



December 16, 2013

VIA ECFS

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

Re: *Structure and Practices of the Video Relay Service Program;
Telecommunications Relay Services and Speech to Speech Services for
Individuals with Hearing and Speech Disabilities*
CG Docket Nos. 10-51 & 03-123

Dear Ms. Dortch:

Convo Communications, LLC ("Convo") hereby comments on the request for a temporary waiver of certain Video Relay Service ("VRS") speed of answer ("SOA") requirements that was filed on December 6, 2013 by CSDVRS, LLC d/b/a ZVRS; Sorenson Communications, Inc.; and Hancock, Jahn, Lee & Puckett, LLC d/b/a Communication Axess Ability Group (jointly, "Collective Providers").¹ Specifically, the Collective Providers request that the Commission waive for one year the January 1, 2014 effective date of the requirement that VRS SOA be measured on a daily basis.² The Collective Providers effectively request the Commission to grant a similar waiver request filed by ASL Service Holdings, LLC on October 24, 2013³ and to extend such grant to all certified VRS providers.⁴ Although Convo currently complies with the SOA requirements that will become effective on January 1, 2014 and July 1, 2014 as measured on a daily basis

¹ Letter from Kathleen M. LaValle, Counsel for Communication Axess Ability Group; Jeff Rosen, General Counsel, CSDVRS, LLC; and Michael D. Maddix, Director of Government and Regulatory Affairs, Sorenson Communications, Inc., to Chairman Tom Wheeler *et al.*, CG Docket Nos. 10-51 & 03-123 (filed Dec. 6, 2013) ("Collective Providers' Letter").

² 47 C.F.R. § 64.604(b)(2)(iii)(A)(2). Prior to January 1, 2014, the Commission required 80% of all VRS calls to be answered within 120 seconds as measured on a monthly basis. Beginning on January 1, 2014, 85% of all VRS calls must be answered within 60 seconds as measured on a daily basis. Beginning on July 1, 2014, 85% of all VRS calls must be answered within 30 seconds measured on a daily basis. *Id.*; see also *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, ¶ 215 (2013) ("R&O/FNPRM").

³ See Petition for Waiver of ASL Services Holdings, LLC, CG Docket Nos. 10-51 & 03-123 (filed Oct. 24, 2013); Supplement of ASL Services Holdings, LLC, CG Docket Nos. 10-51 & 03-123 (filed Nov. 4, 2013).

⁴ See Collective Providers' Letter at 6 ("Therefore the Collective Providers respectfully request that the Commission grant an industry-wide temporary waiver of the SoA rather than a waiver for a single provider only.").

and will continue to do so after the new SOA requirements become effective, Convo nevertheless does not object to the relief requested by the Collective Providers.

Convo acknowledges that it can be difficult accurately to predict VRS traffic volumes on a day-to-day basis. As a result, to ensure daily compliance with these incrementally more restrictive SOA requirements, VRS providers may have to overstaff their call centers with communications assistants (“CAs”) that otherwise would be unnecessary and who will be underutilized most of the time. Consequently, VRS providers will bear inefficient costs in connection with these additional CAs. Further, given the Commission’s predetermination of the per-minute VRS rates through June 2017,⁵ the additional costs borne by VRS providers to overstaff their call centers may not be adequately compensated from the Telecommunications Relay Service fund. Therefore, VRS providers may have to reduce their costs with respect to some other aspect of their operations to offset the costs of the additional CAs required to comply with the new SOA requirements on a daily basis. Any such cost reductions may impact VRS users’ experience in an adverse manner. Ultimately, it has been Convo’s experience that VRS users value quality interpreting much more than a very short wait time. Accordingly, Convo does not object to grant by the Commission of the relief requested by the Collective Providers.

