Foreign Affairs and
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SEP - 8 2010

Federal Communications Commission
Office of the Secretary

September 7, 2010

Office of the Secretary
Federal Communications Commissions
445 12th Street SW
Washington DC 20554

To whom it may concern:

Kindly refer to the attached document for the Government of Canada's comments regarding Docket No. 10-51 and 03-123.

Sincerely,

Sean Clark
Second Secretary
Embassy of Canada

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SEP - 8 2010

Federal Communications Commission
Office of the Secretary

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

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

Comments of the Government of Canada

Introduction:

The Government of Canada welcomes the opportunity to Comment on the Federal Communications Commissions' (FCC) Federal Register notice of proposed rulemaking, dated August 23, 2010, concerning the structure and practices of the video relay service program.

In *Structure and Practices of the Video Relay Service Program*, Notice of Proposed Rulemaking (*2010 VRS Reform NPRM*), document FCC 10-88, adopted on May 24, 2010 and released on May 27, 2010, in CG Docket No. 10-51, the FCC proposed several rulemakings to amend its rules to detect and prevent fraud following concerns of alleged misuse in the provision of Video Relay Services (VRS) and in the billing of the Telecommunication Relay Service Fund (TRS Fund). One of the proposed rulemakings in the *2010 VRS Reform NPRM* is to amend FCC rules to require that all VRS call centers be located in the United States. The proposed rule is intended to address concerns that:

- VRS providers may not find qualified American Sign Language (ASL) interpreters to staff foreign-based call centers, and

- foreign-based VRS call centers may lack appropriate supervision and otherwise not operate in compliance with the FCC's rules, and that these call centers may be (or have been) a source of fraud and or otherwise may not be handling legitimate VRS calls.

Sorenson Communications Inc.(Sorenson), a United States-based private company, has invested in operations in Canada to provide VRS services to customers located in the United States on a cross-border basis. Sorenson has invested in 8 VRS call centers in Canada which employ over 300 people.

Canada's Comments:

Canada recognizes the need for the FCC to address the issues of fraud and misuse in the provision of VRS and in the billing of the TRS Fund. However, Canada is concerned that the proposed rulemaking in the *2010 VRS Reform NPRM* to require all call centers to be located in the United States is not necessary and overly trade restrictive as there are other means to fulfill its objectives.

The *2010 VRS Reform NPRM* raises concerns that the VRS providers may not be able to find qualified ASL interpreters to staff the call centers outside of the United States and that these call centers may not be adequately supervised. However, the *2010 VRS Reform NPRM* also notes that there are approximately 600 members of the Association of Visual Language Interpreters of Canada (AVLIC), whose working languages are English and ASL. Furthermore, VRS call centers located in Canada require the interpreters and the supervisory staff to maintain membership in either the Registry of Interpreters for the Deaf (RID) or AVLIC, both of which have strict guidelines on membership criteria and adhere to a Code of Ethics & Guidelines for Professional Conduct.

With respect to the FCC's concern over fraud, it is Canada's understanding that none of the fraudulent practices that have occurred with respect to the provision of VRS in the United States were undertaken by Sorenson's Canadian operations. Consequently, it is Canada's view that the suppositions that foreign-based call centers, as it applies to the Canadian call centers, are inadequately staffed and supervised, and may be the source of fraud, are without merit.

Furthermore, Canada notes that the FCC has existing means to detect and prevent fraudulent practices, including the ability to ensure that providers of VRS submit to audits, regardless of the location of the VRS call center. The *2010 VRS Reform NPRM* includes a *Declaratory Ruling* that clarifies the authorities of the FCC and the TRS administrator to examine, verify and audit data received from TRS providers as necessary to ensure the accuracy and integrity of TRS Fund payments. To ensure compliance, the *Declaratory Ruling* notes that the TRS Fund administrator may suspend or delay payments to TRS providers that do not provide verification of payment upon request, or authorize the FCC to withhold payments from TRS providers who do not submit to these audits. The *2010 VRS Reform NPRM* also includes an *Order* to require the Chief Executive Office, the Chief Financial Office, or some other senior executive, to certify under penalty of perjury the accuracy of: the minutes submitted for compensation to the TRS Fund; other historical, projected and state rate related information reasonably requested by the TRS Fund administrator; and information included in the yearly submission forms, including information requested on the Relay Services Data Request

Form. It is Canada's view that the location of the VRS call center would not detract from the authorities of the FCC or the TRS Fund administrator to detect and prevent fraudulent activity. In particular, Canada considers the authority of the FCC and TRS Fund administrator to withhold payments from VRS call centers that do not cooperate to be an effective incentive for VRS call centers, whether United States-based or foreign-based, to comply with the FCC's measures.

At this time, the only market for VRS for the interpretation of ASL is the United States as VRS is not yet available in Canada and, as recognized by the FCC in the *2010 VRS Reform NPRM,* ASL is not the form of sign language generally used in countries outside of North America. Furthermore, as the compensation for VRS in the United States is managed through the TRS Fund at no direct cost to users of VRS, there is also no alternative market for VRS call centers in the United States. Consequently, preventing VRS call centers in Canada from accessing the TRS Fund by adopting the proposed rule to require all call centers to be located in the United States will result in the closure of Sorenson's Canadian-based VRS call centers and the loss of employment for Sorenson's Canadian-based staff as there are no opportunities to shift its services to an alternative market.

It is Canada's view that Chapter 12 of the North American Free Trade Agreement (NAFTA) obliges the Government of the United States to treat Canadian-based service providers, including those providing interpretation services through a VRS call center, no less favourably than United States-based service providers. In this regard, a measure that in effect requires a service provider to be located in the United States to provide services, such as the one proposed in the *2010 VRS Reform NPRM*, would appear to be in contravention of the United States' obligations under the NAFTA. With this comment, Canada seeks to ensure that the FCC's Telecommunications Relay Service Program will not impose unnecessary obstacles to international trade and that this program is implemented in a manner consistent with the international treaty obligations of the United States under the Cross-Border Trade in Services chapter of the NAFTA.

Conclusion:

Canada understands the importance for the FCC to take measures to ensure that VRS operate efficiently and to prevent fraudulent activity from undermining the high quality services offered to customers. However, Canada urges the FCC to reconsider its proposed rulemaking in the *2010 VRS Reform NPRM* to require all call centers to be located in the United States as it has other, less trade restrictive means available to it to fulfill its objectives, such as its broad authorities to audit call centers and the requirement of certification of information by senior executives under penalty of perjury.