

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

In the Matter of)
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)
Structure and Practices of the Video Relay) CG Docket No. 10-51
Service Program)
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REPLY COMMENT OF SNAP TELECOMMUNICATIONS, INC.

Snap Telecommunications, Inc. (“Snap!VRS” or “Snap”) replies to the comments filed by a coalition of relay consumer organizations (“comments of Consumer Groups”)¹ in response to the Commission’s Notice of Inquiry (“Notice”)² which poses broad questions regarding the structure and compensation of Video Relay Services (“VRS”).

Snap recognizes that the Americans with Disabilities Act (“ADA”)³ is a consumer-driven law, the handiwork of a massive effort by the disability community in information gathering, drafting, legislating, and campaigning, and subsequent to its enactment, their vigorous push and guidance on its implementing regulations, administration and effectuation.⁴ Title IV of the ADA⁵ is an astutely forward-looking conception by disability advocates in which interstate telecommunications relay is collectively funded by common carriers and service by a subset of

¹ *Structure and Practices of the Video Relay Service Program*, Comments of Telecommunications for the Deaf and Hard of Hearing, Association of Late-Deafened Adults, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, and the American Association of the Deaf-Blind, CG Docket No. 10-51 (filed August 18, 2010).

² *Structure and Practices of the Video Relay Service Program*, Notice of Inquiry, CG Docket No. 10-51 (rel. June 28, 2010).

³ Pub. L. No 101-336, 104 Stat. 327, 42 U. S. C. §12101 *et seq.*, July 26, 1990.

⁴ *See, e.g., Equality of Opportunity: The Making of the Americans with Disabilities Act*, National Council on Disability (reissued 2010).

⁵ Codified at 47 U.S.C. § 225 of the Communications Act of 1934, as amended.

providers enabled, thereby incentivizing entities within the private sector to competitively accomplish the civil right to “functionally equivalent” telecommunications. Thus Snap deemed it critical, following the opportunity created by the Commission’s Notice, to understand the views of consumers about their current experience in using VRS and their guidance about progress towards fulfilling the telecommunication mandates of the ADA.

Snap supports the comments of Consumer Groups as a fundamental framework for considering the future of the VRS program and concurs that their comments should serve as a “roadmap” to guide policy making and the services of VRS providers.

Snap absolutely agrees with the Consumer Groups’ comment that the ADA’s mandate of functional equivalency must serve as the leading standard for assessing any action considered, proposed or taken with respect to VRS. While VRS has been rightfully described by the Commission and relay stakeholders as a transforming act in furthering telecommunications access, Snap is of the view that the reality of VRS users in that their experience is far, far, far short of what hearing people are accustomed to and expect in their use of telecommunications is not sufficiently captured or addressed at the policy level. Regardless of the VRS provider involved, instances of deaf and hearing people prematurely terminating their VRS calls occur every day because the communication was not effective or fluid enough. While it is wonderful that deaf people can now order pizza using VRS (if the vendor doesn’t hang up on the caller that is), it should be a high degree of concern and point of active discussion that more complex phone conversations between, among others, employees and their work colleagues, professionals with their clients, students with their instructors, constituents with their governmental offices and patrons with businesses, regularly get derailed by linguistic, technical and operational issues. The inferior and frustrating experience with telecommunicating with hearing people has caused many

deaf people to shy away from using VRS as a yet to be consistently reliable way to conduct their activities and meaningfully participate in society. Consumer groups are correct in commenting that it is not appropriate to expect that the random assignment of video interpreters will satisfactorily serve the needs of VRS users on every call.⁶ The percentage of VRS calls originated by hearing people is astonishingly very small, why is that?

The Commission duly sought in its Notice existing data about current and potential VRS users (which unfortunately is sparse and barely relevant) and started to examine how relay can be made accessible for deaf-blind consumers. Yet there is a universe of underserved individuals which has long been known about but for whom very little action has been taken to address and resolve barriers to their inclusion in telecommunications. For example, a significant number of deaf people are primarily ASL-users and have varying degrees of English proficiency, which often makes it difficult to communicate effectively and fluidly with interpreters who are primarily English-users except when sign language interpreting. As a result, an unacceptably high number of deaf people decline to use VRS due to linguistic incompatibility, swollen by the ranks of similarly VRS-disenfranchised deaf people because they are elderly, low-income, in rural areas, have multiple disabilities or experience other issues of which the current level of technology and service are not enabled to address. Applying a functional equivalence assessment would result in solutions consistent with the requirements of the ADA and are supported by TRS policy and compensation rates.

