

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

In the Matter of)
)
Consumer & Governmental Affairs Bureau) CG Docket No. 12-38
Seeks To Refresh The Record Regarding)
Misuse of Internet Protocol Relay Service)
)
Telecommunication Relay Services and) CG Docket No. 03-123
Speech-to-Speech Services for Individuals)
with Hearing and Speech Disabilities)

COMMENTS OF CONSUMER GROUPS IN RESPONSE TO PUBLIC NOTICE

**National Association of the Deaf
Telecommunications for the Deaf and Hard of Hearing, Inc.
Deaf and Hard of Hearing Consumer Advocacy Network
Association of Late-Deafened Adults, Inc.
Hearing Loss Association of America
California Coalition of Agencies Serving the Deaf and Hard of Hearing**

The National Association of the Deaf (NAD), Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), Association of Late-Deafened Adults, Inc. (ALDA), Hearing Loss Association of America (HLAA) and the California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH) (collectively, the “Consumer Groups”), respectfully submit these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) February 13, 2012 Public Notice in the above-referenced proceedings.¹ We represent

¹ *In the Matter of Consumer & Governmental Affairs Bureau Seeks To Refresh The Record Regarding Misuse of Internet Protocol Relay Service, In the Matter of Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Dkt. No. 12-38 & 03-123, Public Notice, DA 12-208 (rel. Feb. 13, 2012) (“Public Notice” or “PN”).

approximately 36 million deaf and hard of hearing Americans and appreciate this opportunity to submit comments in response to this Public Notice.²

I. AN IP RELAY REGISTRATION SYSTEM MUST NEVER BE BURDENSOME FOR THE USERS

In the Public Notice, the Commission asks what additional steps should be taken, or technology implemented, to prevent the registration and use of IP Relay by ineligible individuals.³ While the Consumer Groups fully support the Commission in its efforts to reduce fraud and misuse, we must remind the Commission that Telecommunications Relay Services (TRS) is a civil right under Title IV of the Americans with Disabilities Act (ADA) and that any additional steps considered by the Commission must not be burdensome to deaf and hard of hearing people and/or those who communicate with them through IP Relay. If the Commission does consider any additional steps or technology, we urge the Commission to work with the Consumer Groups as well as the deaf and hard of hearing community to ensure that their civil rights are not infringed upon.

The Consumer Groups are strongly opposed to a verification system that requires any form of documentation related to one's hearing loss. For those who have been deaf or hard of hearing since birth, they are not likely to have a recent audiologist's report. Requiring consumers who are deaf or hard of hearing to make a trip to the doctor to certify hearing loss is an economic burden for many of them. Moreover, the Consumer Groups are wary about the creation of any national database of IP Relay users. If such a database is created, the

² A recently released study by Johns Hopkins School of Medicine actually found that more than forty-eight million Americans over the age of twelve—almost one in every five people in this country—are deaf or hard of hearing. Thus the 36 million estimate we use is probably too low.

³ Public Notice at 5.

Commission must first create rules that will ensure that the data will be securely protected and not be permitted to be used for any purpose other than establishing IP Relay eligibility.

II. TEMPORARY AUTHORIZATION FOR NEWLY REGISTERED USERS

Concerning whether the Commission should continue to permit temporary authorization for a user to place IP Relay calls while verification of the caller is taking place, the Consumer Groups do not oppose ending the temporary authorization program for IP Relay calls as long as the verification progress can be completed within 72 hours.⁴ We recognize that the majority of deaf or hard of hearing people who rely on IP Relay are already registered and do not need to be verified. However, we believe that newly registered and unverified users should continue to be able to make 911 calls.

III. COMMUNICATIONS ASSISTANTS MUST MAINTAIN CONFIDENTIALITY AT ALL TIMES AND NEVER SCREEN CALLS OR COMMUNICATE WITH THE OTHER PARTY INDEPENDENT OF THE CALL

The Commission asks if Communication Assistants (CAs) should be allowed to screen calls that appear to be illegitimate as well as notify the other party that the call is suspicious and may be fraudulent.⁵ The Consumer Groups have made it clear in our past comments that permitting CAs to screen out, block or terminate calls, or even warn the other party that the call may be fraudulent is not functional equivalence and violates the mandates of Section 255.⁶ It is the expectation of privacy in calls that makes free and open communication possible.

⁴ *Id.*

⁵ *Id.* at 6.

⁶ Consumer Group Comments, CG Docket No. 03-123, July 3, 2006 at 5 (see <http://apps.fcc.gov/ecfs/document/view?id=6518388929>).

Confidentiality is one of the sacrosanct principals of relay services and must never be compromised.

