

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

In the Matter of )  
 )  
Structure and Practices of the Video Relay ) CG Docket No. 10-51  
Service Program )  
 )

**REPLY COMMENTS BY PAH! VRS AND INTERPRETEL LLC REGARDING FEDERAL  
COMMUNICATIONS COMMISSION 47 CFR PART 64, CG DOCKET 10-51,  
PROPOSED RULE, PUBLISHED IN THE FEDERAL REGISTER, 75 FR 51735 AUGUST  
23, 2010**

**Dated: September 16, 2010**

By PAH! VRS and Interpretel LLC :

**Regarding Federal Communications Commission 47 CFR Part 64, CG Docket 10-51,  
Proposed Rule, published in the Federal Register, 75 FR 51735 August 23, 2010**

The Companies are encouraged to see the comments of groups representing VRS consumers and the RID as well as those of other VRS providers that serve to further the ongoing conversation regarding the future of the Video Relay Service Program. Careful consideration of the issues facing the Commission, the Companies, other VRS providers and Consumers will continue to ensure the legitimacy, integrity and continued growth and development of this critical advancement in communications access.

It is important that consideration of issues facing Commission, VRS consumers and the VRS industry (as well as the TRS industry as a whole) are approached with an understanding that there is no “one size fits all” solution for VRS or TRS.<sup>1</sup> Participants in this discourse need to ensure that rules that are enacted squarely address these issues with regard given to the needs and concerns of all participants. Strong and clear rules coupled with a vigorous monitoring and

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<sup>1</sup> Proceeding 10-51, Comments of the Consumer Groups 8/19/2010

compliance program on the part of both the industry providers and the FCC, along with a strong whistleblower policy to ensure that misconduct is confronted where it may arise, are the simplest and best way to address the issues that have faced the VRS industry.

The Companies strongly agree with the Consumer Groups that “*The Americans with Disabilities Act... fundamentally changed the communications landscape by requiring the Commission to ensure that deaf, hard of hearing, deaf-blind and speech-disabled individuals have nationwide access to the telephone system and network through the provision of ‘functionally equivalent’ services.*”<sup>2</sup> The Commission, consumers, and providers should not lose sight of the fact that the overwhelming majority of people, companies and calls that have functioned under this mandate have done so in complete accordance with the intent of the program and compliance with the spirit and the letter of the regulations promulgated for its governance. We also should not lose sight of the incredible impact the VRS program has had on so many, including the hearing consumers who benefit from this service. At the same time, we should not be so complacent to think that what is provided today is adequate or sufficient. As VRS usage has dramatically grown as compared to the primitive text-based relay, we should expect to continue to see dramatic growth as VRS moves closer and closer to functional equivalency. Both the consumer groups and RID outlined a number of ways that the current form of VRS remains inefficient and not as effective as it could be. The Companies agree with the Consumer Groups and RID that there are still numerous ways that the provision of VRS can be improved and thus draw nearer to achieving functional equivalency.

As the Consumer Groups so clearly state, “*functional equivalency is the standard by which every action proposed or taken by the Commission and VRS providers should be assessed. Assessments should be routinely, periodically, and proactively made to determine the impact of an action on*

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<sup>2</sup> Proceeding 10-51, Comments of the Consumer Groups, 9/08/10

*functional equivalency, whether an action will move us towards or improve functional equivalency, and what technology, equipment, or service needs to be developed or can be provided to achieve greater functional equivalency.”*<sup>3</sup> The Companies wholeheartedly agree; the Commission and providers must continue to ensure that any rules that are implemented protect the integrity of the fund, and do not unnecessarily restrict the ability for continued advancement and innovation within the industry.

