

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
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| |) | |
| Structure and Practices of the Video Relay |) | CG Docket No. 03-123 |
| Service Program |) | |
| |) | |
| To: Commission |) | |

COMMENTS OF CONVO COMMUNICATIONS, LLC

Convo Communications, LLC (Convo) hereby submits its comments to the Declaratory Ruling, Order, and Notice of Proposed Rulemaking released by the Federal Communications Commission (“FCC” or “Commission”) on May 27, 2010 regarding Video Relay Service (VRS). Convo is a non-certified video relay service (VRS) provider. On September 18, 2009, Convo was registered as an Interexchange Carrier (IXC) within the State of Texas. On October 30, 2009, Convo submitted an application to the FCC to be certified as a VRS provider.

The underlying mission of Convo Communications, which is wholly owned and managed by deaf and hard of hearing persons, is to provide functionally equivalent telephone relay interpreting services between persons with hearing loss who sign and hearing persons who use voice communications. Since its inception, Convo has ethically provided video relay services and has submitted requests for compensation minutes in full compliance with federal regulations.

It goes without saying that VRS provides vital service for those deaf and hard-of-hearing persons who utilize sign language and at the same time, Convo understands that the Commission needs to ensure that VRS industry participants follow regulations; thus Convo recognizes the need for the Commission to define, clarify, and submit proposed rules for VRS to ensure the VRS industry stands on a foundation that promotes its growth and continuity. Convo agrees with the Commission that nothing comes close to VRS for its promise of fulfilling the ADA goals of

“functional equivalency” in telecommunications services compared to other Telecommunications Relay Service (TRS) features. Convo applauds the Commission for taking bold steps to help establish clear, consistent and correct regulations and permitting industry participants to assist in that endeavor. Accordingly, Convo will address several issues that Convo feels are important to the welfare of deaf and hard of hearing consumers, to the VRS Industry’s need to for guided growth that ensures its survival, and to the Commission’s role in fairly regulating for the public benefit.

I. DECLARATORY RULING

The Commission entered a Declaratory Ruling clearly affirming that Interstate TRS Fund payments may be suspended from those TRS providers that do not submit to data and expense verification audits, in accordance with current TRS mandatory minimum standards. The Commission further affirmed that it has the authority to audit providers and shall accordingly have access to all data. The Commission further stated that the TRS Fund administrator has delegated authority to audit TRS providers reporting data.

Convo acknowledges and supports the Declaratory Ruling as Convo agrees that this is the most efficient way to control illegal or unethical VRS provider behavior as well enabling the FCC and the Fund administrator to get a better understanding of the fiscal, operational, and competitive conditions under which VRS providers operate.

II. THE INTERIM RULE OF FUND BILLING ACCOUNTABILITY

The Commission entered an interim rule, without resorting to rulemaking proceedings, that placed an accountability onto CEO, CFO, or Senior Executive to certify that the minutes submitted to the Fund administrator are not the result of impermissible financial incentives, payments or kickbacks to generate calls; and that cost and demand data submitted to the Fund administrator are true and correct. The Commission believes that this will lead VRS providers to appropriately conform their conduct and provide a greater scrutiny of the legitimacy of the minutes they submit to the Fund administrator for payment. The Commission states if provider

certified and submitted data is not true and accurate, those providers may be subject to sanctions. In addition, the Commission sought comments whether to make this interim rule a permanent one.

Convo fully supports the interim rule which *adds* to existing regulations¹ the obligation of TRS Provider senior executives to certify compliance with TRS rules when submitting claims for payment to the TRS Fund as well as data related to demand projections and future costs. Convo also supports adoption of this interim rule as a permanent amendment to current TRS rules.

Although it was not clearly indicated, this Order applies not only to call centers owned and directly managed by certified VRS providers but also to subcontractors that provide VRS call center services on behalf of the provider and for which the provider submits payment claims. Those so-termed “white-label” VRS providers operate under business agreements with certified providers who submit VRS minutes to the Fund Administrator on their behalf and who often extract a percentage of the billable minutes. This generates additional revenue for certified providers that act as billing agents for those independently owned entities, several of which do not provide call center services on behalf of the certified provider.