Further, allowing IP Relay CAs or companies to block, deny or terminate calls allows a third party to potentially deny a deaf or hard of hearing person access to telecommunications without due process. In fact, we can imagine situations where deaf or hard of hearing people use IP Relay in a way that others may not approve – such as telemarketing, soliciting money, proselytizing, and more, and they have every right not to have their calls policed by CAs or IP Relay providers. It is also hard to see how a CA or IP Relay company can accurately determine whether an IP Relay user is not deaf or hard of hearing, or better determine that a call is fraudulent than the person receiving the fraudulent call. Instead of making or allowing IP Relay CAs to be responsible for reporting fraud, the very callers who receive these calls should take responsibility just as they do with non-relay calls. Moreover, if the CA had the discretion to terminate the call on his or her own volition or even let the other party know he/she suspects fraud, the CA would have authority over a call that no telephone company has over ordinary calls made between hearing people. We strongly oppose any effort to compromise the confidentiality of relay users or to allow IP Relay companies to screen calls.

IV. THE CONTENT OF A CALL MUST NEVER BE STORED OR RECORDED IN ORDER TO SAFEGUARD THE PRIVACY OF ALL RELAY CALLS

In the Public Notice, the Commission asks: for calls the provider determines to be illegitimate, what kind of documentation, if any, should the provider be required to maintain and submit.⁷ The Consumer Groups support the FCC in its goal to improve oversight of the TRS program, but do not believe that the providers should be allowed to keep any transcripts or

⁷ Public Notice at 7.

records beyond the duration of a call, even if the provider assumes that it is an illegitimate call. We are not aware of a reliable system that guarantees that the provider can accurately differentiate illegitimate calls from those that are legitimate. We fear that the rights of deaf and hard of hearing people may inadvertently be violated and records will be made of legitimate calls. Even the slight possibility that a user's legitimate call might accidentally or unintentionally be recorded and stored will taint the trust in the confidentiality of the relay system that deaf and hard of hearing people as well as those who communicate with them so heavily depend on. Simply knowing that there is a slight possibility that one's banking, legal, or medical call might be recorded and stored will compromise the community's trust in the relay system and thereby deny them functional equivalence. These privacy concerns must be given the highest priority and every effort should be made to avoid any possibility of encroaching upon the privacy of IP Relay users. We urge the Commission to never allow a single IP Relay call to be recorded, no matter how compelling the FCC believes doing so might be.

V. ANY APPROACH FOR AUTHENTICATING RELAY CALLS MUST NOT BE BURDENSOME FOR THE USERS OR COMPROMISE THEIR PRIVACY

In response to whether more rigorous user authentication on a per-call basis should be employed to combat misuse of IP Relay, the Consumer Groups fully support the Commission in its efforts to reduce fraud and misuse.⁸ However, any new approaches to authenticating calls must not burden the users or compromise their privacy. Most importantly, we believe that any method for authentication must not permit or require CAs to police calls. Any new approaches or measures taken by the FCC for authenticating calls should be thoroughly discussed with the Consumer Groups' representatives to best understand the potential impact on the users.

⁸ *Id.*

VI. DIAL AROUND IS ESPECIALLY NECESSARY IF LOCKED-IN WITH ONE IP RELAY PROVIDER

The Commission asks about the importance of dial around for users of IP Relay.⁹ The Consumer Groups believe that if IP Relay users are able to have more than one IP Relay account, then the ability to dial around is not as important since IP Relay users can have accounts with more than one provider. This is especially important in the case that a user is unable to connect to his or her default IP Relay provider due to a long answering time or network congestion. We are not aware of many situations where users dial around with IP Relay, but we know that many IP Relay users have multiple accounts with different IP Relay providers. The Consumer Groups are concerned that the Commission may be adopting anti-fraud approaches that scale back the freedom and ability to access IP Relay. Rather, the Commission needs to focus on finding measures to combat fraud that do not limit or diminish access to IP Relay.

VII. IP RELAY IS A VITAL AND WIDELY USED SERVICE FOR DEAF AND HARD OF HEARING AMERICANS

The Commission asks about the extent to which IP Relay is currently being used by consumers with or without disabilities, and whether it is meeting a need that is not fulfilled by other forms of relay, or other text-based services.¹⁰ The Consumer Groups are surprised that the Commission is asking questions that seem to suggest that IP Relay might not be an important and vital service used by many deaf and hard of hearing individuals. We know of countless deaf and hard of hearing individuals who use IP Relay and consider it an important relay service. For instance, there are many deaf or hard of hearing people who cannot benefit from Video Relay

⁹ *Id.* at 7-8.

¹⁰ *Id.* at 8.

