

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 )  
)  
Request for Expedited Clarification on )  
Marketing Practices )

**REQUEST FOR EXPEDITED CLARIFICATION ON MARKETING PRACTICES**

CSDVRS hereby requests clarification from the Federal Communications Commission (“FCC” or “Commission”) on the extent to which reimbursement from the Interstate TRS Fund is permissible for thousands of hours of calls made via video relay services (VRS) or telecommunications relay services (TRS), when such calls are placed for the sole purpose of marketing a provider’s relay services or conducting outreach to businesses, and are placed by relay employees who are hired directly by a relay provider or through a third party arrangement with that provider.

FCC rules are clear in directing carriers to ensure that “callers in their service areas are aware of the availability and use of all forms of TRS.” These rules further direct that “[e]fforts to educate the public about TRS should extend to all segments of the public, including individuals who are hard of hearing, speech disabled, and senior citizens as well as members of the general population.”<sup>1</sup> CSDVRS agrees that it is critical for businesses and governmental entities to become better informed about how relay works and to understand the

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<sup>1</sup> 47 C.F.R. §64.604(c)(3).

promises of confidentiality and privacy guaranteed by the FCC's relay mandates. Problems associated with IP relay fraud unfortunately have increased the incidence of hang-ups on relay calls, to the great frustration of relay users. Outreach is needed to educate these entities about the rights of people who are deaf, hard of hearing or speech disabled to have functionally equivalent access to telephone services. Additionally, outreach to potential relay consumers by deaf individuals who are acquainted with relay services has proven very beneficial in the past. Relay consumers are in the best position to help educate individuals within their communities about the existence and use of relay services.

However, while the obligation to conduct outreach is clear, the extent to which relay services can be used to conduct outreach and marketing has never been addressed by the FCC. As a consequence, over the past year, at least one, and perhaps other providers have been engaging in marketing activities that have necessitated the extensive and unbridled use of VRS. Specifically, these companies allegedly have used third parties to hire deaf individuals to sit on videophones for hours on end for the purpose of calling hearing businesses via VRS, the objective of which has been to secure agreements from these businesses to add website links to the providers' IP relay service web locations. It is suspected that millions of minutes have been charged to the TRS Fund to serve out this function.

Some providers, including CSDVRS, have raised concerns about this practice, questioning whether this is an appropriate use of VRS minutes, and whether there should be limits on the extent to which such activities are entitled to TRS compensation. In addition, in recent comments to the FCC, the United States Telecom Association (US Telecom) noted that “[s]imply reimbursing all providers for any outreach costs without Commission planning, oversight and targeting runs significant risk of over-saturation in publicizing some forms of

TRS and a lack of outreach on others.”<sup>2</sup> Noting that the Commission is charged with approving the ‘reasonable costs’ of relay services,<sup>3</sup> USTelecom requested the Commission to determine whether limits should be placed on what providers can claim to be reasonable in any given category of allowable costs, and noted that “[i]f there is greater clarity on allowable reimbursements and what constituted legitimate minutes of use, it will help to eliminate . . . ‘manufactured minutes.’”

CSDVRS agrees that the FCC needs to provide greater clarity on the permissiveness of outreach arrangements that employ large numbers of individuals to conduct what amounts to unrestricted calls on outreach and marketing to businesses via VRS, using perhaps as many as 25-50 employees a day, for 8-12 hours each day, 5-7 days a week. Although aware that such practices may be taking place, the FCC has remained silent on whether such outreach efforts are indeed permissible. Without guidance from the FCC on the legality of such arrangements, however, competitors to VRS providers who are benefiting from such arrangements are at a severe disadvantage. Compensation from the TRS Fund for these arrangements has been quite substantial over the past year, and it remains unfair for some providers to continue collecting reimbursement for these practices, while others are led to believe that such schemes are essentially creating minutes for VRS calls that would – but for these calling arrangements – not have been made by the employees.

If such arrangements are impermissible, providers who are engaging in these practices need to be instructed to cease their activities at once. If they are permissible, then other VRS providers should be permitted to begin engaging employees for this purpose, without threat of adverse Commission action. To this end, CSDVRS seeks clarification *on an*

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<sup>2</sup> Comments of USTelecom at 4 (July 20, 2009).

<sup>3</sup> 47 C.F.R. §225(d)(3)(B).

*expedited basis* as to whether marketing or outreach calls made using VRS minutes – regardless of the quantity of such calls – are permissible and therefore reimbursable from the TRS Fund to ensure the provision of functionally equivalent relay services.

Respectfully submitted,

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