



May 8, 2013

Ex Parte

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

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51 ; *Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

Dear Ms. Dortch:

In a series of recent ex parte meetings,¹ CSDVRS, LLC, (“ZVRS”) asked the Commission to force VRS providers to replace innovative customer premises equipment (“CPE”) designed specifically for deaf users with “off-the-shelf technology” designed for hearing users. As thousands of consumers have explained already in this proceeding, this proposal would be “a huge step backwards” because it would deprive deaf users of the specially designed proprietary technology that they use today.² Because this proprietary technology is superior to off-the-shelf equipment designed for other uses, the Consumer Groups in this proceeding have repeatedly emphasized that “it is critical for consumers to have access to both off-the-shelf and proprietary equipment.”³ As explained below, such a step would also extinguish incentives for innovation.

The reason that consumers view proprietary CPE as so important is that off-the-shelf products are not optimized for VRS, and the manufacturers targeting the hearing mass market have little incentive to make the necessary changes and improvements because the deaf and hard-of-hearing market is simply too small. By contrast, equipment specially designed for deaf and hard-of-hearing consumers includes features such as high frame rates, visual ringing, integrated 911 address provisioning, “offline” access to 911, amplified audio, and a number of other

¹ Letter from Jeff Rosen, General Counsel of CSDVRS, LLC, to Marlene H. Dortch, CC Docket Nos. 10-51 and 03-123 (filed May 3, 2013).

² See filings by thousands of consumers in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service*, CG Docket Nos. 10-51 & 03-123, e.g., Comment of Gail Kallos (filed Jan. 28, 2013).

³ Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., et al. (“Consumer Groups”) at 12, CG Docket Nos. 10-51 and 03-123 (filed Nov. 14, 2012) (“Consumer Groups PN Comments”); Reply Comments of Consumer Groups at 6, CG Docket Nos. 10-51 and 03-123 (filed Nov. 29, 2012).

features.⁴ Indeed as a number of consumer groups have recently recognized, deaf and hard-of-hearing consumers currently enjoy access to equipment that, unlike multi-use off-the-shelf equipment, “includes unique properties such as flashing lights and high-quality video technology that is focused on capturing ‘flying hands.’”⁵ And as RERC-TA has further explained, “[t]he trade-offs required with respect to video quality and frame rate are very different for the mainstream and sign language users; the mainstream tends to emphasize resolution, whereas sign language users need to emphasize frame rate.”⁶ In short, an off-the-shelf mandate would force VRS users onto “mainstream” equipment that simply does not prioritize their unique needs in the way that existing proprietary equipment does.

Implicitly recognizing the problem, ZVRS asks the Commission to require Sorenson to stop using its innovative CPE and to create an off-the-shelf version of its equipment—essentially “unbundling” its tightly integrated CPE and VRS service. This proposal is akin to requiring the iPod (another tightly integrated product) to be separated from iTunes and makes no sense for similar reasons. Such a proposal would degrade consumers’ VRS experience because Sorenson’s tightly integrated equipment, software, networking and transmission operations, back office functions, customer service, and so on are designed to work together to create the best possible VRS experience. Requiring providers to fragment endpoint development from service would destroy the existing VRS experience, which has made such enormous progress toward achieving the functional equivalence mandated by the Americans with Disabilities Act.

ZVRS’s proposal would also undermine providers’ incentives to innovate. Because VRS providers cannot engage in price competition, differentiation of services through the provision of superior equipment and enhanced features is perhaps the most important way for providers to compete with one another. Indeed, competition between providers has offered consumers technology advances that would never exist if ZVRS’s proposal were adopted. As RERC-TA recently pointed out, “consumers are fortunate that the technical competition among VRS providers exists, which gives them a better chance at finding the provider that meets their needs.”⁷ The competition has led to differentiation among providers’ offerings, with each provider attempting to provide consumers with a videophone that most meets users’ needs. As RERC-TA further notes, “different VRS companies offer different technical strengths and weaknesses, and depending on what criteria are the most important, a user would end up choosing different VRS providers” based on technical features most important to the user.⁸ ZVRS, however, apparently does not wish to compete in the marketplace for better VRS equipment, applications, or enhanced features—and it therefore seeks to shut down competition

⁴ Reply Comments of Sorenson Communications, Inc. at 44-45, CG Docket Nos. 10-51 and 03-123 (filed Nov. 29, 2012).

⁵ Consumer Groups PN Comments at 12.

⁶ Comments of Telecom RERC (“Rehabilitation Engineering Research Center on Telecommunications Access” or “RERC-TA”) at 3, CG Docket Nos. 10-51 and 03-123 (filed Nov. 14, 2012) (“RERC-TA PN Comments”).

⁷ RERC-TA PN Comments at 6.

⁸ *Id.* at 5.

all together. But eliminating any incentive to build that “better mousetrap” is certainly not in the interests of VRS users.

For a similar reason, the Commission should reject ZVRS’s proposal to require providers to share their innovative “enhanced features” with other providers. As the Commission has previously recognized, providers “offer such features on a competitive basis,” which “encourage[s] innovation.”⁹ Nevertheless, instead of devoting resources to the development of innovative features, ZVRS prefers to leave the hard work to Sorenson and benefit from the finished product. But once again, such a mandate would destroy providers’ incentive to innovate, resulting in a “race to the bottom” that would produce a uniform, featureless endpoint and directly contravene the core interest in preserving competition and choice in endpoints.

Sincerely,

/s/ Mark Davis

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⁹ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd. 791, 820 ¶ 63 (2008) (“2008 Second Report and Order”).