Service (VRS) since they do not know American Sign Language (ASL) and depend on IP Relay for access to telecommunications. Similarly, not every deaf or hard of hearing person has enough hearing or speech to use services like CapTel.

Many signing deaf and hard of hearing people prefer IP Relay to VRS when they want to use very specific language in English and do not want their calls translated from ASL to English by a VRS CA. One deaf lawyer explained that he often uses IP Relay for legal calls where he needs to use very precise legal language which might not be easily translated by a VRS CA. Moreover, IP Relay is an especially important service when one is out of the home or office and without ready access to other TRS products such as a Video Phone. IP Relay is usually the only way to make relay calls when on the go since our wireless network generally does not support VRS calls. Many members of the deaf and hard of hearing community have IP Relay applications on their mobile phones so that if they need to make a relay call while traveling or commuting, they are able to do so. We know of several situations where deaf or hard of hearing people were involved in car accidents and IP Relay was the only way to reach 911. Even if most wireless networks can one day generally support VRS calls, many wireless providers have metered their plans to limit data use. Where it is possible to make VRS calls on wireless networks, the metering of data plans has sometimes limited deaf or hard of hearing people in their ability to make VRS calls from their mobile phones.

We also know of many individuals who depend on IP Relay to access TRS when visiting friends or family who do not have Video Phones or other TRS products at their homes. With IP Relay, one can easily make a call on someone else's computer by signing into AOL Instant Messenger and connecting to one's IP Relay service, or through a non-downloadable IP Relay web service. Finally, IP Relay may often be the best way to access relay services by deaf and

hard of hearing people who live in rural areas without access to broadband or cannot afford broadband since it's accessible through dial-up connections as well as through mobile phones.

The Consumer Groups recognize that the use of IP Relay may have decreased in recent years as many other forms of TRS have improved and become more widely available. However, IP Relay remains an important and valuable service and is often the “fall-back” option for many people when they cannot access their primary form of TRS. In fact, as our population ages, resulting in more elderly deaf and hard of hearing individuals who do not use ASL, we expect to see a growing need for IP Relay.¹¹ We encourage the Commission to do outreach and survey the deaf and hard of hearing population to help quantify the use of IP Relay as well as the benefits of IP Relay. The Consumer Groups have no doubt that IP Relay is a widely used and valuable service.

VIII. THE COMMISSION NEEDS TO EDUCATE THE COMMUNITY ABOUT FRAUD

Fraud is not a problem exclusive to IP Relay, but is a problem that affects every form of communications in the United States. Criminals are using voice phones, text (SMS), email, mail, and more to run their scams. The Consumer Groups are not convinced that people are more susceptible to IP Relay fraud than other forms of communications fraud. The Commission has indicated that they have an understanding of the kind of “red flags” that indicate an IP Relay call is fraudulent.¹² We suggest that the FCC work to educate the business community as well as the general population about these calls and how to protect themselves from fraud. The more

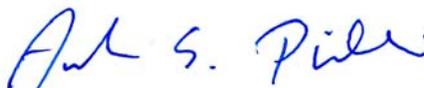
¹¹ E. Ross Mitchell. Reporting that a large percent of elderly Americans have trouble hearing. Gallaudet Research Institute. Washington, DC: Gallaudet University (see <http://research.gallaudet.edu/Demographics/deaf-US.php>).

¹² *Id.* at FN #36.

educated the community is about fraud; the less likely it will be successful. While fraud will not disappear magically, we should not punish legitimate users of technology that provides access to people who are deaf or hard of hearing in our attempt to stop criminals.

The Consumer Groups appreciate this opportunity to submit comments in response to this Public Notice and stress the importance of making sure that any changes to the IP Relay system are not burdensome to the users nor compromise the privacy of their calls.

Respectfully submitted,



Andrew S. Phillips, Esq.
Policy Attorney
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910

Cheryl Heppner
Vice Chair
Deaf and Hard of Hearing Consumer
Advocacy Network
3951 Pender Drive, Suite 130
Fairfax, VA 22010

Claude L. Stout
Executive Director
Telecommunications for the
Deaf and Hard of Hearing, Inc.
8630 Fenton Street, Suite 604
Silver Spring, MD 20910

Brenda Battat
Executive Director
Hearing Loss Association of America
7910 Woodmont Avenue, Suite 1200
Bethesda, MD 20814

Brenda Estes
President
Association of Late-Deafened Adults, Inc.
8038 MacIntosh Lane, Suite #2
Rockford, IL 61107

Sheri A. Farinha
Vice Chair
California Coalition of Agencies Serving
the Deaf and Hard of Hearing, Inc.
4708 Roseville Rd, Ste 111
North Highlands, CA 95660

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