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May 15, 2009

Via Electronic Filing

Thomas Chandler
Chief, Disability Rights Office
Consumer and Governmental Affairs Bureau
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 Mr. Chandler:

I am writing on behalf of Sorenson Communications, Inc. ("Sorenson"), to alert you to potential concerns regarding the practices of Purple Communications, Inc. ("Purple"). In particular, Sorenson has reason to believe that Purple is violating the Federal Communications Commission's ("FCC's") interoperability mandates, as well as requirements related to the National Do-Not-Call Registry. For example, Sorenson has learned that when users attempt to dial a Sorenson interpreter using the Mobile Video Phone ("MVP") distributed by Purple, the MVP will often "drop" the call before the Sorenson interpreter can answer. Sorenson notified Purple of this problem in a letter dated April 8, 2009 and explained that this flaw restricted users' access to Sorenson's service and/or degraded service quality to consumers seeking to use Sorenson's services in direct violation of the FCC's Declaratory Ruling governing interoperability.¹ The letter also noted that Purple should refrain from distributing additional MVPs until it can verify that

¹ *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, ¶ 34 (2006) (FCC 06-57) (expressly prohibiting VRS providers from restricting access or degrading service) ("*Interoperability Ruling*").

the devices meet the FCC's interoperability requirements.² Sorenson asked that Purple investigate the concerns raised by Sorenson and provide a prompt response to this concern. Sorenson has received no response, despite follow-up emails dated April 21 and May 1.

Similarly, Purple has failed to respond to questions about its offer to register users' telephone numbers on, and remove numbers from, the National Do-Not-Call list,³ despite an apparent prohibition against such practices.⁴ Sorenson first raised concerns about these potential violations in an email sent to Purple's counsel on December 17, 2008. Purple has yet to provide any response, despite numerous follow-up communications, the latest of which was dated May 1, 2009.

Given the lack of response from Purple on these two important issues, Sorenson has no alternative but to bring these matters to the FCC's attention and ask the FCC to demand an explanation from Purple. If Purple cannot demonstrate that it is complying with the mandates governing interoperability and Do-Not-Call registration, the FCC should take appropriate action against Purple. At a minimum, Purple should be required to

² In the alternative, Sorenson suggested that Purple should not seek reimbursement from the Interstate TRS Fund until it comes into compliance with its interoperability obligations. *See Interoperability Ruling* ¶ 1 (any VRS provider that violates its interoperability obligations "will be ineligible for compensation from the Fund"). This is consistent with Purple's own position on the issue. *See, e.g.,* Comments of Hands On Video Relay Services, Inc. in Support of Equipment Interoperability Requirements, CG Docket No. 03-123, at ii (Apr. 15, 2005) ("VRS providers should not be entitled to reimbursement from the Interstate TRS Fund if they . . . limit their users from accessing any other TRS service or provider."); *see also* letter from Francis M. Buono, Willkie, Farr & Gallagher LLP, Counsel to Snap Telecommunications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CG Docket No. 03-123, at 3 (Sept. 4, 2007) (explaining that Snap did not seek reimbursement from NECA until it had completed its testing and verified the interoperability of the Ojo videophone distributed by Snap).

³ *See, e.g.,* "Purple FAQs: Working With Local 10-Digit Numbers," *available at*: <<http://www.purple.us/advisories/faqs.html>> ("**Q. How do I remove my local 10-digit number from the National Do Not Call Registry?** A. Simply contact Customer Care and inform the representative that you wish to remove your Purple Number™, My IP Relay Number™, or i711 Call Me™ number from the Do Not Call Registry and he/she will do the rest.>").

⁴ *See* Federal Trade Commission, "FTC Consumer Alert," Q&A Number 8, *available at*: <<http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt107.shtm>> (stating "[t]he FTC does not allow private companies or other such third parties to register consumers for the National Do Not Call Registry," and noting that "[c]onsumers may register directly, or through some state governments, but never through private companies.>").

Thomas Chandler
May 15, 2009
Page 3 of 3

discontinue its illegal practice of registering (or deleting) users' numbers from the Do-Not-Call list and should bring the MVP into compliance with the FCC's *Interoperability Ruling*. In addition, the FCC should consider prohibiting Purple from obtaining reimbursement from the Interstate TRS Fund unless and until Purple reforms its practices. The FCC should also consider pursuing an enforcement action against Purple for violations of the Do-Not-Call and interoperability mandates.

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

Sincerely,

/s/ Gil M. Strobel
Gil M. Strobel

cc: Gregory Hlibok
Marlene H. Dortch (via ECFS)