numbering partners). Snap currently obtains 10-digit numbers from numbering partners and then provides those numbers to its registered users.

Snap does not foresee any technical breakthrough in the immediate future that would resolve these limitations, and also notes that its users have not requested this service. In short, the technical, cost, and practical considerations noted above strongly favor continuation of the waiver at least until January 1, 2011.

D. Call Release

The Commission also requires TRS providers to offer “call release.”¹⁶ The call release feature allows the CA to join two TRS users on a single call and then sign-off or be “released” from the telephone line, without disconnecting the two TRS users. The Commission waived this requirement for VRS providers because the record demonstrated that the technology was not available for call release in the VRS context.¹⁷

The FCC should consider eliminating the call release requirement altogether, given the requirement’s inapplicability and impracticability in the VRS context. In the TRS context, where two text users want to connect over the PSTN, a call release feature is necessary to connect the two text users through a switchboard operated by a voice operator. In contrast, as Snap has explained in previous reports, it is already possible for two hearing- or speech-impaired users to call one another directly if they have video conferencing software or videophones that are compatible with one another.

Moreover, under the FCC’s new 10-Digit Numbering rules, once all VRS users obtain 10-digit numbers, it will be even easier for two hearing- or speech-impaired users to call one

¹⁶ See 47 C.F.R. § 64.604(a)(3)(vi); see also *In re Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, et al.*, Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking, 18 FCC Rcd 12379 ¶ 69 (2003) (“*Second Improved TRS Order*”).

¹⁷ See *2008 Waiver Order* ¶¶ 8-9; *Second Improved TRS Order* ¶ 76.

another directly.¹⁸ Therefore, there is no basis for requiring a VRS provider to facilitate a direct videophone-to-videophone call in the first instance, let alone release from such a call once connected. In fact, the Commission's *Second 10-Digit Numbering Order* will *prohibit* VRS providers from facilitating such calls.¹⁹

Finally, as Snap explained in its report last year, call release between two videophones poses an additional obstacle, namely, such calls increase the VRS provider's network bandwidth usage by as much as fifty percent *and* continue to utilize the VRS provider's network even *after* the CA has dropped off, thereby significantly increasing the cost of such calls and potentially impairing other calls to the VRS call center. At the same time, however, under the Commission's current rules, the VRS provider would presumably not be entitled to request reimbursement for the minutes after the CA releases the call, because the CA is not involved in the call once it is released.²⁰

Even if the call release requirement is not eliminated (although, again, Snap respectfully suggests that it should be), the various significant technical, cost, and practical issues indicated above justify extension of the current call release waiver for VRS providers at the very least until January 1, 2011.

¹⁸ See *Second 10-Digit Numbering Order* ¶¶ 64-68 (requiring that once the 10-Digit Numbering rules become effective, "all default providers must support the ability of VRS users to make point-to-point calls without the intervention of an interpreter ... [and] [t]hus, all providers who provision equipment must make available to other VRS providers enough information about that equipment to enable any VRS provider to perform all its functions as a default provider, *including enabling point-to-point communications between VRS users, whether those users have the same or different default providers*") (emphasis added).

¹⁹ See *Second 10-Digit Numbering Order* ¶ 65 (requiring that once the 10-digit number transition is complete, providers must check the Numbering Directory before completing a VRS call to ensure that the user is not dialing another registered VRS user, as completing this kind of point-to-point call will be unnecessary and inappropriate).

²⁰ Indeed, the Commission has indicated that, because calls between VRS users are not relay calls, they are not compensable from the TRS Fund. See *Second 10-Digit Numbering Order* at n. 28.

