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

In the Matter of
Structure and Practices of the Video Relay Service Program CG Docket No. 10-51

Comments of
Communications Workers of America and National Interpreter Action Network

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August 19, 2013
The Communications Workers of America (“CWA”) and the National Interpreter Action Network (“NIAN”) submit these comments in response to the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) seeking further comment on specific issues related to the structure and practices of the Video Relay Service Program (“VRS”).1 CWA represents 700,000 workers in communications, media, airlines, manufacturing and public service. Of particular relevance in this proceeding, CWA represents video interpreters (referred to as communications assistants, or CAs, in the FNPRM) at several Purple Communications locations. The National Interpreter Action Network (“NIAN”) is an organization created by and for interpreters, dedicated to advocating for our profession.

The Commission’s efforts to reform the video relay service program are designed to ensure that the VRS program continues to offer a high quality service of functional equivalence to all eligible users and is as immune as possible from waste, fraud, and abuse.2 We fully support these goals. The Commission also recognizes the critical importance of qualified interpreters to the success of the VRS program.3 As the Commission moves forward to bring provider reimbursement rates in line with cost, the Commission must also ensure that its policies support conditions in the call centers that allow qualified interpreters to provide quality interpretation services. In these comments, we focus on some key issues in the FNPRM that relate to the ability of interpreters to provide quality services.

2 Id. At 3.
3 The Commission’s rules direct that VRS CAs must be qualified interpreters, capable of interpreting “effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.” See 2000 TRS Order. 15 FCC Rcd at 5161-62, para 48. See also 47 C.F.R. Sec. 64.601(a)(17)(2012).
**Speed of Answer.** In the 2013 VRS Order, the Commission reduced the speed of answer benchmark to one that requires VRS providers to answer at least 85 percent of calls within 30 seconds on a daily basis.\(^4\) In the FNPRM, the Commission asks whether the speed of answer time should be further reduced to require 85 percent of calls to be answered within 10 seconds and whether this would result in providers hiring additional staff to meet the benchmark.\(^5\) Unfortunately, our experience shows that providers respond to tighter benchmarks not by hiring more video interpreters, but instead by imposing unrealistic and harmful “work speed-up” that requires the existing pool of video interpreters to meet ever more demanding work schedules. This has a direct impact on the quality of interpretation that they are able to provide consumers.

If past is prologue, providers will try to respond to the more stringent answer times by further reducing the small amount of time that video interpreters currently have off-line properly to debrief calls, rest our hands, get a drink of water, use the restroom, and handle requests from managers. Video interpreters are held accountable to meet Key Performance Indicators (KPIs). One KPI is called the log-in requirement, which is the amount of time an interpreter is logged into the system ready to receive calls. Over the past three years, for example, Purple Communications increased the log-in requirement a total of 14 percent for daytime hours and 20.6 percent for late evenings and weekends. As a result, the video interpreters have very few minutes off-line during an hour of interpreting.\(^6\) This despite the fact that research in the field of spoken language video interpretation has found that interpreter performance declines after 15


\(^5\) *FNPRM at 265.*

minutes of continuous interpreting. The current log-in and billable minute KPIs are significantly above this standard.\(^7\)

As a result of this work speed-up, there has been an increase in worker injuries. Video interpreters use wrist splints and apply ice to their wrists with more frequency. In one center alone of less than 50 employees, one interpreter has carpal tunnel syndrome, another has a doctor’s note regarding work-related injuries, and another went on leave with a workers’ compensation claim. The employer responded by providing interpreters with ice packs, ibuprofen, and Biofreeze to alleviate the video interpreters’ pain.

As a result, some full-time video interpreters have requested to become part-time interpreters so they can pursue better working environments. Others are leaving VRS or the profession altogether. Video Relay Service is no longer seen as a good job option mainly due to these speed-ups. The exodus of skilled interpreters further shrinks the pool of available interpreters in VRS and in the community. They are replaced by less experienced and lower-skilled interpreters. This can result in more errors and increased cost in terms of billable minutes. Calls take longer because of the need to clarify communications, and lack of the broad base of knowledge needed to process the myriad of contexts that come through the queue every day. This clearly impacts both the cost and quality of TRS-funded video relay services.

