June 5, 2014

Garnel L. Palin
Contracting Officer
U.S. Federal Communications Commission
Office of Managing Director
445 12th Street, SW
Room 1-A434

Re: Deaf Consumers Request for Clarification on RFP re: Neutral Communications Platform (NCP)

Dear Mr. Garnel Palin, Contracting Officer, OMD, FCC:

On behalf of the California Coalition of Agencies Serving the Deaf and Hard of Hearing, (CCASDHH) who are 8 independent regional service organizations serving "of, by, and for" Deaf and Hard of Hearing Consumers throughout all 58 counties with our primary source of funding from the CA Department of Social Services, I am writing to request clarification on many statements made in this RFP for the NCP. In addition to being users of TRS, we serve the consumers whom this RFP is purportedly designed to serve; and we are not bidding on the NCP.

It is due to the fact that when the RFI went out in January without explaining who the services were for and only allowing non-VRS providers to respond to the FCC's request for information that gave cause for concerns which were shared with Chairman Wheeler. Since then, the RFP has been released, and there are items that remain unclear, thus this request clarification. After all, this new system called Neutral VRS Platform, renamed the Neutral Communications Platform (NCP) that FCC is putting together is experimenting with Deaf, Hard of Hearing, DeafBlind, Deaf with Mobility and plus Consumers Telecommunications Civil Rights. Therefore, it should come as no surprise that we are watching to see what this experiment entails and how it takes shape. The items in question were taken directly and verbatim, from FCC's RFP on the NCP. It would be appreciated if the statements were revised to reflect the true legal standing and checked for legal ramifications and content accuracy:

I. Attachment A:

4.2.22 Legal intercept: The NCP shall allow access for entities duly authorized by law to intercept or monitor TRS and point-to-point communications and communications ancillary to TRS and point-to-point communications. Prior to authorizing access, the NCP administrator shall contact the Contracting Officer (CO) or other responsible FCC official.

Please define and clarify "entities". The Patriot Act requires a court-ordered warrant and/or subpoena for any suspicion of terrorism. The question about entities was not so much the FCC but the undefined "entities" itself. This loosely stated clause gives Consumers cause for

concern. We understand FCC's jurisdiction over Video Relay Service calls however, what is not understood and is frankly scary to suddenly see a requirement involving point-to-point (domestic-to-domestic) of our video calls. Does this mean that this new NCP can monitor Deaf Consumers point to point (domestic to domestic) video calls? "Contracting Official" would probably not even know sign language nor would the "entities" for that matter. In any case, it also means they would need to use sign language interpreters. So just how many people are going to have this "access" to "intercept, monitor TRS and point to point" (domestic-to-domestic) of our video calls? What is the rationale to include point to point (domestic-to-domestic) of our video calls? What is USDOJ and DHS view of this language with regard to domestic-to-domestic video calls? In other words, are there any existing policies out there that cover this aspect?

FCC 64.5103- "Definitions" (Revised April 2014) states:
m) Point-to-point service. The term "point-to-point service" means a service that enables a VRS customer to place and receive non-relay calls without the assistance of a CA over the VRS provider facilities using VRS access technology. Such calls are made by means of ten-digit NANP numbers assigned to customers by VRS providers. The term "point-to-point call" shall refer to a call placed via a point-to-point service.

The Patriot Act clearly states: **"FACT:** The Protect America Act does not authorize "domestic wiretapping," and our intelligence professionals are not using the new law either to acquire domestic-to-domestic communications or to target the communications of persons in the United States". (Source: **http://www.justice.gov/archive/ll/paa-dispelling-myths.html)**

II. FCC's RFP "Q and A" responses posted on the Bid site:

#1- The response states, "there is no contract currently in place for such services that they want the new system to be". That's not entirely the truth. Currently we have VRS centers/operations, IP relay centers/operations & IP CTS centers/operations they just are not lumped in one system as the NCP is proposing. Can you clarify why there is no mention about the current set up with existing Video Relay Services, IP-Relay, and IP-CTS? Perhaps this was overlooked, but it is not clear if the RFI or the RFP had any kind of "preamble" about whom the services are intended for, the history of VRS, functional equivalency, and other relevant and critical information. If so, please do share. In addition, while there may be one or two bidders who have partial experience providing some relay services, there is no one who has all services in a bundle as this NCP Bid asks for and thus it is puzzling why existing and former providers would not be allowed to bid. Can you clarify why they were excluded?

