



Because we understand.

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Via Electronic Filing

August 26, 2011

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth St., S.W.
Washington, DC 20554

*Re: Waiver Request of Convo Communications, LLC –
CG Docket Nos. 03-123 & 10-51*

Dear Ms. Dortch:

Convo Communications, LLC (“Convo”) is submitting this letter to the Commission to amend and request *nunc pro tunc* grant of its pending video relay service (“VRS”) waiver request. On April 6, 2011, the Commission released the *VRS Fraud Order and FNPRM*, which adopted new rules to detect and prevent fraud and abuse in the provision of VRS and sought comment on proposed revisions to the certification process to better ensure that potential providers are qualified to provide Internet-based relay service.¹ The new rules became effective June 1, 2011.²

On May 18, 2011, Convo submitted its waiver request (the “Waiver Request”) seeking Commission waiver of certain of the new VRS rules to enable Convo to continue to participate in the VRS market and to receive reimbursement from the TRS Fund Administrator through its new billing partner, Snap Telecommunications, Inc. (“Snap”), a certified VRS provider.³ Pursuant to the procedure set forth in the *VRS Fraud Order and FNPRM*,⁴ Convo requested a waiver of (i) the prohibition on subcontracting,⁵ (ii) the requirement that a VRS provider be certified in order

¹ *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, 5546 ¶ 1 (rel. Apr. 6, 2011) (“*VRS Fraud Order and FNPRM*”).

² FCC, *Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 24393 (May 2, 2011).

³ Convo Communications, LLC, Waiver Request, CG Docket Nos. 03-123 & 10-51 (filed May 18, 2011). On May 25, 2011, Convo amended its waiver request to reflect the provision of overnight and overflow communications assistant services by URrelay, Inc. Letter from Robin Horwitz, CEO, Convo, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 & 10-51 (filed May 25, 2011).

⁴ See *VRS Fraud Order and FNPRM*, 26 FCC Rcd at 5575-76 ¶¶ 62-63.

⁵ 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).



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for the entity to hold itself out to the general public as providing VRS,⁶ (iii) the requirement that VRS providers offer VRS under the name by which the provider was certified,⁷ and (iv) the requirement that VRS providers only complete VRS calls placed by their customers from foreign locations during the time periods in which their customers pre-registered with the VRS provider that they would be in such foreign locations.⁸

On May 31, 2011, the Commission stayed the effective date of the subcontracting prohibition, Section 64.604(c)(5)(iii)(N)(1)(iii), until October 1, 2011.⁹ This rule prohibits certain subcontracting arrangements and specifically states that “[a]n eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions (including call distribution, call routing, call setup, mapping, call features, billing, and registration) on its behalf, unless that authorized third party also is an eligible provider.”¹⁰ As the Commission recognized, the stay addressed Convo’s request for a waiver of the subcontracting prohibition, thereby mooting the Waiver Request only in part.¹¹

Based on discussions with and further guidance provided by the Consumer and Government Affairs Bureau (“Bureau”) since Convo filed the Waiver Request, Convo has restructured its business to become a *bona fide* subcontractor of Snap in a manner consistent with the Commission’s VRS rules and will complete this process by September 1, 2011. As a result, Convo hereby withdraws its Waiver Request to the extent that the Waiver Request sought waiver of any Commission rules during the period after September 1. Specifically, Snap and Convo have entered into a contractual arrangement pursuant to which the VRS products previously offered by Convo will be rebranded under a Snap logo that includes reference to Convo as a subcontractor of Snap. All VRS calls relayed in connection with such products will be managed and routed through Snap’s automatic call distribution platform. A more fully detailed account of this rebranding is set forth in Attachment 1 hereto. Accordingly, Convo will terminate its contractual arrangement with URrelay described in the Waiver Request pursuant to which URrelay leased to Convo an ACD platform and provided to Convo overnight and overflow call center services.

As set forth in Attachment 1, the Anywhere and videophone VRS products utilize URLs that are similar but not identical. The URLs share the same Snap parent domain but rely on different subdomains due to the different underlying technologies used by the products. As set

⁶ *Id.* § 64.604(c)(5)(iii)(N)(1)(i).

⁷ *Id.* § 64.604(c)(5)(iii)(N)(1)(ii).

⁸ *Id.* § 64.604(a)(7) (“VRS calls that originate from an international IP address will not be compensated, with the exception of calls made by a U.S. resident who has pre-registered with his or her default provider prior to leaving the country, during specified periods of time while on travel and from specified regions of travel, for which there is an accurate means of verifying the identity and location of such callers.”).