Consumer Groups in their comments provide some intimation of the technology and service enhancements which would enable forward progress towards the functional equivalency

⁶ Comments of Consumer Groups at 22-23. The comments filed by the Registry of Interpreters of the Deaf in response to the Notice (August 18, 2010) also recognizes the less than consistent quality service currently experienced by VRS users and deems it “not sufficient for consumer needs.”

standard. However, Snap is of the view that the current compensation rate is barely sustainable for at least the majority of providers to merely maintain existing technology and services with little or no capacity to innovate and open up VRS, but when combined with continued withholdings of compensation subject to some indeterminate review process and long-overdue reimbursements of business expenses, actually poses a significant risk of providers going out of business and regressing competition and consumer choices. The preponderance of discussion in the Notice regarding the cost structure of VRS and the alignment of the timeline of the proceeding with the next TRS rate cycle significantly heightens the concern about a continued emphasis on managing the TRS Fund at the expense of concentrating on the actions necessary to close the gap to functional equivalency.

Snap fully supports the Consumer Groups' call for the Commission to maintain the current tiered compensation approach (which must reflect the real costs of providing VRS⁷) as the best balance between a VRS program which enables forward progress in services and related products and at the same time preserves a sustainable TRS Fund. Snap is committed to further dialogue about refinements such as a price cap methodology to increase efficiencies for the benefit of the public and the Fund. Snap finds the comments of Consumer Groups to contain recommendations, which if implemented, will do much in driving down the costs of VRS to the TRS Fund, such as more stringent certification requirements, eliminating white label providers, allowing iTRS telephone numbers for hearing people who use ASL, utilizing price caps and requiring equipment interoperability.

Snap joins Consumer Groups in **strongly opposing** the use of competitive bidding, rate-of-return, reverse auctions, "true-up" and other proposed regulatory regimes driven by a focus on

⁷ See, e.g., *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Comments of Snap Telecommunications, Inc. on the proposed 2010 rates, CG Docket No. 03-123 (May 14, 2010).

reducing the cost of VRS without clarity about their impact on relay consumers. Snap submits that the concept of “competitive bidding” has proven to be a failed model for state TRS programs, resulting in little real competition, minimal relay service features and offerings, low-paid and poorly trained TRS communication assistants, zero innovation or progress in service and related products and inadequate outreach to include their citizens, both deaf and hearing, in relay. Snap further observes that a great number of deaf people had already stopped using TRS or were transitioning away from TRS even before VRS became a favored option due to the failure of state TRS programs to keep pace with their telecommunication needs. Snap particularly concurs with the Consumer Group’s **strong opposition** to reverse auctions, which Snap regards as largely a discarded vestige of a burst entrepreneurial era which would serve to lock in a select-few providers predominantly with little incentive to do more than the minimum for relay consumers and serving as an effective bar for new entrants and competition, to the great detriment of fulfilling consumers’ ADA right to accessible telecommunications. Snap is of the view that programmatic cost-reducing measures including those proposed by the Consumer Groups should be implemented and their effectiveness assessed before resorting to radical competitive changes in which any cost saving returns on the TRS Fund have the real risk of being drastically outweighed by the economic costs to our Nation if deaf and hard of hearing people are consigned to second-class citizenship by a shortchanged VRS program which fails to fully include them in opportunities created by accessible telecommunications.

Given that the issues being considered in the Notice have the ability to affect several generations of deaf people, Snap is of the view that structured dialogue among stakeholders is needed. The Commission should make use of the comments of Consumer Groups as a “roadmap” on future TRS policy and foster stakeholder collaboration to help chart the precise

path. Snap would like the opportunity to collectively and collaboratively dialogue about the issues raised in the Notice with the Commission, Consumer Groups and stakeholders. There are several proposals made in the comments by the Consumer Groups which Snap has previously taken a position on in other FCC proceedings⁸ and desire to discuss further with them and others about possible differences and refinements, including those pertaining to provisional certification, equipment portability and vouchers.

In developing its National Broadband Plan, the Commission has successfully employed public discourse methods in including diverse stakeholders, facilitating their collaborations, and incorporating their overarching concepts and consensus views. Snap looks forward to the same opportunity here, and would not object if the careful consideration and discussion of the policy issues spills into the next rate cycle before being settled and the new rules implemented. We join the disability community in regarding that in matters concerning the ADA, it's most important to ensure that we get it right, for the lives of Americans with disabilities depend on it.

Respectfully submitted,

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⁸ See, e.g., *Structure and Practices of the Video Relay Service Program*, Comments of Snap Telecommunications Inc. in response to the Commission's Notice of Proposed Rulemaking, CG Docket No. 10-51 (July 22, 2010).