It can be readily ascertained that such arrangements are potentially problematic, for several reasons, one being that certified providers do not have direct operational control of the call centers. As the Commission pointed out in the Declaratory Ruling, this allowed the transgressions of independent call center operators to occur and for which the Commission is seeking to control by requiring senior executives of certified providers to vouch for the legitimacy of those minutes. On the flip side, the temptation to certify the minutes is enhanced by the additional revenue generated for certified providers for conducting billing agent services

¹ C. F. R. § 64.604 (c) (5) (iii) (C) Data collection from TRS providers. TRS providers shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested by the administrator, necessary to determine TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of TRS Fund payments.

under fee arrangements with those “white label” call centers. The danger in such an arrangement is complicated by the fact that some certified VRS providers cannot always afford to self-fund the level and number of call center services to remain in business, to meet demand, and to have adequate interpreting resources geographically selected so as not to degrade the availability and quality of local community interpreting services. Moreover, there are cost savings in arrangements with established interpreting agencies willing to fund their own proprietary call platforms and call center staffing.

Convo believes that the solution adopted by the Commission is a necessary compromise to ensure that VRS remains an economically viable, yet ethically managed, business opportunity free from impermissible financial incentives or payments or kickbacks to generate calls. This is commendable approach; however, this places on senior executives an artificial burden to verify such minutes are legitimate as they are vouching for companies that need the call centers as much as the call centers need them. Without a daily presence at the call center level, senior executives are at a relative disadvantage when it comes to providing the level of oversight to prevent nefarious misconduct or to even monitor it.

Convo respectfully submits that there is a better solution that will diffuse the dilemma, which this provider-call center symbiotic relationship creates. Convo has previously recommended that the FCC consider establishing a Provisional Certification track for those subcontractors that provide VRS call center operations and management with the full intention of becoming full-fledged VRS providers. Convo asserts that this will create a pro-competitive movement towards more call centers becoming independent of the temptations and disadvantages of the current paradigm while affording those newly VRS providers the level of management oversight to diminish the need for continuous FCC “policing” of the industry, while maintaining appropriate FCC oversight. The Provisional Certification process is further covered in Section IX of this Comment filing by Convo.

III. LOCATION OF VRS CALL CENTERS

Convo suggests that the Commission define “United States” to include all territories of United States such as Puerto Rico or Virgin Islands, etc. However, the existing regulation that VRSCAs be qualified must apply to call centers located in these territories as well.

Convo fully supports that all VRS call centers should be located in the United States and not outside of the USA. The rationale is simply that interpreters that live in the USA are best understood by American VRS users. VRS industry already has the challenge of addressing the variety of regional-based sign languages unique to the locations in the USA, let alone an additional accent to American Sign Language from other countries.

IV. VRSCAs WORKING FROM HOME AND COMPENSATION

Convo commends the Commission for seeking comments on the highly sensitive and controversial issue of VRSCAs working from home. Although Convo wishes to keep an “open mind” on this, Convo presently feels that there are simply too many privacy, security, and VRSCA performance issues to make it a workable solution. VRSCAs working from home are susceptible to quality degradation in the delivering of services, which could take a variety of forms: a single parents in charge of young children while working and the risk those children can interfere with the VRSCAs’ working conditions; a VRSCA with a spouse, neighbor or friend who eavesdrops on relay calls and what if the VRSCA has an abusive spouse, or home visitor who threatens or abuses the VRSCA if they object. Without on-site supervision, what is to stop VRSCAs from recording the calls? These are just a small sampling of possible real world problems, which could arise.

One concern the VRS industry and the Commission cannot ignore is how will the majority of deaf and hard-of-hearing persons who use VRS would feel about that react to VRSCAs working from home? Convo is aware that there is a segment of deaf and hard-of-hearing community that is against VRSCAs working from home because they are concerned that privacy issues may not be easily enforced at home offices. Does that mean VRS providers need to make this

information public so deaf or hard of hearing persons can make a fully informed decision regarding using a VRSCAs working from home and choose a VRS provider based on this publicly disclosed information? On other hand, how would disclosure issues be handled in order to meet security measures? If so needed, by what means could that be affirmed? This also raises the possibility of compromising the long-held policy view that TRS services are the equivalent of a “dial-tone”.

Functional equivalency would be degraded for VRS consumers, since hearing people do not have a live conversation with their “dial-tone” at any time they are in a call process. This is what could occur for VRS consumers if they were to learn that their call has reached a private residence under contract with their selected provider and they desire to back out of the call they have just initiated for security or privacy reasons. Hearing users of the public switched network don’t have to interact with their phone provider based on how their call is being treated once the call has begun.

