

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

COMMENTS OF SNAP TELECOMMUNICATIONS, INC.

Snap Telecommunications, Inc. (“Snap!VRS”) hereby submits its comments in response to the Future Notice of Proposed Rulemaking (“FNPRM”) released on April 6, 2011 by the Federal Communications Commission (“FCC” or “Commission”). Specifically, the Commission requested comment on proposed modifications to its certification process for all Internet-based relay providers, including VRS providers.¹

I. Certification Eligibility Solely Through The Commission

The Commission seeks comment on a number of proposed modifications to its certification process for all Internet-based relay providers, including VRS providers, to ensure that all entities seeking certification in the future – or currently currently certified entities seeking re-certification – are fully qualified to provide Internet-based relay service in compliance with its rules and requirements, to reduce waste, fraud and abuse, and improve oversight.

Whereas in the past, a TRS entity was considered to be “certified if that entity is under contract with a certified state TRS program, under contract with an interstate common carrier, an interstate common carrier, or is state-certified.”

¹ FCC Report and Order and Further Notice of Proposed Rulemaking, CG Docket 10-51, ¶ 95 (rel. April 6, 2011).

Under the proposed changes, the Commission would become the *sole* government agency in the U.S. with the power to grant certification to Internet-based TRS providers. Further, payment to such providers would be clearly linked to FCC certification status.

Snap!VRS strongly agrees that the Commission must have *exclusive* regulatory responsibility to certify Internet-based TRS providers as being eligible to collect from the TRS Fund. Snap!VRS also strongly agrees that the Commission must exercise critically needed regulatory and procedural oversight – with an eye to effectiveness, consistency and transparency – for optimal provision of quality Internet-based TRS services by FCC certified providers.

Snap!VRS further believes the proposed regulatory and enforcement actions with respect to certification will effectively address an infrastructure that has long been vulnerable to waste, fraud and abuse, which the Commission states has “plagued the current program and threatened its long-term sustainability”. Snap!VRS is passionate in the belief that there must be one set and one set only of standards and regulations. Snap!VRS therefore urges the Commission to ensure that there are absolutely *no exceptions and that these proposed actions occur as soon as possible*.

Snap!VRS applauds the Commission’s efforts toward VRS regulatory reform, consistency and transparency, and will continue to provide the same highly ethical and superior VRS services for which it is known.

II. Clear, Uniform and Transparent Certification Requirements

The Commission proposes that all providers not already certified by the FCC be required to apply for FCC certification to provide Internet-based TRS.

Snap!VRS believes that all providers must adhere to clear, uniform and transparent qualifying criteria to be considered for certification as an Internet-based TRS provider by the Commission.

Snap!VRS therefore supports the Commission’s proposal requiring all providers not already certified by the Commission be required to apply for FCC certification to provide Internet-based TRS.

Snap!VRS agrees with the Commission’s proposal to require specific, documentary evidence of an applicant’s ability to comply with rules governing the qualifications of CAs including speed of answer,

facility redundancy to ensure continuance of Internet-based TRS, and other operational and technical standards to assure provision of services that are functionally equivalent to voice telephone services, rather than assertions, promises or limited testimonials of the applicant's qualifications and capabilities.

In addition, Snap!VRS believes the certification process should include provision of relevant information on the company's key leadership with focus on functional accountabilities; call center and related operating procedures, metrics and controls; quantity of full- and part-time personnel within each functional area; and compliance policies and training processes.

Further, Snap!VRS does not believe that investor, employer, legal or related contractual data are necessarily indicative of the ability of TRS applicants to adhere to operational, technical, and functional standards as required by the Commission. Snap!VRS would rather see the Commission focus on defining the parameters of its regulatory oversight and enforcement processes in order to achieve VRS reform, effectiveness, consistency, and transparency – instead of delving into the details of decision making matters routinely handled by VRS providers such as: [1] the number, location, size or type of VRS call center facilities the company plans to use, [2] the brand identity it may choose to associate with its products or services, [3] the technologies or customer premises equipment in which it decides to invest and deploy, [4] how it chooses to service, market or outreach to its customers, or [5] other operating, financial, technical and functional decisions so long as VRS providers engage in such activities that are in full compliance with the Commission's rules and regulations.

Snap!VRS, therefore, is of the opinion that requiring existing certified TRS providers to supply such information in a public manner is invasive, unnecessary and potentially damaging from a competitive standpoint. There are reasons these TRS companies, like companies in any other industry, elect to remain privately held rather than publicly held entities. One reason being that they should not have to carry the disclosure and reporting burdens (as well as the significant costs associated with such burdens) of their public brethren.