In light of this experience, we strongly oppose further reduction in wait time benchmarks. The Commission has just adopted new answer time benchmarks. It should see what the impact of

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\(^7\) In a study of remote interpreting, Barbara Moser-Mercer found that “[T]he onset of fatigue under remote conditions, as evidenced by a decrease in performance, appears to occur fairly soon after “half-time”, i.e. somewhere between 15 and 18 minutes into a 30-minute turn. Quality of performance then declines consistently irrespective of time of day.” See Barbara Moser-Mercer, “Remote Interpreting: assessment of human factors and performance parameters,” 2003 (available at [http://aiic.net/page/1125#authors_bio](http://aiic.net/page/1125#authors_bio)).
these benchmarks are before it adopts another reduction in wait times.

In addition, the Commission notes that it will consider as part of the answer time measurement when the call was handed off to the provider’s system for purposes of determining compliance. It is important that the Commission require providers to separate answer time issues that are technology-related from those that are staffing-related.

Non-Compete Clause. We strongly support the Commission’s rule that prohibits VRS providers from using non-competition agreements in VRS employment contracts that limit video interpreters’ ability to work for competing VRS providers after leaving employment with their current employer. Non-compete clauses do not serve the public interest because they artificially remove video interpreters from the available labor pool. This raises costs and deprives consumers of access to many qualified interpreters. Moreover, in our experience, there is little basis to the claim that VRS providers underinvest in specialized training in interpretation skills because they do not want their competitors to reap the benefits of their “investment” if an employee gains employment with a competitor. In fact, VRS providers’ training, when they employ qualified interpreters, is limited to instruction about the provider’s software and company policies. In addition, many video interpreters split their time between VRS call centers and interpreting in the community. As VRS providers expand their business into community interpreting, a non-compete clause would further limit the number of interpreters available in the centers and in the community. Such non-compete policies would have the unintended consequence of driving VRS interpreters out of VRS as the interpreters seek to preserve future

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8 FNPRM at 278-9.
employment options. Furthermore, it is likely that non-compete provisions would raise legal issues in some states; in California, for example, such provisions are illegal.

**Disaggregation of Emergency Calls to 911.** The Commission seeks comment on a proposal to route VRS 911 calls to pre-identified video interpreters who would be specially trained to handle the safety and medical issues that typically characterize emergency calls.\(^\text{10}\) We generally support such a proposal. Creating a dedicated pool of video interpreters who choose to do this work and who are properly trained to handle the unique situations that come up in emergency calls would benefit deaf and hard-of-hearing consumers. It would also relieve one significant source of stress on video interpreters. According to a recent survey by Katherine Bower as part of her master’s thesis at Gallaudet University, video interpreters cited 911 calls as the third most significant source of stress at work.\(^\text{11}\) Current research on methods to help video interpreters handle vicarious trauma, compassion fatigue, and post-traumatic stress disorder (PTSD) when interpreting 911 calls should inform the training and best practices for 911 video interpreters. Without specialized training and supportive work environments that are not influenced by profit concerns, the limited pool of VRS sign language interpreters who would selectively decide to specialize in 911 will inevitably shrink. We also note that we find merit in the Commission’s Emergency Access Advisory Committee (EAAC) recommendations to create nationally certified “Media Communications Line Service” (MCLS) centers, defined as centers that would provide “translation service for people with disabilities and telecommunications using video, voice, text and data during NG (next generation) 911 calls. However, because there were no video interpreters included on the task force, some of the report’s recommendations,

\(^{10}\) *Id.* at 256-260.  
\(^{11}\) *See* summary of K. Bower’s research in CWA Ex Parte Letter dated July 22, 2013 at 3.
particularly those regarding certification and training, must be updated. For example, the report references certifications that are no longer offered. Moreover, the Commission should fully consider the implications of contracting out 911 services to a for-profit vendor in light of past experience with this model. The general public receives 911 services from public agencies; why should deaf and hard-of-hearing consumers be subject to 911 service delivered by providers driven by the distortions inherent in profit motives?

**Work from Personal Office outside Traditional Call Centers.** In the past, the Commission found that allowing video interpreters to work from personal home offices poses more risks than benefits, citing concerns about user privacy, service quality, technical standards, and protections against fraud.¹² The Commission now seeks comment on whether it should relax that standard for evening work.¹³ We believe that the Commission’s current rule prohibiting home-based work should continue until a system is clearly developed that ensures the following conditions essential to the provision of quality interpreting: teaming opportunities, specialized technology provided at the provider’s expense, professional development, debriefing and case conferencing. None of these conditions are currently available in a home work environment. Moreover, experience from other industries, such as airlines, demonstrates that home-based work increases worker isolation and allows employers to transform well-compensated jobs into lower-paid ones. The proposal to allow Home Personal Office-based interpretation services in the evening is premature. If these issues can be resolved, then the issue could be reconsidered, with an opportunity for public comment by organizations representing video interpreters.