Convo is not overly concerned about technical issues such as re-routing to next available VRSCA, or changing VRSCA in one location to another VRSCA in a different location, having emergency call routing capabilities, billing platform configuration and billing detail capture, and related issues. The VRS industry at this time is technologically capable of complying with FCC mandates on those issues from a home site. The problematic issues relate to call privacy and VRSCA performance and behavior. Perhaps surveillance processes can be located in those homes to ensure full remote monitoring is available to minimize security and performance concerns; however, can such remote monitoring (without the knowledge of the monitored VRSCAs) actually minimize abuse and provide privacy assurances?

If the Commission approves VRSCAs calling from home, then Convo takes the position that VRS providers should not be allowed to provide VRS solely through home-based VRSCAs. A rule should be implemented in which home-based VRSCAs are only permitted to supplement the services of established commercial call centers who are to handle the majority of VRS calls.

VRSCAs working from home could be utilized for night and weekend shifts where number of calls are too few for a commercial operation to cost-effectively maintain or are needed to handle an unexpected increase in VRS calls or during heavy calling periods, such as during holidays. This assumes that security issues are resolved to the FCC's satisfaction. While it is difficult to singularly implement and monitor, VRSCAs that work from home ideally should be as equally highly qualified an interpreter as the routinely commercially situated VRSCAs is expected to be.

At any rate, Convo takes the position that this issue needs to be analyzed thoroughly and carefully prior to further Commission action and Convo remains committed to engage in further discussion and analysis towards a solution that benefits consumers. At this time, Convo feels that there are simply too many privacy, security, and VRSCA performance issues to comfortably support VRSCAs working from home.

V. COMPENSATION AS INCENTIVE FOR COMMUNICATION ASSISTANTS

Convo does not allow compensation practices that would incentivize VRSCAs to engage in fraudulent call processing actions. Convo's VRSCAs, whether direct employees or contractors, are compensated at an hourly wage rate for providing VRS call interpreting services. Convo believes that by providing a competitive hourly rate to the interpreters, it guarantees a level of job security that encourages them to work to best of their abilities, without fostering any incentive to earn additional compensation. Convo strongly disapproves of any VRSCA compensation scheme that leads to monetary incentives for VRSCAs to increase their take-home pay when such compensation is tied to the minutes processed by the CA, simply because it leads to many unwanted issues, including the specter of fraudulently generated minutes and the performance deterioration due to overwork.

Nor does Convo support the practice or concept of any VRSCA compensation scheme whereby the VRSCA is selected by the consumer based on a website of interpreter pictures and is paid for their generated minutes based on a compensation formula that utilizes a percentage of the NECA rates to further pay the selected VRSCA. For the same reason stated above, it creates

an incentive procedure to generate fraudulent minutes. For example, a VRSCA can ask deaf persons to select/call her to generate minutes thus increasing the number of her reimbursable minutes. This procedure also defeats the “dial tone” concept that the Commission has deemed fundamental to the implementation of Section 225 and which lies at the core of TRS policy.²

As for VRSCA working conditions, Convo adheres to state laws requiring employees to take their mandated breaks; actually, Convo encourages them to take 10-minute break after 2 hours of hard work. There is no incentive for them to process additional traffic or work through the breaks, since any Convo VRSCA who remains at their post past their scheduled times is compensated at their normal hourly rate structure.

Convo fully understands that the VRSCAs play a very important role in enhancing the quality and integrity of VRS so Convo takes steps to ensure its VRSCAs understand the company’s ethical practices and adheres to its policies. Addressing ethical practices is a critical part of the training for Convo’s VRSCAs as to what they can and cannot do.

VI. PROCEDURES FOR THE SUSPENSION OF PAYMENT

Section 64.604 of the Commission’s rules, codified under Chapter 47 of the Code of Federal Regulations, states, in pertinent part:

“The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request.”

The spirit of the statement is that the procedure should be fair for all concerned. Convo commends the Commission for asking for comments on the desired timing of specific procedures to verify payment claims. Convo appreciates the opportunity to submit comments on this as this

². See footnote 4, *Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling (May 28, 2008): “...the obligation placed on TRS providers is to be available to handle calls consumers choose to make, when they choose to make them, i.e., to be the “dial tone” for a consumer that uses relay to call to a voice telephone user...”, citing in pertinent part *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, (Nov. 19, 2007) (*2007 TRS Cost Recovery Declaratory Ruling*).

has clearly impacted all VRS providers. Convo agrees with the concept of non-payment or partial payment to VRS providers if their billing claims for processed minutes are questionable or determined to be illegal. Convo has noted within the past year an increase in the frequency in which the Fund Administrator has determined certain VRS minutes are questionable or illegal and withheld the payment for that amount of minutes. As a matter of practice, the Fund Administrator would inform the VRS provider and commence withholding payments until suspect minutes are cleared upon a showing by the VRS provider that the minutes are duly legitimate.