With this overarching principal as guidance the Companies strongly agree with the RID’s, Purple’s, and AT&T’s comments in support of CAs working remotely, so long as they work under strict guidelines. The Companies note, however, that this exchange of information shows that there still remain some gross misconceptions regarding both the technology and processes that are used to ensure that remote CAs are working at a minimum at the same level as those interpreters in call centers and in some cases exceed what those in call centers can accomplish. As RID notes, so long as such remote CAs work “*under strict guidelines and protocols, the pool of qualified interpreters expands greatly to meet the growing demand for VRS. The practice has worked well in other industries, and with technological advances, regulatory adherence and oversight by management, it could benefit consumers by expanding options to allow interpreters to stay in local community areas and still be able to share their skills within both the community and VRS.*”<sup>4</sup> Furthermore, much like AT&T, the Companies are “*unaware that interpreters working from home are any less qualified or capable than an interpreter in a call center or have failed to maintain the privacy of VRS calls.*”<sup>5</sup>

The RID states, however, that they “*look forward to the day when regulations and protocols are established to allow home offices to provide efficient and effective services in safe, confidential*

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<sup>3</sup> Proceeding 10-51, Comments of the Consumer Groups, 9/08/10

<sup>4</sup> Proceeding 10-51, Comments of the RID, 9/08/10

<sup>5</sup> Proceeding 10-51, Comments of AT&T, 9/08/10

*and supportive work environments.*” The technology, processes and procedures necessary for full compliance at the remote CA level are in place today and are being used. These have repeatedly shown to be completely satisfactory, meeting and exceeding both functional equivalence and confidentiality requirements when compared to centralized call centers.

Furthermore, the RID states that they are opposed to having E911 calls processed by remote interpreters, as they work alone and do not have support to assure prompt and effective service. This is not the case. Where providers use correct systems and have the correct processes in place for remote CAs, such CAs provide service levels equal to those provided by centralized call centers. As has been demonstrated in practice on a consistent basis, the remote interpreter has the ability to be continuously in touch with their supervisor and other interpreters through several mediums, text message and company supported instant messaging systems being the two most widely used. With the use of automated systems for E911 call handling the caller and interpreter will not experience any difference in call processing or response time.

AT&T has succinctly commented on the remote CA issue. They have a complete understanding of the issues and what it takes to effectively administer remote interpreters. The Companies fully support the position AT&T has taken in this regard.

The Companies agree with Purple’s suggestions regarding safeguard requirements for a virtual call center: *“(1) physical privacy to prevent visual and auditory interruptions; (2) the technical ability to automatically transfer calls in progress; (3) automated versus manual billing tabulation of handled minutes; (4) minimum broadband speeds sufficient for video quality; (5) technical guards against video interpreters calling their own work stations using an outside telephone line;*

*and (6) remote visual and audio supervision capability.*<sup>6</sup> The Companies disagree with Purple regarding the definition of each remote location as a call center. As is the practice today, each remote call center is considered a call center location with its own unique call center ID.

Processes have been established that allow for a complete call detail review for each call center thereby minimizing the potential for anomalous calling.

On the other hand, both Hamilton and Sorenson support the restriction of remote CAs but offer no facts to back up their assertions that remote CAs have been problematic or have perpetuated fraud in the industry. Hamilton assumes (incorrectly) that remote CAs work without supervision, and cites confidentiality concerns. As the Companies pointed out in our response to the NPRM<sup>7</sup>, we support the requirement for remote visual and audio supervision. This capability is available today and is in active use by a number of VRS providers. Furthermore, experience has shown that, properly established and monitored, a remote call center is more secure and can maintain a higher confidentiality level than the environment in a call center where there are interpreters adjacent to each other. In some instances, their assertion that liberalizing the workplace would eliminate fraud is not germane since it has been shown that the highest level of fraud was committed in call centers. Fraud can only be prevalent if the company culture allows it.

Additionally, Sorenson's comments are based on a number of assumptions that apparently disregard any knowledge of the principles, procedures, and technologies used by VRS providers today for virtual call centers or remote CAs. Whether this reflects an actual lack of knowledge, or a desire to promote regulation that impedes other providers at the expense of competition in the market, innovation and the benefits that advances in industry practices and technology can and do bring to VRS consumers and CAs is not for the Companies to say. The Companies do assert,

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<sup>6</sup> Proceeding 10-51, Comments Purple, 9/08/10

<sup>7</sup> Proceeding 10-51, Comments of Interpretel, et al, 9/08/10

however, that such assumptions, and the conclusions reached on their basis, are factually incorrect.

For example, the statement that *“if a VI is handling calls in her home, the provider cannot ensure that a family member or a refrigerator repairman will not interrupt or overhear those calls”*<sup>8</sup> neglects to acknowledge that remote CAs are required to perform all interpreting in a private, locked room away from all household activity. The Companies believe that the interpreting service provided in such a locked room is as private, if not more so, than the interpreting conducted in a large call center, where calls can be overheard by other CAs staff, or call center maintenance personnel.