Accordingly, Snap!VRS wishes to emphasize the Commission's acknowledgement that proposed types of documentary and other evidence should be protected to maintain competitive edge and keep

operating support costs from unnecessarily escalating and, if required, should only be provided under the cover of confidentiality and/or as part of discretionary on-site visits or audits.

Snap!VRS believes the most effective regulatory oversight by the Commission is best focused on ensuring an efficient, consistent and transparent system for certification, reporting and enforcement which ensures that all certified VRS providers are in continuous compliance with said clearly articulated operational, technical and functional Internet-based TRS standards.

III. On-Site Visits To Ascertain Certification Includes Compliance Oversight

The Commission proposes the certification process include, at its discretion, other measures, including on-site visits to the premises of applicants and to assess the merits of certification applications. Such measures, Snap!VRS agrees, would assist providers and the Commission alike in their efforts to safeguard the integrity of the TRS Fund.

Snap!VRS supports proposed on-site visits as determined necessary to enable the Commission to witness first hand the applicants' certification qualifications and hereby enable the Commission to ensure certified provider compliance with the new TRS rules adopted in the accompanying Order.

In its earlier comments to the Commission, Snap!VRS proposed that random audits every three years would be sufficient, with follow up audits in six months in the event of non-compliance regarding significant areas or the detection of suspicious activities. Providers that regularly undergo internal audits should be able to, at the Commission's discretion, offer the auditor's findings and an unqualified audit (a positive audit that is free of material concern) opinion letter as persuasive documentation of compliance. Snap!VRS consistently maintains the view that the Commission should periodically engage in compliance audits as well as regular revenue or call records and systems audits.²

Further, Snap!VRS proposes that the Commission establish minimum standards to be observed during discretionary on-site visits such as confirming presence of said assets, automated data tracking and billing processes, process control procedures, and so forth. For example, Snap!VRS recently went through

² *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, ¶¶ 26-27 (July 22, 2010)

an on-site visit by the Commission's OIG auditors, whose information requests were deemed by Snap!VRS management to be comprehensive, appropriate, and more than sufficient to achieve the on-site visit purposes suggested here by the Commission.

Standardized parameters for such discretionary Commission on-site visits would ensure uniform, consistent and transparent evaluation of Internet-based TRS qualifications and capabilities, and eliminate the potential for subjectivity. Snap!VRS believes that such standardized criteria for on-site visits would be expected to mirror the same established to determine eligibility for certification and nothing more.

IV. Annual Reports And Updates Tied To Certification

Snap!VRS remains supportive of the Commission's continued requirement for Internet-based TRS providers to file annual reports with the addition of updates thereof containing evidence that they are in continued compliance with § 64.604 of the Commission's rules.

Further, Snap!VRS finds the current five year certification cycle as currently required, quite sufficient. Such a cycle lends best to the nature of the Internet-based TRS industry, which requires constant technological upgrades, careful business planning and the investment of capital.

V. Substantive Changes And Reporting

At present, Commission rules require providers to notify the Commission of substantive changes in their TRS programs within 60 days of when these changes occur, and to further certify that their service continues to meet mandatory minimum standards after implementing such changes. The Commission's rules do not specify what constitutes a "substantive change" so they seek comment on what types of changes that would trigger this requirement for notification.

Snap!VRS supports the Commission's desire to properly define the parameters of what should be considered as "substantive changes" and articulates its position herein. Snap!VRS sees "substantive changes" as applying to very specific circumstances, such as where a company's financial, operational or functional stability may come into question, when a provider's corporate structure may change or otherwise be impacted, e.g., a merger or acquisition, or where its executive leadership may change.

Snap!VRS firmly believes that Commission should focus on defining the parameters of its regulatory oversight and enforcement to achieve VRS reform, effectiveness and transparency – instead of delving into the individual corporate decision making matters routinely handled by VRS providers, as explained earlier in these comments.

Again, Snap!VRS urges the Commission to take great care not to become overly burdensome with respect to paperwork, disclosure and reporting requirements, but does not disagree with a 60 day time frame for providers to notify the Commission of the substantive changes as described herein regarding how the changes may impact optimal TRS service provision.

VI. Voluntary Cessation Of Service, Reporting And Revocation Of Certification

The Commission rules state that, in order to be entitled to compensation from the TRS Fund for providing Internet-based TRS, the TRS provider's facilities must have redundancy features in the event of call center or network outages, as well comply with the other minimum standards that apply to all TRS.

Snap!VRS strongly believes that all certified providers must be committed to full compliance with the Commission's Internet-based TRS rules and provision of quality, uninterrupted services to customers on a 24/7 basis.