The concern Convo has is that the procedure to review and resolve those questionable minutes takes too long and causes undue expense for providers who must work around those unexpected reimbursement shortfalls.

The procedures should ideally address the following issues:

- ❖ Timely notification to the VRS provider of the questionable minutes.
- ❖ Response time for the VRS provider to defend the “questionable” minutes.
- ❖ Timely decision by the Fund Administrator and/or the FCC after the response from the VRS provider.
- ❖ At what point should funding be withheld? When determined as questionable or after failing to adequately defend the questioned minutes?
- ❖ If the defensive data submitted to the Fund Administrator and/or the FCC is approved, the timeframe for payment to the vindicated provider.

Convo is of the opinion that the Fund Administrator and/or the FCC should recoup payment *after* the provider is informed that the defensive data submitted by the VRS provider still does not meet some readily identifiable and fair criteria and is determined to be ineligible for payment. In other words, the payment should be made in good faith concurrent with a provider CEO statement that the minutes listed are vouched for. The VRS provider should have a

reasonable period of time to respond and that if the defensive data is not persuasive, then the Fund Administrator and/or the FCC can withhold the amount to be recouped from the next payment. This approach should be taken because VRS providers are certified as VRS providers, subject to criminal charges for making false statements, whether known or otherwise, or for not exercising due diligence in certifying that their billing claims are true and accurate. The FCC should not dwell upon past illegal activities of VRS providers and punish the current and future ethical VRS providers by unilaterally withholding funds for claims otherwise legitimately proffered.

In addition, the Commission has not released properly detailed or comprehensive criteria as to which calls are permitted and which are not. VRS providers only learn of these issues when they learn their payment claims are withheld. Mainly because of such lack of clear-cut criteria, and rather than so penalizing providers, the consequence of rendering claimed minutes questionable should fall first on the FCC.

Accordingly, Convo makes the following suggestions as regards fair process timelines for questionable submission reviews, based on above bulleted list:

The timely notification from the FCC or Fund Administrator to the VRS providers for questionable minutes averages out to be around 5 weeks after the VRS providers submit their data to the Fund Administrator, normally on the 20th of each month; this is also same timeframe in which VRS providers are reimbursed for approved minutes. Convo believes that this is appropriate, however, Convo suggests that the Commission provide additional staffing resources to the Fund Administrator to add more people to analyze data submitted by the VRS providers. This should reduce the review period from 5 weeks to 3 weeks. Response time by the VRS providers to the questionable minutes should not take more than 2 weeks as they have ready access to all their data and should have concurrently timely access to their VRS call center contractor's data . If the defensive data has not been submitted at the end of 2 weeks, the Commission has its prerogative to withhold the offending provider's amount that is denied from

the next payment. Lastly, a final decision by the Fund Administrator and/or the FCC should be furnished no more than 4 weeks after the Fund Administrator and/or the FCC receives defensive data from the VRS provider.

VRS providers really need to know the criteria under which minutes are likely to be deemed questionable as soon as possible so VRS providers can properly support their minutes as being legitimately submitted. The FCC would get the supporting data sooner as well. At any rate, it is only fair that the payment be timely made. It is not appropriate for the FCC to take a “shoot now, ask questions later” approach when the working relationship between certified providers and the Fund Administrator is sought to be considered professional and trustworthy. To do otherwise only creates an environment of animosity and speculative distrust.

If the defensive minutes data submitted to the Fund Administrator and/or the FCC is found to be legitimately proffered, then the Commission would let VRS provider know of its decision that the challenged minutes are accepted and that the funds will not be withheld in the next round of payments. Convo, however, suggests that there should be an appeal procedure available for providers for those instances in which the FCC is has determined there will be a withholding of future payments due to those questionable minutes. At any rate, the fund during the appeal period should be withheld on the next payment period pending the outcome of appeal; or alternatively, providers can deposit as a collateral a percentage of the disallowed funds when filling an appeal.

Convo suggests that above procedures will provide a fair and equitable process that is a “win-win” for all concerned.

VII. SPECIFIC CALL PRACTICES

The Commission entered several issues of specific call practices that may be questionable and seeks comments how these issues should be addressed.

(1) INTERNATIONAL VRS CALLS

The Commission has long made it abundantly clear that any VRS calls that originate and terminate outside of the United States will not be reimbursed from the Interstate TRS Fund. Even with the ruling, the Commission is concerned about provider breaches of that rule as well as about those VRS calls that use VCO by which two voice telephones users use to avoid the long distance charges associated with international calls. Thus Commission is seeking comments on how to best monitor and control these illegal or unethical VRS calls.