⁹ *Structure and Practices of the Video Relay Service Program*, Order Suspending Effective Date, 26 FCC Rcd 8327, 8327 ¶ 1 (May 31, 2011) (“*Order Staying Subcontractor Prohibition*”).

¹⁰ 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

¹¹ *See Order Staying Subcontractor Prohibition*, 26 FCC Rcd at 8330 (Appendix).



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forth in the *VRS Fraud Order and NPRM*, the Commission has two primary objectives with respect to its URL rule, which requires VRS providers to route all calls through a single URL address used for each name or sub-brand used.¹² First, the Commission is concerned that the use of multiple URLs prevents VRS users from knowing the identity of the certified provider processing and responsible for the users' calls. Second, the Commission is concerned that the use of multiple URLs enables VRS providers to engage callers to make illicit VRS calls in exchange for a portion of the iTRS Fund compensation associated with such calls. Specifically, to the extent that such users utilize separate URLs, this enables the VRS provider to track the illicit calls made by such user for purposes of compensating the user.¹³

Neither of these Commission objectives are implicated by the use of different URL subdomains for the Anywhere and videophone products described in the attached screenshots. As set forth in Attachment 1, Convo and Snap will extensively rebrand all user interfaces to ensure that users fully understand that Snap will be processing and responsible for the users' VRS calls going forward. In addition, Convo will send an email explanation to each user and post an explanation on its website explaining that Convo no longer independently provides VRS but instead serves as a subcontractor of Snap. Further, the use of different URL subdomains for different VRS products is driven in this instance purely by technical issues rather than any desire to isolate certain users for illicit purposes. In fact, all users using any particular VRS product will utilize the same URL and all products will share the same Snap parent domain.

As a result, the use of different URL subdomains for different VRS products in this instance is more akin to the use by a single VRS provider of different URLs for different versions of the provider's VRS offerings, such as the Commission referenced in the *VRS Fraud Order and NPRM*.¹⁴ In the *VRS Fraud Order and NPRM*, the Commission treats different "versions" of a single VRS provider's service as different sub-brands. Specifically, the Commission notes that it would be permissible for a single VRS provider to use separate URLs for the English-to-ASL version and the Spanish-to-ASL version of its VRS service.¹⁵ The use of different URL subdomains for products utilizing different VRS interface technologies is consistent with this Commission guidance, especially given that the use of a separate URL subdomains is a technological necessity for the offering of a web-based VRS product, such as Anywhere, that provides VRS users with a new and previously unavailable level of mobility thereby enhancing the functional equivalency of VRS.

¹² 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(ii) ("Providers must route all VRS calls through a single URL address used for each name or sub-brand used.") (emphasis added); see also *VRS Fraud Order and FNPRM*, 26 FCC Rcd at ¶ 50.

¹³ *VRS Fraud Order and FNPRM*, 26 FCC Rcd at ¶ 50.

¹⁴ *Id.* at ¶ 57 n.162 ("For example, to the extent that an eligible provider offers Spanish-to-ASL VRS services, the provider may add a separate URL address dedicated to this particular version of service that nevertheless still identifies the eligible provider.") (emphasis added).

¹⁵ *Id.*



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For these reasons, Convo believes that the URLs that will be used for the Anywhere and videophone products are compliant with the Commission's URL rule. However, to the extent that the Commission disagrees with this interpretation of its rule, Convo requests a *nunc pro tunc* limited waiver of the URL rule from June 1, 2011 until October 1, 2011, which is the date on which the Commission's stay of the subcontracting prohibition expires.

For the reasons set forth herein, Convo hereby amends its Waiver Request to seek *nunc pro tunc* grant effective June 1, 2011 and ending September 1, 2011 of (i) the requirement that a VRS provider be certified in order for the entity to hold itself out to the general public as providing VRS and (ii) the requirement that VRS providers offer VRS under the name by which the provider was certified. Further, to the extent required by the Commission, Convo also requests a *nunc pro tunc* waiver of the URL rule effective June 1, 2011 and ending October 1, 2011. In addition, Convo hereby further amends the Waiver Request by deleting the request to waive the requirement regarding international calls. Convo began blocking all VRS calls that originate from an international IP address prior to June 1 thereby extinguishing any need for such waiver. The Commission's *nunc pro tunc* grant of Convo's Waiver Request as herein amended will enable Convo to receive reimbursement from the TRS Fund Administrator for those VRS minutes relayed by Convo during the above-specified period.

Should you need additional information with regard to this request, please contact the undersigned.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "R. Horwitz", written over a horizontal line.

Robin Horwitz
Chief Executive Officer
Convo Communications, LLC

Attachment