Convo agrees with the Collective Providers that the Commission should revise the penalty for failing to meet the SOA requirements.⁶ As the Collective Providers note, withholding compensation for the entire day on which a VRS provider does not comply with the SOA requirement is an overly punitive penalty and may lead to incentives that place fiscal responsibility at odds with service quality.⁷ Further, excessive penalties ultimately will harm VRS users because providers will need to divert resources that otherwise

⁵ See Comments of Convo Communications, LLC, CG Docket Nos. 10-51 & 03-123 at 2 (filed Aug. 19, 2013) (“[S]ince the launch of its proprietary in-house ACD platform on June 21, 2012, Convo has averaged an 11-second average answer time.”) (“Convo Comments”); Letter from David Bahar, Vice President of Governmental and Regulatory Affairs, Convo, to Marlene Dortch, Secretary, FCC, CG Docket Nos. 10-51 & 03-123 at 2 (filed Aug. 30, 2013) (“Convo noted that it currently complies with the 30-second SOA requirement that will take effect in July of 2014.”) (“Convo Aug. 30 Letter”).

⁶ Collective Providers’ Letter at 6. The Collective Providers specifically propose a modification of the enforcement mechanism for the SOA requirement whereby VRS providers only would be penalized with respect to calls that did not meet the SOA requirement rather than lose all compensation for a day in which the SOA requirement was not satisfied. *Id.*; see also Reply Comments of Convo Communications, LLC, CG Dockets Nos. 10-51 & 03-123 at 24 (filed Sept. 18, 2013) (“Convo Reply Comments”) (“[T]he TRS Fund Administrator only should hold back compensation for individual calls that were not answered in a time frame consistent with the SOA requirement or should reduce monthly compensation based on the percentage by which a VRS provider failed to satisfy the SOA requirement.”); Convo Aug. 30 Letter at 2 (“Convo suggested that the Commission reconsider calculating SOA times on a daily basis”).

⁷ Collective Providers’ Letter at 6 (“It also provides appropriate regulatory incentives because, if an unforeseeable event leads a provider to conclude that it will fail to meet the standard, it would not be reasonable for the provider to take emergency steps to answer calls as fast as possible since it knows that it nevertheless may receive no compensation for the period.”).

would be allocated to improving service quality to instead overstaff their call centers to avoid such penalties.⁸ The Collective Providers' proposed modification to the SOA enforcement mechanism is a reasonable approach that properly balances providers' incentives to maintain high service quality and conduct fiscally responsible operations utilizing appropriately staffed call centers.⁹

Most importantly, Convo reiterates its position that the Commission should not further tighten the SOA requirement beyond the level that takes effect in July 2014.¹⁰ As Convo previously has stated in this proceeding, it would not be economically feasible for Convo to further reduce its average answer time without substantially overstaffing its call centers and thereby potentially undermining its financial viability.¹¹ The additional cost imposed on VRS providers of an overly aggressive and impractical SOA requirement raises particular challenges for the providers due to the Commission's recent adoption of automatic reductions in VRS compensation rates through June 2017. Moreover, if the SOA requirement is further tightened, the additional CAs that VRS providers would need to hire to handle even normal fluctuations in VRS traffic would be underutilized a significant majority of the time.¹²

⁸ See Convo Reply Comments at 24.

⁹ The Commission also should consider adopting a mechanism whereby providers who can demonstrate that their call centers were adequately staffed given reasonably foreseeable call volumes are not significantly penalized for failing to meet the SOA requirement during certain periods of unforeseeable traffic increases beyond the control of the VRS provider. See Convo Reply Comments at 24-25.

¹⁰ The Commission requests comment in the R&O/FNPRM regarding whether the Commission should further tighten VRS SOA requirements by requiring that 85% of all VRS calls be answered with 10 seconds. R&O/FNPRM at ¶ 265.

¹¹ See Convo Reply Comments at 22-25; Convo Comments at 2-3; Convo Aug. 30 Letter at 2.

¹² See Convo Reply Comments at 23.

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Please do not hesitate to contact the undersigned with any questions that you may have regarding the foregoing

Sincerely,

/s/ Jarrod Musano

Jarrod Musano
Chief Executive Office
Convo Communications, LLC

cc: Ruth Milkman, Chief of Staff, Office of Chairman Wheeler
Rebekah Goodheart, Wireline Legal Advisor, Office of Commissioner Clyburn
Priscilla Delgado Argeris, Legal Advisor, Office of Commissioner Rosenworcel
Nicholas Degani, Legal Advisor, Office of Commissioner Pai
Jonathan Chambers, Acting Chief, Office of Strategic Planning & Policy Analysis
Karen Peltz Strauss, Deputy Chief, Consumer & Governmental Affairs Bureau