Convo employs an automatic detection program where the system identifies the Internet protocol address of each call leg by employing a geo-location program. This helps verify whether the call originates or terminates in other countries; the program will produce a data set containing necessary information, such as telephone numbers, IP Addresses, etc., whereby Convo and the FCC can conduct meaningful reviews to ensure that the VRS calls billed pursuant to regulations. So the logical course of action is that the Commission should require such an automatic detection system from all VRS providers as a condition of certification.

(2) VRS CALLER'S FACE DOES NOT APPEAR ON THE SCREEN AND SCREEN/IDLE CALLS

The Commission is asking for comments on two issues: VRSCA not being able to see the VRS caller and the VRS caller not being able to see VRSCA due to the use by either party of a "privacy screen". The Commission has posited that there may be instances where these techniques were used to "manufacture" minutes.

On terminating after two minutes of blank screen, Convo considers that to be a problematic issue. Passing oversight responsibilities to VRSCAs need to be minimized as much as possible. A VRS caller who may ask to put the other caller on hold while he/she goes to answer a door, deal with crying child, or other interruptions should have same rights as a hearing person who does that. However, if the VRS caller does not come back at a reasonable time, then VRSCA can terminate the call, but this should be considered as a last resort and for obvious reasons. Convo

does not support a *mandatory rule* that a VRS call be terminated after a period of 2 minutes of blank screen. Since Convo has a strict policy of processing only legitimate calls, these types of “disappearing acts” do not happen often. It also protects the VRS caller’s rights to put their line on “hold” and really is functionally equivalent to the control and freedom hearing persons have in their use of voice communications.

On other hand, if VRS caller gives instructions via VCO but the person is off the screen, then this is no longer VRS as VRS is a visually-based service. In this case, Convo submits that the VRS call not be processed. Taking one step further, if the VCO user starts by being in screen, and during the conversation, steps out of screen but continues to communicate, Convo submits that the VRS call should be terminated for the same reason that VRS is visual.

(3) VCO USE BY TWO HEARING PERSONS

The Commission is aware of instances where two hearing persons use VCO to call overseas to avoid long distance rates. What usually happens is a deaf or hard-of-hearing person would initiate the VCO call and then subsequent discussions will be between two hearing persons on both ends of calls, and the original caller would take a back seat and watch the discussions between the two hearing persons via VRSCA.

Again, this would put VRSCA in a position to police the VRS calls. In this instance, Convo believes the Commission should seek comment on procedures to “red flag” the call, how VRSCAs may seek advice from a supervisor, and if the supervisor agrees that this is likely a call in violation of FCC rules, whether to allow the VRSCA to announce an intention to terminate the call after briefly explaining that the call is no longer possibly a VRS call. Convo, however, finds this solution potentially troubling and not viable as the deaf participant could be a genuine participant and really is listening to the conversation.

(4) VRSCA USE OF PRIVACY SCREENS

Convo submits that a privacy screen should never be used by VRSCA in a VRS call. This is contrary to the communication culture of many deaf and hard of hearing persons for whom constant visual connection with VRSCAs is needed. A Privacy screen creates an uncomfortable and awkward environment. VRSCAs should always be seen. Convo posits that the Commission creates a rule prohibiting the use of a privacy screen by VRSCAs.

(5) CALLS INVOLVING REMOTE TRAINING

In addressing the compensation of calls in which the VRS user is involved in-online training, the FCC takes the view that such instances are akin to the provision of Video Remote Interpreting (VRI) services and therefor not compensable from the Fund. The FCC further supports its position by citing prior misconduct and its own overarching policy that VRS be used for legitimate calls between a hearing person and a person who relies on manual communication. The FCC also cites the inherent temptation for providers to conduct on-line training for their own staff in order to generate additional revenue from the Fund. In addressing those concerns, the FCC has staked out a position in which it treats ALL on-line training sessions as VRI-type calls.