#4 - Asks if it is intent that the NCP and VRS CA shall authorize the call. Response: "It is the intent for the Platform to verify eligibility prior to allowing the call to be connected to the service provider." The strong objection about this statement is the way the statement reads, as if we are not afforded our civil rights to make a telephone call, we will be held back until we are "authorized" to make a telephone call. What happened to our functional

equivalence? In other words, what happened to our "Dial tone"? Is this a one-time authorization or ongoing? This statement needs clarification.

#5 - Re: Call Volume Values – VRS or point to point? Response: "The call volume is compensable VRS calls; the number should be anticipated to be significantly higher for point-to-point calls. The commission does not have hard numbers on the Point-to-Point calls, although anecdotally it has been suggested that 80% of all VRS calls are point-to-point calls". This does not fit with the FCC definition of point-to-point video calls (FCC 64.5103). Is the FCC saying it this way so as to encourage the bidder to include their costs for point-to-point video calls? Why point-to-point (domestic to domestic) video calls are even being discussed and/or counted? It is our understanding that the TRS fund does not pay for point to point (domestic-to-domestic) video calls, thus the confusion. This needs clarification.

#7 – Storing Data - Response: "New System will expect to collect and store data for ALL calls for 5 years, VRS and point-to-point." Per FCC's definition of data below for TRS calls, there is no statement of requirement on *how* they – the company who wins the bid, are to retain the data. There is no statement of assurance regarding liability and damages should data be leaked and or hacked and therefore, confidential information not required specific protocols for data to be protected? Again, why are point-to-point (domestic-to-domestic) video calls being included as a requirement for the NCP bid winner to retain and store? Please clarify and define "data" for point-to-point (domestic-to-domestic) video calls.

FCC 64.5103 "Definitions" (Revised April 2014) state:
(c) Call data information. The term "call data information" means any information that pertains to the handling of specific TRS calls, including the call record identification sequence, the communications assistant identification number, the session start and end times, the conversation start and end times, incoming and outbound telephone numbers, incoming and outbound internet protocol (IP) addresses, total conversation minutes, total session minutes, and the electronic serial number of the consumer device.

#9 – Toll Free Numbers: General question about this section that you are telling bidders. Are there still users who have toll free numbers? I thought this was forbidden. This statement is not clear.

#14 – VRS, IP-relay, IP-CTS: CA's can interpret, type, or video, or captioned telephone: Response: **"**There is no FCC restriction against the same CA's providing multiple services (IP CTS, VRS or IP Relay), although the FCC is not aware of any provider that currently operates in that manner." If the existing and former VRS, IP-relay, IP-CTS Providers are not allowed to bid, who will have this track record of specialty services especially since there will only be one bid awarded? Nothing in this statement guarantees quality assurance and experience. There is no mention about training and qualifications of the services rendered in the RFP. Such services cannot be equated to "goods" that government usually purchases. What is your intent regarding quality assurance?

#15 – End points: "Should the same end points be connected to the NCP be able to make calls to VRS, IP-CTS, and or IP Relay, once the NCP start to provide those services as well?" Response: "the 'end-points' (expected to be called the Video Access Technology Reference Platform or VATRP) that will connect to the NCP will enable the user to select which of these relay services they want to use. It is envisioned that at some point in the future, an integration of these capabilities may provide a more "Functionally Equivalent" service and it is the intent of the FCC to foster improvements in the technology on an ongoing basis". How will FCC measure qualifications throwing the different services in one package and ensure functionally equivalent services by a bidder who will not have experience providing all of these services together in one package in the first place? The different type's services are functional equivalent for different communities. This is the kind of statement that is confusing and any future statements about how this is all to work needs to be crystal clear.