Similarly, it is stated that *“when working at home, VIs themselves often record compensable minutes through unreliable, hand-written notations of start and stop times instead of using automated means.”*<sup>9</sup> This is far from current practice. The recording of compensable minutes, whether handled by a CA in a call center or a CA working remotely, is done electronically. There is no reason for a CA to need to record minutes by hand as long as the VRS provider has provided systems that meet current best practices. The Companies are unclear as to why Sorenson would conclude that such practice is any different remotely than it is in a call center, and must conclude that the practices currently employed by a provider making such a comment are either inaccurate or not up to date.

The statement is also made that *“home work environments... may lose power during outages or as a result of disasters.”*<sup>10</sup> The Companies noted in their NPRM comment<sup>11</sup> that remote CAs are

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<sup>8</sup> Proceeding 10-51, Comments of Sorenson, 9/08/10

<sup>9</sup> Proceeding 10-51, Comments of Sorenson, 9/08/10

<sup>10</sup> Proceeding 10-51, Comments of Sorenson, 9/08/10

<sup>11</sup> Proceeding 10-51, Comments of Interpretel, et al, 9/08/10

required to use uninterruptable power supplies with their equipment, mirroring the practices employed in well-run call centers. Furthermore, it is important to point out that virtual CAs implicitly provide increased redundancy: if one remote CA were to have a problem (due to a localized issue), numerous other CAs in other locations would be available for backup coverage, and would not necessarily be effected by the same issue. A similar issue facing a centralized call center, however, has the potential to remove a large number of CAs from service without the same sort of inherent redundancy.

It is further asserted that *"in some instances a routine VRS call can transform into an emergency call. For example, if a deaf caller suddenly experiences sharp pain in his chest during a routine in-progress VRS call, he may ask the VI to connect to 911."* This statement is factually incorrect and without basis; with the proper systems and procedures, there is no reason that remote CAs can not provide this service in the same manner as CAs in a centralized call center.

Finally, flawed logic is used to intimate that remote CAs are somehow more tempted to generate fraudulent minutes than other CAs: *"When an interpreter works from home... the provider cannot readily track on-the-job hours. Instead, the provider can (at best) track only the number of compensable minutes relayed by the at-home interpreter. In this circumstance, it would make sense for the provider to pay interpreters on a per compensable-minute basis, rather than a per-hour-worked basis."*<sup>12</sup> This is a thinly veiled attempt to disparage honest, hard-working, remote CAs, for no apparent purpose other than to privilege one business model over another, and without any specific regard or relation to the issues at hand, while further suggesting that the commenter's understanding of best practices and procedures, and the current technology employed by many providers to prohibit such abuse, is at best flawed. Regardless of any such assertion, remote CAs can indeed, and do, track on-the-job hours. The Companies reiterate their

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<sup>12</sup> Proceeding 10-51, Comments of Sorenson, 9/08/10

support<sup>13</sup> for compensating CAs on an hours-worked basis and not by a compensable-minutes basis.

The Companies respect the comments of AT&T, Purple and Sorenson regarding call centers outside the United States. The Companies are confident that, with respect to the question of whether this rule would violate any existing laws or treaties, the Commission will be able to make that determination. The remaining question that would seem to be most compelling as a valid rationale for this rule is to protect the Federal Government's ability to pursue action against call center managers and interpreters in foreign countries. Recent fraud investigations have been effective as charges have been filed at every level of industry involvement, from the heads of a VRS company to the consumer level. The knowledge of this level of oversight has had the effect that it is now less likely that individuals will perpetrate fraud upon the TRS fund. Locating call centers beyond the reach of the U.S. government's reach could, however, open the door to a fresh influx of abusive and fraudulent behavior. It is for this reason that the Companies continue to believe that call centers should be located in the U.S. but that there should be a process through which providers could petition to establish a call center outside of the U.S. by sufficiently demonstrating the need for this, how a U.S. call center is inadequate for fulfilling this and how the protections can be put in place to ensure complete compliance with all TRS rules and the Mandatory Minimum Standards.

