



WILTSHIRE
& GRANNIS LLP

December 19, 2011

Ex Parte Letter – Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Virtual Call Centers, CG Dockets 10-51, 03-123

Dear Ms. Dortch:

Sorenson Communications, Inc. (“Sorenson”) files this letter to respond to ZVRS’s unfounded assertions related to “virtual call centers,” which it made in a meeting with officials from the Consumer and Governmental Affairs Bureau on December 1, 2011, and in its related ex parte notice filed on December 5, 2011.¹ In addition, Sorenson calls to the Commission’s attention reports it has received of attempts by at least one provider (though not apparently ZVRS) to circumvent the ban on at-home interpreting by renting one-room offices in an office center or strip malls. These present many of the same problems of fraud and abuse, potential lack of privacy, lack of supervision, lack of back-up interpreting (particularly for 911 calls), and lack of back-up power that plagued at-home interpreting and thus should also be banned.

In the meeting and in the letter, ZVRS urged the Commission to grant its pending petition for a waiver of the rule prohibiting at-home VRS interpreting (which ZVRS euphemistically calls “virtual call centers”).² As explained below, Sorenson continues to oppose ZVRS’s requested waiver for the same reasons that prompted the Commission to adopt the rule in the first place. ZVRS has not presented any arguments or evidence that weren’t in the record when the Commission adopted the rule, and there is therefore no reason for the Commission to revisit its previous conclusion.

¹ See Letter from Jeff Rosen, CSDVRS, LLC General Counsel, to Marlene Dortch, CG Docket No. 10-51 (filed Dec. 5, 2011) (“*ZVRS Ex Parte Letter*”). In the same letter, ZVRS levies baseless allegations against Sorenson related to equipment interoperability and porting practices. Sorenson is addressing those allegations in separate letters.

² See 47 C.F.R. § 64.604(b)(4)(iii) (“A VRS CA may not relay calls from a location primarily used as his or her home.”).

Moreover, ZVRS's recent ex parte letter directly undermines the justification for its pending request. ZVRS argues in the letter without support or citation that it has demonstrated on the record that at-home interpreting would meet the Commission's requirements, achieve functional equivalency, and allow for monitoring to prevent fraud.³ But ZVRS acknowledges precisely the opposite just two sentences later, admitting that providers (a) cannot yet ensure that at-home interpretation "fully complies with TRS standards" and (b) do not yet "have the capacity to monitor such centers for fraud." This admission—which highlights the very concerns that prompted the rule's adoption—should compel the Commission to deny the petition swiftly.

As Sorenson explained when it opposed ZVRS's petition in August,⁴ at-home interpreting is not an appropriate solution to the Commission's valid concerns about the safety of interpreters and call center redundancy. Indeed, the Commission considered these same issues (and many others) and concluded, after assessing the extensive record, that "the potential benefits of having VRS CAs work from home are presently outweighed by concerns about potential fraud, confidentiality, reliability, safety, and service quality."⁵ The Commission explained that it was "not convinced that call handling in a home environment can meet the Commission's TRS standard requiring strict confidentiality of all relay calls;" that it was "concerned about potential violations of the Commission's technical standards in a home environment;" and that it had "concerns about the ability to achieve service quality standards in a home environment."⁶ Neither ZVRS's petition nor its recent ex parte presents any new facts or arguments that would justify revisiting those conclusions.

Sorenson agrees that VRS providers should take steps to ensure their employees' safety, but there are ways of doing so that do not implicate the Commission's numerous concerns about the risks of at-home interpreting. For instance, VRS providers should never operate call centers in unsafe areas, and could choose to operate call centers only in particularly secure areas during overnight hours. VRS providers also should hire security guard(s) for call centers when and where appropriate, including securing parking facilities.

Likewise, Sorenson agrees that VRS providers should ensure call center redundancy to mitigate disruptions in the event one or more call centers are closed due to weather, network, power or facility issues—but again, at-home interpreting is not the appropriate means of achieving that goal. Rather, VRS providers should diversify the locations of their actual (non-virtual) call centers so that they can load shift as conditions demand. This allows providers to halt operations at a particular call center when conditions are not safe without causing a material impact on overall service. Moreover, it is not clear that ZVRS needs to rely on at-home

³ See *ZVRS Ex Parte* at 1.