E. VCO and HCO Calls

The Commission requires TRS providers to offer all types of voice-carryover (“VCO”) and hearing-carryover (“HCO”) calls: one-line VCO, one-line HCO, two-line VCO, two-line HCO, VCO-to-TTY, HCO-to-TTY, VCO-to-VCO, and HCO-to-HCO.²¹ The Commission granted VRS providers the waiver for VCO and HCO calls, because the quality of voice calls over the Internet was likely to be poor.²² However, the Commission currently requires VRS providers to provide *two-line* HCO and VCO, which uses VRS equipment and a second analog phone line, because the voice portion of the HCO or VCO call can be transmitted over a regular analog phone line.²³

Snap’s network is capable of handling both one-line and two-line VCO and HCO calls. Although it remains true that the absence of quality of service (“QoS”) requirements on all legs of an Internet-based voice call can introduce QoS deficiencies into one-line VCO and one-line HCO calls, Snap’s relay system transmits audio of sufficient quality such that the party on the audio-only line generally can hear the party on the videophone. While VRS users have the option of pushing a “mute” button on their videophone in order to prevent audio from transmitting to the CA and the other party, any VRS call made to Snap can be a one-line VCO or one-line HCO call, subject to the enduring Internet-based QoS issues noted above.

VCO-to-TTY and HCO-to-TTY calls require the CA to interpret via sign language to a hard-of-hearing or speech-impaired individual *and simultaneously* to operate a keyboard to interpret via text to the TTY user. Even putting aside the QoS issues noted above that can still

²¹ See 47 C.F.R. § 64.604(a)(3)(v); see also *In re Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, Report and Order and Request for Comments, 6 FCC Rcd 4657 ¶ 24 (1991), *aff’d*, 8 FCC Rcd 1802 (1993).

²² See *2008 Waiver Order* ¶¶ 4-7; *2004 TRS Order* ¶ 135.

²³ See *2004 TRS Order*, ¶ 135 n.384.

arise with such calls, Snap is reluctant to offer them, particularly since they raise unique concerns and since there appears to be little interest in such calls within Snap's user community. Specifically, such calls would require the expenditure of significant additional network equipment and training expenses (the latter to improve Snap CAs' proficiency on a TTY machine) and would place too heavy a burden on CAs. Requiring CAs to perform two different yet simultaneous hand-intensive interpretations would only exacerbate the shortage of interpreters available to VRS providers and degrade the VRS user's experience overall.

VCO-to-VCO and HCO-to-HCO calls have similar problems as those noted above for VCO-to-TTY and HCO-to-TTY calls when one of the parties is using a TTY. VCO-to-VCO and HCO-to-HCO calls, where both parties are *videophone* users, are technically difficult and cost prohibitive for the same reasons that prevent three-way calling by VRS providers for more than one videophone at a time.²⁴

For these reasons, Snap respectfully urges the Commission to extend the waivers for currently covered VCO and HCO calls until January 1, 2011.

II. CONCLUSION

While progress continues to be made by Snap and others in various technology and other areas in order to provide functionally equivalent service for VRS users as envisioned by the

²⁴ See *2008 Progress Report* at n.21. As Snap explained in its *2008 Progress Report*, it is technically problematic to offer three-way calling between *two* VRS callers and one hearing caller, because, among other things: (1) this would require Snap to deploy technology both on the switch and on the client end to display two distinct video calls at the same time in separate windows or separate pieces of equipment that are properly integrated for simultaneous use on a single VRS call; (2) even assuming the complex technology issues could be worked out, the research and operational costs to connect *compatible* videophones, let alone videophones using *incompatible* protocols, could be prohibitive; and (3) as with call release between two videophones, such calls can increase a VRS provider's bandwidth usage by as much as fifty percent, which would increase still further the cost of such calls and potentially affect other calls to the VRS center.

Americans with Disabilities Act,²⁵ and while certain previously waived requirements are now fully applicable to VRS providers, the call types/service requirements discussed above in Section I continue to present significant technical, cost, practical, and other challenges impeding workable solutions.

Although the Commission's new 10-Digit Numbering rules have laid the initial groundwork for providers to know the registered location information and ANI of their customers, there are still a variety of complex practical, cost, technological, and billing issues that continue to make compliance with the waived requirements challenging, if not impossible. Snap therefore respectfully requests that the Commission extend the current waivers from the current expiration date of January 1, 2010 at least until January 1, 2011, or eliminate these requirements for VRS providers as indicated above.

Respectfully submitted,

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²⁵ Americans with Disabilities Act, Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990), 47 U.S.C. § 225 (establishing the telecommunications relay service).