The Companies wish to reiterate VRS consumers' right to utilize a variety of functionally equivalent features, including the ability to "put themselves on hold" by using a privacy screen. At the same time, as this is a service being rendered at no cost to the consumer, there should be reasonable limits placed on this practice for the benefit of both providers and consumers as a whole. As long as all parties, especially consumers, are well aware of the limits that are in place,

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<sup>13</sup> Proceeding 10-51, Comments of Interpretel, et al, 9/08/10

fair and consistent practices will allow for maximum consumer freedom while limiting the potential for fraudulent use. The Companies have put forth a proposal to allow CAs to terminate a call after 2 minutes of inactivity, while providing them the discretion to keep the call running if there is a reasonable cause to do so. We also put forth the suggestion of a “hard stop” at 5 minutes regardless of circumstance that would ensure that consistency is maintained and would minimize the impact on the TRS fund of such “on hold” calls.<sup>14</sup>

The Companies are on record as being fully in support of whistleblower protection measures being set forth for the entire VRS industry<sup>15</sup>. Such measures, combined with clear rules and vigorous monitoring for compliance by both providers and the FCC, will establish a clear message that fraud and abuse of the TRS fund will not be tolerated. The Companies firmly agree with RID’s recommendations regarding this issue, in which they state “that the FCC make available any such Whistleblower rule in clear language to assure that all CAs have a thorough understanding of their rights and responsibilities,” as well as the RID’s further recommendation that the Commission “disseminate this information to the CAs through both the provider companies that they work for and through RID, their professional association. This will assure that information will be shared with current, past and future CAs.”<sup>16</sup>

The Companies finally wish to augment the responses of a number of commenters, including TDI et al as well as AT&T, in addressing those issues related to provider certification. The Companies support their call for the Commission to process certification applications in a timely fashion, provided adequate supporting documentation of an applicant’s ability to meet the Mandatory Minimum Standards is provided.

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<sup>14</sup> Proceeding 10-51, Comments of Interpretel, et al, 9/08/10

<sup>15</sup> Proceeding 10-51, Comments of Interpretel, et al, 9/08/10

<sup>16</sup> Proceeding 10-51, Comments of the RID, 9/08/10

The Companies continue to welcome the opportunity provided by the Commission's recent requests for comments and other actions that have furthered the discussion of how to best move the VRS (and TRS) industries forward. We recognize the efforts of the Commission to address the concerns that have arisen during the growth of this highly valued and valuable service. At the same time, we reiterate that the Commission's focus in going forward should be on the considerable advances that have been made over the past decade and look forward with excitement to the industry's future. The growth in VRS use is an absolute testament to the extent that VRS is the method of communication that to date most closely achieves functional equivalency for its users, when compared to the TRS offerings of the past.

Major steps to minimizing fraud and abuse of the TRS fund have been taken by identifying types of fraud that have been committed in the past and aggressively sanctioning individuals who were responsible for perpetrating such fraud and abuse. As such individuals are removed, the overwhelming majority of providers and individuals associated with VRS take pride in doing so and relish the opportunity to provide such a meaningful service to those whom telecommunications has left behind for many years.

The evolution of the VRS industry should continue to follow the clear path it has of late. The establishment of clear rules with respect to what types of calls can and cannot be processed is critical. The proposed rules with regard to privacy screens and international calls are a part of this process and the Companies look forward to addressing more of these substantive and immediate issues over the coming months. Implementing a whistleblower program that ensures all individuals associated with the industry can report and identify questionable practices and investing in monitoring and compliance of all providers ultimately will serve as an efficient way to identify areas of concern that may warrant deeper investigation. Finally, the Commission and the industry need to commit themselves to rigorous monitoring and compliance efforts to ensure

that everyone associated with the industry knows that such fraud and abuse will not be tolerated or even accepted. By combining such clear regulation with clear support of advances in technology and best practices, the Commission, providers and consumers can continue to strive to make the VRS industry ever more functionally equivalent and efficient, while providing the best quality of service possible.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted this 16<sup>th</sup> day of September, 2010,

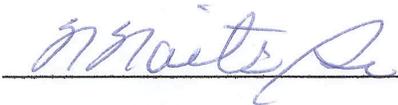
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