⁴ See *Opposition of Sorenson Communications, Inc. to Petition for Temporary Waiver of CSDVRS, LLC*, CG Docket No. 10-51 (filed Aug. 16, 2011).

⁵ *Structure & Practices of the Video Relay Serv. Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 5545, 5558 ¶ 20 (2011) ("*Anti-Fraud Order*").

⁶ *Id.* at 5556-58 ¶¶ 17-19.

interpreting to achieve redundancy in any event. As it has informed the Commission, ZVRS already operates a nationwide network of at least fifteen call centers.⁷ To the extent ZVRS justifies its request on the grounds that at-home interpreting allows it to more easily meet high call volume, that limited benefit and cost savings to ZVRS is completely overwhelmed by the prospect of fraud, lack of call privacy, inadequate training, lack of interpreter redundancy, unsupervised service quality, and lack of backup power. Indeed, interpreters speaking in public at interpreter conferences have acknowledged working from home with virtually no oversight from the providers for whom they work – including no meaningful training (including with respect to minimum standards), no supervisory oversight, limited technical assistance, and no interpreting “back up” in the event they had a difficult time relaying a conversation. Considering the risks that at-home interpreting poses, there is simply no justification for waiving the rule.

Apart from failing to address the valid public safety concerns described above, at-home interpreting also raises several others. As the Commission noted in the *Anti-Fraud Order*, Sorenson’s “call centers routinely handle 9-1-1 calls with a team of two interpreters to ensure that these are ‘interpreted with the utmost accuracy,’ a practice that can not be duplicated in the home environment.”⁸ Since there is a higher percentage of 9-1-1 calls as compared to total call volume during overnight hours,⁹ the need for call center operations is particularly acute at night—which runs directly counter to ZVRS’s assertion that at-home interpreting is a suitable overnight solution.

Considering that ZVRS has not addressed the concerns that prompted the FCC to adopt the rule in the first place, and considering its acknowledgement that providers are not in a position to monitor at-home interpreters to detect and prevent fraud, the Commission should deny ZVRS’s pending petition and clarify that VRS providers are eligible for compensation only if they process calls through actual (not virtual) call centers that comply with all of the applicable VRS rules.

On a related note, Sorenson requests that the Commission clarify that the at-home interpreting rule requires providers to utilize fully-equipped, dedicated call centers. It has come to Sorenson’s attention that at least one provider (though apparently not ZVRS) may be skirting the new rule by renting single cubicles or seats from temporary office space providers, and directing interpreters who used to work from home to simply move their operations to the rented cubicle. While this approach may mitigate the risk of interruptions from the interpreter’s family, it does not address concerns about possible fraud, call privacy (particularly in the cubicle setting), redundant interpreters for emergency calls, inadequate training, service quality, back-up power, redundant connectivity, or dedicated systems for VRS. These stand-alone one-person

⁷ See Annual Report of CSDVRS, LLC For Continued Certification as a Video Relay Services Provider, CG Dockets 03-123 and 10-51, at 3 (filed Sept. 15, 2011).

⁸ *Anti-Fraud Order*, 26 FCC Rcd. at 5558 ¶ 19 n.69.

⁹ Measured as a percentage of total call volume, Sorenson handles more than twice as many 911 calls during the overnight hours (from 8:00 pm to 8:00 am) than it does during the day (from 8:00 am to 8:00 pm).

call centers are just as unsupervised as at-home call centers, yet they may exacerbate safety risks for interpreters as providers are unlikely to arrange for security at a location where only a single interpreter works.

While this one-seat cubicle approach may technically comport with the regulatory requirement that interpreters “may not relay calls from a location primarily used as his or her home,”¹⁰ it raises the same risks as at-home interpreting as well as additional public safety risks, and the Commission should therefore clarify that it is prohibited. To address this problem, Sorenson proposes that VRS calls should be eligible for compensation only if they are relayed from call centers that (a) are dedicated to providing relay service, (b) are located in secure spaces that cannot be accessed by unauthorized personnel, (c) are staffed during all operating hours by at least two interpreters to ensure back-up availability for any 911 calls, (d) are supported by backup power systems, and (e) have access to more than one source for Internet and telephone connectivity.

Sincerely,

/s/

John T. Nakahata
Counsel to Sorenson Communications, Inc.

cc (by email):

Karen Peltz Strauss
Gregory Hlibok
Eliot Greenwald

¹⁰ 47 C.F.R. § 64.604(b)(4)(iii).