Convo points out that the position of the FCC creates the unintended consequence that otherwise legitimate telephonic participation in training events by employees of non-VRS providers cannot be treated as legitimate VRS calls simply because it is not like a two way telephone conversation. Convo argues that the premises are flawed and thus the conclusion is weak at best and invalid otherwise. The FCC has no logical reason for differentiating between a conference call involving several remotely situated employees of a company, a one on one call, or an online telephone call accompanied by a visual of the presentation simply because someone in the call is teaching and another is learning and the opportunity for a two-way conversation is concurrently available. It creates an artificial access restriction and seems contrary to the spirit inherent in existing statutes and federal policies advocating the removal of employment and educational barriers faced by persons with disabilities. Existing ADA provisions³ as well as FCC

³ 42 USC § 12101 (1990).

policies emanating out of Section 225 of the Telecommunications Act⁴ do require accommodations to enable on-line training access opportunities for those with hearing loss and who rely on manual communication.

Since the philosophy behind the provisions of Titles I through III of the ADA is that the entities providing the service, good, or opportunity in contexts involving employment, public services, private enterprises, and telecommunications should be the ones primarily responsible for accommodations, Convo believes that Title IV should not be used to as the default avenue for access to online training. In particular, the accommodation cost should be borne by the online provider of the training. However, enforcing this and implementing it effectively across the board is a very challenging undertaking for those hosting, and for those providing, the access technology.

Given the rationale argued above and to also remove incentives to defraud the Fund, Convo suggests that VRS providers that allow remote training cannot have any connection whatsoever with the training provider and should be reimbursed for the calls.

Convo at this time does not permit on-line training calls to be processed through its VRS call centers. On other hand, pursuant to the goals behind functional equivalency and the policy objectives of other ADA Titles involving remote training providers, Convo submits that VRS offers the best practical solution to enable access for deaf and hard of hearing persons to participate in and receive the benefits of employer-mandated remote training as long as VRS provider does not have any working relationship with remote training management and the VRS user is allowed to “voice in” on the training site.

Classroom on-line training provided by Universities or Colleges should not be allowed as Universities or Colleges for the most part already have disability services and programs to enable students to meet their communication needs.

⁴ 47 USC § 225 (1996)

VIII. DATA FILED WITH THE FUND ADMINISTRATOR TO SUPPORT PAYMENT CLAIMS

The Commission has entered rulemaking to strengthen its position of requiring specific data from VRS providers. Convo concurs with the Commission that the needed data will provide an efficient monitoring tool to ensure all calls are legitimate. The Commission suggests requiring the following items to be part of the call data record:

- (1) the call record ID sequence;
- (2) Communications Assistant ID;
- (3) session start and end times;
- (4) conversation start and end times;
- (5) incoming telephone number or IP address;
- (6) outbound telephone number or IP address;
- (7) total conversation minutes; and
- (8) total session minutes

Convo supports CSDVRS's recent comment that #5, "*incoming telephone number or IP address*", and #6, "*outbound telephone number or ip address*", be changed to this: "*..telephone number and IP address, if available*". Convo further submits that one additional detail should be added: username (if available.) Username typically is used in iChat, which Convo and one other VRS provider employs. Convo recommends that #5 and #6 to be modified to: "*..telephone number, IP address, and username, if available*". This would give a clearer picture of how the calls are processed.

Convo agrees with the Commission that providers must be required to reveal all necessary data in order to be compensated for the relay minutes, without exception. Providers should not require the FCC go to court to subpoena call data records from VRS providers.

IX. NEW AND EXISTING CALL CENTERS

Convo applauds the Commission for considering amending the TRS mandatory minimum standards to require a statement from providers, on a quarterly basis, detailing the name and address of each call center the provider owns or controls, the number of VRSCAs, and the name

and contact information of the VRSCA call center manager(s). The proposed amendment would also require quarterly reports of any changes that may occur within call centers. The required reporting would effectively make problematic any provider operations involving home-based VRSCAs. While this may serve to create higher VRS operating costs, the FCC can alleviate the problem through the process of granting and monitoring Provisional Certification processes. Convo believes that Provisional Certification would also make accountable those white-label companies as they will have to report themselves as part of being Provisionally Certified.

Such information will provide valuable insight for the FCC and offer an efficient tool for the FCC to monitor call centers that are operated by VRS providers. Convo fully supports the proposed approach via appropriate rule amendment(s).

X. WHITE-LABEL VRS PROVIDERS & REVENUE SHARING

Convo acknowledges that this is probably one of the significant problematic issues facing the VRS industry and appreciates the initiative taken by the Commission to put a closure to this issue. Convo is aware of the past petitions for rulemaking by GoAmerica and comments from SorensonVRS regarding white-label VRS providers.