¹² *VRS Call Practices R&O*, 26 FCC Rcd at 5556, para 16.
¹³ FNPRM at 280-282.
**Auction for CA Service.** The Commission seeks comment on a proposal to auction the right to provide VRS video interpreting service for all calls terminated to an appropriately selected set of telephone numbers. The Commission posits that this could provide the Commission with the ability to determine a “market rate” for use of VRS video interpreter services, and that the Commission should select the provider based on the “lowest price per minute bid.”\(^{14}\) The proposal is totally without any merit and should be rejected. There would simply be no way to control for quality if the Commission were to auction off video interpreting services and to base its choice of provider on low cost. Low cost translates into low compensation. A race to the bottom in compensation is simply not the way to ensure that there is an adequate pool of qualified, experienced interpreters, as required by the Commission’s own rules. In fact, Congress passed the Service Contract Act of 1965 to protect against such abusive practices. The Service Contract Act requires federal service contractors to pay the local prevailing wage – not the lowest wage possible – on federal service contracts.\(^{15}\) The Commission’s proposal to auction off the right to provide VRS interpretation service to a select number of telephone numbers should be soundly rejected.

**TRS Fund Advisory Council.** The Commission proposes transforming the existing TRS Fund Council into a TRS Fund Advisory Council, with membership composed of consumers, researchers, entities paying into the fund, and state administrators. The Advisory Council would address issues related to technology, quality of service improvements, among other topics.\(^{16}\) We wholeheartedly support the proposal to establish the Advisory Council. We would add another

\(^{14}\) FNPRM at 223-235.
\(^{16}\) FMPRM at 246-249.
important stakeholder group that should be represented on the council: a representative of ASL and/or video interpreters (e.g. those who actually do the interpreting work).

**Research.** The 2013 VRS Order directs the National Science Foundation to spearhead a research program on VRS-related issues, and the FNPRM proposes a $3 million budget for this program. We strongly urge this research program to include the study of issues that examine the relationship between VRS call center working conditions, interpreter training, worker stress, turnover, health issues, and service quality. Given the many research issues that must be examined in the NSF-administered research program, we urge the Commission to consider an allocation of an additional $1 million dollars specifically devoted to research on video interpreter issues.

**Definition of “qualified” video interpreter.** We urge the Commission to define further the definition of what it means to meet the Commission’s standard of a “qualified” video interpreter. The industry standard to become a professional interpreter requires training, education, and testing. A Bachelor’s degree can provide an important knowledge base for the video interpreter, substitute for testing. As the number of deaf and hard-of-hearing consumers with higher education levels grows, the need for more highly skilled and educated interpreters that can interpret for them increases as well.

**Other Issues.** We believe that the Commission’s consumer complaint reporting mechanisms can be improved. Many deaf consumers are either unaware that they can offer feedback or do not know how to offer feedback. The providers’ websites do not have forms for feedback that can be given either in ASL, Spanish, or English. Rather, providers expect consumers to call customer service, but with hold times of 5 to 15 minutes, many consumers
decide to forego the opportunity to complain or give feedback. In addition, once the call is disconnected, the number identifying the interpreter is gone, so consumers cannot provide interpreter-specific feedback if they did not write down the interpreter number during the call.

Finally, we also encourage the Commission to change the terminology it uses when referring to video interpreters. The Commission currently uses the term “Communications Assistant” (“CA”). We urge the Commission instead to refer to us as “interpreters.” The work we do is interpretation, as we translate from one language in real-time to another – whether spoken English or Spanish translated into a wide variety of Signed Languages meeting the needs of deaf and hard-of-hearing consumers. This change will more clearly represent the service that we provide, and it will reduce the confusion expressed by many hearing consumers whom we also service with interpretation services.

CWA and the National Interpreters Action Network strongly believe that quality VRS service to deaf and hard-of-hearing consumers requires quality working conditions that treat VRS interpreters as skilled professionals. The Commission can play a critical role in adopting policies and practices that foster such an environment, creating a win-win situation for deaf and hard-of-hearing consumers, video interpreters, and telecommunications users who finance the TRS and VRS programs.

Sincerely,

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August 19, 2013