#21 – Regulatory Classification of the NCP: Is this NCP service a telecommunication service, an interconnected VoIP service or an information service? Response: "Commission has not yet addressed the regulatory classification of the NCP." So building the NCP is like the cart before the horse if this has not been worked out yet? Or is the FCC not willing to state for the record that this is going to be a government-run multiple VRS/IP-relay, IP CTS aka FCC VRS? This is how it appears and does give cause for concern to Consumers who are in the dark about what this NCP looks like, as it appears to be another silo. The NCP is proposing to add interpreters from different parts of the USA to plug into the platform. Will such interpreters be following a standard developed by the FCC? Will such interpreters be Federal employees or an independent contractor previously approved by the Federal requirements for Vendors? The CCASDHH has always had concerns about the ongoing interpreter shortage to meet the demands of the community on the local level. How will the FCC resolve this concern with this new system taking away more interpreters from the community?

#33 – Outgoing calls: Is the NCP responsible for the outgoing call from the VRS CA to the hearing person or is it only responsible to deliver the call to the VRS service provider? Response: "The NCP is responsible for the outgoing call to the hearing person." It is not clear by this statement regarding Deaf Consumers functional equivalence with telephone calls? It appears that the FCC is saying it will send to a selected VRS provider on one hand, but on the other hand, it basically states the new system will do the same function as a VRS provider. If this is not your intent, please clarify.

#35 – Attachment A Section 4.2.22: Does the FCC interpret the requirement of Section 4.2.22 to mean that before the NCP can respond to legal warrant for legal intercept; it must first obtain approval from the CO or other authorized FCC Official? Response: "Yes." In addition to the questions already asked in the first item with this document, realize this is "new" to consumer and appears scary, and expecting Consumers to blindly trust the FCC is not something that should be taken lightly nor should we be scoffed at for asking such questions. Regarding the part about the CO, who else would be considered "other authorized FCC official"? Is this set-up similar to other populations and programs or only the Deaf and hard of hearing, DeafBlind, Deaf mobility and plus consumers? Is this a

provision FCC requires of all consumers who use point to point (domestic to domestic) video calls using Apple's FaceTime? Google Hangouts? Skype? Android video chat apps? If so, please state this policy. If the Patriot Act already covers this for the general population,(i.e. users of Apple's FaceTime, Google Hangouts, Skype, Android video chat apps, etc.) then what is the reason for the adding this clause with this proposed new system? If not the Patriot Act, please share the policy that gives you this right.

(Link to Q and A: https://www.fbo.gov/index?tab=documents&tabmode=form&subtab=core&tabid=b8a701e73f782e70d1e961a86f1c528d)

We have been told at meetings with the FCC that this NCP system is an "experiment in the works". If it works great, if not, we will end up with what we currently have now. While the effort to bring Deaf Consumers telecommunications relay experience and services up to par with innovative ideas is greatly appreciated, it is still unnerving to see our telecommunication services experimented on without having the full picture. The rapid pace the FCC is moving toward has us concerned when we see such items as listed here in this letter left unexplained. It is important, especially for the future administration of the FCC that the Deaf and Hard of Hearing, DeafBlind, and Deaf with mobility and plus populations input is validated and resolved with specific concerns. When trying to get clarification at meetings held between FCC and Deaf Consumer Groups, we are told it cannot be discussed because of the RFI, then RFP procurement process. There seems to be no right time to ask questions before things are designed and millions of dollars are used. It may behoove the FCC to clean up its own language to be clearer so that when we do read such documents, we will have fewer questions and can visualize better what to expect ahead.

Last but not least, due to the fact that there are several systems being designed, the NCP, the VRS Reference Platform, etc. The FCC may want to consider drawing a visual map of the process so that consumers can gain further insight, and arrange for an acceptable timeframe to be allowed to ask questions as the FCC moves along in the process. It is our telecommunications civil rights the FCC is experimenting with and surely you can see why we are anxious. The best way to avoid major hurdles and barriers is to involve deaf expertise in the very beginning, and throughout.

We would appreciate a response as soon as the procurement process is over, if not before.

Sincerely,
~Sheri
Sheri A. Farinha,
Representative for CCASDHH

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