However, Convo strongly believes the easiest solution to this is the Provisional Certification procedure. The Commission should set up a procedure for Provisional Certification (PC) whereby non-certified VRS providers or any company wishing to provide VRS services must apply for Provisional Certification from the FCC. The length of time a company would hold this provisional status can be for up to 5 years, and the performance and billing activities of such companies would be more closely scrutinized. If this certification procedure was added, VRS providers can only be eligible to submit reimbursement claims under one of two conditions: they are either a Certified Provider; or a Provisionally Certified Provider. Any domain name that provides online access to a VRS call platform under either of these two conditions implies that call centers cannot submit billable minutes pursuant to a separate contract with existing VRS provider to provide VRS.

An exception should be considered for multiple-domain names associated with a Certified Provider. The Commission should allow billing claim submittal as long as these multiple-domain names are fully operated, fully owned and run by the Certified Providers. The Commission needs to make it abundantly clear that this is not to allow start-up companies a short-cut to become a certified provider later on; those who wish to become a certified VRS provider must be required to first secure Provisional Certification. Those non-certified VRS providers formerly operating under a domain-name will then report directly to the FCC.

A suggested set of criteria to become a “Provisional“ VRS provider can be as follows:

- ◆ Provisional applicants must meet 47 C.F.R § 64.604 Mandatory Minimum Standards
 - ◆ Senior staff must be familiar with TRS regulations
 - ◆ CEO or Senior administrator must certify that the demand data and relay calls are developed and handled within FCC VRS regulations
 - ◆ Must own, operate, and manage a Call Center 24/7 and that their Call Center(s) must be rule compliant on the first day of being provisionally certified
- ◆ Applicant provider(s) report directly to the FCC on a more frequent or detailed basis
- ◆ Must own or lease a fully operational Automatic Call Distribution technical platform prior to going online
- ◆ If the Provisional Applicant fails to meet any of mandatory operational criteria, the FCC can suspend or deny formal certification and withhold further payments
- ◆ The FCC can terminate the provisional privileges any time if the FCC notes any illegal or similar wrongdoings by the PC provider
- ◆ Applicant providers have up to 5 years to demonstrate consistent compliance with all other TRS regulations and must have provided 50,000 minutes of service a month for a specific period (to be determined by the FCC) by end of their 5th provisional year to become fully-certified VRS providers

- ◆ If the Commission, upon review and under certain circumstances, determines that Provisionally Certified Provider fully conforms to the established criteria, it can formally certify such providers before the 5 year term is over

Provisional Certification application criteria and procedures will eliminate most, if not all, “fly-by-night” operators as well as those who have no intention of becoming certified VRS providers. The burden of meeting regulations will fall onto those providers and reduce the need for FCC policing of fully certified VRS providers on foundational issues. Reporting directly to the FCC will force Applicants for Provisional VRS Certification to assess their intentions and decide if they want to become certified VRS providers or not. The procedure also will enhance the capabilities of those companies that fully intend to become certified VRS providers.

The added benefit of Provisional Certification is that the start-up providers would not have to pay additional fees to Certified VRS providers that serve as a billing partner. Currently the fees vary from 7% upwards to 16% of the NECA rates based on total minutes generated by the white-label or contracted VRS provider. Additionally, those Provisionally Certified providers would be compensated at the NECA rates based on their actual call volume instead of being reimbursed at lowest compensation rates as certified VRS providers normally compensate themselves at the higher compensation rates, and the white-label or subcontract VRS providers gets the lowest tiered rate. A few VRS providers add a further condition on the billing partnership arrangement in that they require the non-certified provider use their technical platform, which can add a further cost of 15% to 25% of minutes generated by the white-label or contract VRS provider, for which they have to cover. This becomes an artificial cost as it adds a “service charge” to the cost of providing relay services unrelated to true operational expenses. The Provisional Certification procedure would enable providers to have extra funding as stated above and be in a better situation to survive the meager profit opportunities available for such a start-up VRS business, and better serve customers.

A Provisional Certification procedure is a “win-win” solution for all except those who intend to make a fast buck and leave. The procedure will maximize the effectiveness of the FCC in identifying issues that may be problematic for start-up providers and enhance the ability to regulate towards a competitive and product-innovative service delivery scheme. By having the Commission deal directly with Provisional Certification providers, scrutiny is much easier and effective. Also, by dealing with the FCC more closely and directly, it would discourage would-be nefarious providers who only want to ramp up minutes and make fast buck. It also would encourage potential VRS providers as they would be able to maximize their profit and re-route revenue to further refine essential tasks to help those companies strengthen their positions in the highly competitive world of VRS.