Snap!VRS also supports the Commission's proposal requiring that certified providers seek prior authorization for foreseen voluntary interruptions to Internet-based TRS – specifically, projected discontinuance or reduction of service deemed substantial in nature – and that such should be reported in the manner proposed, in accordance with the reporting criteria set forth.

Further, Snap!VRS strongly believes that the Commission must take decisive action against certified providers in the event of non-compliance with voluntary system-wide cessation reporting requirements. Such actions could involve suspension of certification and/or cessation of ability to draw from the TRS Fund with escalated compliance requirements imposed by the Commission for certification reinstatement consideration.

VII. Involuntary Cessation of Service and Reporting

The Commission proposes that, with respect to brief, unforeseen service interruptions due to circumstances beyond a provider's control that are deemed substantial in nature, the affected provider submit written notification within two business days of when the service disruption first occurred, with an explanation of how the provision of the service had been restored or will be restored imminently.

Snap!VRS supports this proposal and notes the existence of the Network Outage Reporting System (NORS), a web-based filing system through which communications providers covered by Part 4 reporting rules submit outage reports. Snap!VRS also notes that obtaining information on service disruptions is essential to the FCC's goal of ensuring the reliability and security of the nation's communications infrastructure.

However, Snap!VRS requests that the Commission define the term "brief" within the "substantial" context. Like other providers, Snap!VRS has technology redundancies in place, including multiple call centers running off varying power grids in different geographies. Although unforeseen service disruptions will inevitably occur, very rarely should their impact seriously disrupt customers' ability to make telephone calls – given built-in redundancies.

VIII. Requirements For Temporary Waivers

The Commission proposes, to ensure the seamless delivery of Internet-based TRS during any transition period following Commission establishment of new eligibility requirements and certification procedures, that any provider currently eligible to receive compensation from the TRS Fund via a means other than FCC certification be permitted, concurrently with the submission of its application for Commission certification, to seek temporary waiver of any new requirements to obtain certification from the Commission prior to offering Internet-enabled TRS, while its application is pending.

Given our past and continuing strong opposition to the unfettered and rampant proliferation of "white-label" Internet-based TRS providers to date, the opinions of Snap!VRS remain unchanged. Snap!VRS urges the Commission strictly limit granting of temporary waivers (threshold requirements, so to speak) and, to the extent the Commission feels compelled to support any waiver applications, only

support those applicants that have satisfied the following conditions, namely, that they [1] have already put in their applications for certification prior to the release of the current Order and FNPRM, [2] demonstrate proven operational, financial, technological and functional capabilities and resources to comply with existing TRS rules and regulations including the recent *Order*, and [3] demonstrate proven ability to be in full compliance with these rules within a very short period of time (and it follows that such timeframes must be consistently applied across the board).

In a nutshell, the Commission must now hold itself accountable for its historical lack of governance over white label providers, and hold them to the same compliance standards and scrutiny expected of certified providers. White label providers have already been permitted to operate without explicit Commission approval, and yesterday's Commission-issued stay in effect prolongs a continuing and problematic situation that should have been taken care of in an expeditious manner, regardless of the lack of ability to do so in the first place.

Snap!VRS also wishes to respond to the Commission's request for feedback on what an applicant seeking such a waiver should have to demonstrate in order to establish that a temporary waiver of the certification requirement would serve the public interest. This phrase, "public interest", while it is at the heart of communications law, also carries concomitant ambiguities. For the Commission to raise this question in the Internet-based TRS context raises yet more questions that should not be addressed lightly.

Nevertheless, in the event an applicant's waiver request is denied, Snap!VRS agrees with the Commission's proposed 30 day timeframe for service discontinuance to allow affected consumers sufficient time for transition to another eligible provider's service.

IX. Conclusion

In closing, Snap!VRS urges the Commission to move expeditiously and judiciously on rulemaking processes with respect to TRS certification requirements, including application, compliance, and reporting expectations, including swift action to resolve and put to closure the matter of "white label" waiver applications— in a manner that promotes Internet-based TRS regulatory reform and greater effectiveness, consistency and transparency, and upholds the integrity of the TRS Fund.

Respectfully submitted,

Thomas W. Kielty
President and Chief Executive Officer
Snap Telecommunications, Inc.
2 Blue Hill Plaza, 3rd floor
Pearl River, NY 10965

June 1, 2011

/s/ Nancy J. Bloch
Nancy J. Bloch
Chief Regulatory Liaison and Advisor
(443) 438-1321
nbloch@snapvrs.com

/s/ Steph Buell
Steph Buell
Chief Compliance Officer
(608) 852-8242
sbuell@snapvrs.com