XI. TRANSPARENCY AND THE DISCLOSURE OF PROVIDER FINANCIAL AND CALL DATA

Convo is relatively new in VRS industry; nevertheless Convo has come to realize that full disclosure of provider financial and performance data to the public could be counter-productive in fostering the competitive edge of each VRS provider that is integral to their continued survival. Any full disclosure requirement may drive VRS providers to find loopholes in writing such disclosures on their own terms so as to efficiently camouflage the true import of the disclosed data.

However, Convo believes a partial disclosure to the public would be beneficial. The Interstate TRS Fund is ultimately paid by telephone users to which VRS providers owe at least a reporting obligation. Convo respectfully requests that the Commission limit the disclosure requirement to selected expenses and that these expenses should be reported as broad expense categories, so that the VRS providers might appropriately protect their proprietary and trade secret information so that genuine competition among providers can be fostered and flourish. In general, the public is not interested in details that are broken down into minutiae; rather, the public would be interested in seeing broad expense categories that are related to overarching

TRS access issues, such as the cost of outreach, R & D, regulatory compliance and administrative (i.e., iTRS Database) operational costs.

Convo submits that whatever the decision the Commission makes on the matter of financial and performance data disclosures, Convo will agree to, as long as all VRS providers are equally required to comply.

XII. PROVIDER AUDITS

Convo supports the Commission adopting audit rules to maximize the understanding of the Commission on the working operations of VRS providers. Convo posits that the Commission should at its discretion audit a provider whenever the Commission, for a variety of regulatory reasons, feels is necessary to address repeated incidences of minor violations or upon noting a pattern where submitted minutes are frequently withheld for non-payment. Convo, however, suggests that annual audits may be unnecessary. At the very least, VRS providers should be at least audited once every 5 years.

The Commission asks whether the FCC should perform the audit or contract out? Convo suggests that the Interstate TRS Fund Administrator should be the one to audit TRS provider. However, Convo suggests that the Request for Proposal for Interstate TRS Fund administrator needs to include a specific request for services requiring a demonstration of the skills and training of auditors and the specifications needs to be sufficiently in-depth as to ensure the Fund Administrator auditor is capable of providing an overall clear-cut analysis of how a TRS provider is financially operating, and using cost-based data when it submits its annual expense reports and cost/demand projections.

XIII. RECORD RETENTION

Convo retained its records in a digital format since its inception. The records contain all the necessary data that the regulations require. Convo supports the Commission's conclusion that the providers retain the data records for up to five years.

XIV. COMMENT ON “DIAL TONE”

FCC has frequently cited its view that a VRSCA connection as conceptually and procedurally treated as if the connection is equivalent to a hearing person receiving a “dial tone”. Convo acknowledges that VRSCAs should be available 24 hours and 7 days a week, and in general be a “transparent conduit”. However, Convo wishes to remind the Commission that a VRSCA nevertheless is a person and there will be instances where a “dial tone” stance may be problematic. Convo recognizes that there is a unique communication role-based relationship between a deaf or hard-of-hearing and VRSCAs is unique and simply cannot be ignored.

One instance of a problematic situation is where a VRSCA actually sees physical abuse on their monitor, perhaps of a father hitting a little boy and causing a nose bleed. Many state laws do not exempt even lawyers, doctors, or priests from being mandatory child abuse reporters. Convo is of the strong opinion that this obligation should apply to VRSCAs as well. VRS has introduced a visual connection that cannot be easily explained away. In situations involving other VRS calls where there are no visual abuse, but perhaps there is a conversation where there is a discussion of physically hurting their children (perhaps as a form of punishment), such calls should not be reported simply because the parties may be joking. The act of actually witnessing physical abuse is not same as hearing about it through a “conversation”.

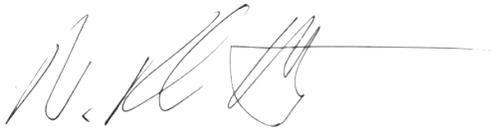
Convo suggests that the FCC revisits this issue and release a Notice of Rulemaking on the role of VRSCAs in situations involving physical abuse which acknowledge that VRSCAs are persons who cannot simply shut out traumatic working experiences because VRSCAs are deemed to be “dial tones”.

XV. FINAL STATEMENT

Convo appreciates the Commission for an opportunity to submit its comments since whatever the Commission decides will have a far-reaching impact on the lives of deaf and hard-of-hearing persons. Convo is comfortable with its comments as the Convo Team feels the comments are in

line with its corporate vision to provide quality services for VRS users as well as to actively participate in enabling a regulatory environment of fair rules and honest competition.

Respectfully Submitted,



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