



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

September 29, 2011

**VIA E-MAIL, FIRST CLASS MAIL, AND  
CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Say-Hey, Inc.  
Attn: Mr. Matt Idler  
1474 Stone Point Drive  
Roseville, CA 95661  
E-mail: matt@say-hey.com

RE: EB-11-TC-086

This is an official **CITATION** issued by the Federal Communications Commission (Commission or FCC) pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Communications Act or Act), 47 U.S.C. § 503(b)(5), to Say-Hey, Inc. (Say-Hey or the Company) for violations of section 225 of the Act and section 64.601 *et seq.* of the Commission's rules.<sup>1</sup> **As explained below, any future violations of section 225 of the Act or section 64.601 *et seq.* of the Commission's rules may subject the Company to further legal action, including monetary fines (forfeitures) and/or other penalties.**<sup>2</sup>

Section 64.601 *et seq.* of the Commission's rules generally establishes the requirements for entities participating in the Telecommunications Relay Services (TRS) program, including those relating to the eligibility of entities offering and providing TRS, mandatory minimum operating standards, and data submissions.<sup>3</sup> Under the Commission's rules, to the extent that a TRS provider chooses to offer Video Relay Service (VRS), an Internet-based form of TRS, the service can only be offered to the public in the name of a provider eligible to receive reimbursements directly from the TRS Fund (Eligible Providers).<sup>4</sup> Eligible Providers may also

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<sup>1</sup> See 47 U.S.C. § 225 and 47 C.F.R. § 64.601 *et seq.*

<sup>2</sup> According to publicly available information, Say-Hey, Inc., is also known as or d/b/a Say-Hey. All references in this citation to Say-Hey, Inc., include all d/b/a entities and any other entity names used by the Company to provide VRS. Further, all references in this citation to the Company also include the owners, principals and officers of this entity, as well as the corporate entity itself.

<sup>3</sup> 47 C.F.R. §§ 64.601-613.

<sup>4</sup> 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(i). Entities that do not meet the criteria currently in effect under section 64.604(c)(5)(iii)(F) of the Commission's rules are prohibited from holding themselves out to the public as providing VRS.

utilize sub-brand(s) to identify their VRS.<sup>5</sup> Additionally, Eligible Providers must route all VRS calls through a single URL address used by the Eligible Provider to provide its VRS or a URL address it uses to provide VRS in the name of a sub-brand.<sup>6</sup>

Under section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission's rules, Eligible Providers were prohibited from having contracts authorizing a third party to provide core functions associated with providing VRS.<sup>7</sup> However, the Commission stayed the effective date of section 64.604(c)(5)(iii)(N)(1)(iii) until October 1, 2011.<sup>8</sup> This stay allows Eligible Providers to have certain revenue sharing arrangements, including subcontracting with third parties to provide interpretation services and call center functions on the Eligible Provider's behalf.<sup>9</sup> In such cases, the third-party may not hold itself out as offering or providing the service; the Eligible Provider must always be identified as the entity offering and providing the VRS regardless of whether the service is offered directly by the Eligible Provider or through a contract with a third-party.<sup>10</sup>

**Again, as discussed above, the stay of section 64.604(c)(5)(iii)(N)(1)(iii) of the Commission's rules is temporary. Effective October 1, 2011, or such other date as the Commission may designate, Eligible Providers will be prohibited from contracting with or otherwise authorizing any third party to act on their behalf to provide interpretation service or call center functions unless the third party has been certified by the Commission as an Eligible Provider (i.e., it will be a violation of section 64.601 *et seq.* for the Company to offer or provide VRS, or act on behalf of an Eligible Provider by providing interpretation services or call center functions, without having obtained from the Commission a certification authorizing the Company to provide VRS and receive reimbursements directly from the TRS Fund.).**

Based on the foregoing and the record developed in this case, the Enforcement Bureau (Bureau), acting through its delegated authority, finds that Say-Hey, Inc. violated section 225 of the Act and section 64.601 *et seq.* of the Commission's rules governing TRS. Specifically, after June 1, 2011, the Company:

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<sup>5</sup> § 64.604(c)(5)(iii)(N)(1)(ii) of the Commission's rules, 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(ii). Sub-brands refer to brands such as those associated with specific states, regions, communities, etc., established by an Eligible Provider for the provision of its VRS.

<sup>6</sup> *Id.*

<sup>7</sup> 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

<sup>8</sup> *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order Suspending Effective Date, 26 FCC Rcd 8327 (2011). The stay did not affect the requirements under section 64.604(c)(5)(iii)(N)(1)(i) and (ii).

<sup>9</sup> Call Center functions include call distribution, call routing, call setup, mapping, call features, billing, and registration. 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

<sup>10</sup> § 64.604(c)(5)(iii)(N)(1)(ii). Brand names such as XYZ Co. powered by Eligible Provider or XYZ Co., a subcontractor of Eligible Provider, do not comply with the requirement that service be offered in the name of the Eligible Provider. Neither of these brand names clearly identifies the Eligible Provider as the entity actually providing the service. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 6862 (2011).

- Held itself out to the public as offering and providing VRS when the Company is not an Eligible Provider.
- Did not clearly identify an Eligible Provider as the entity that a VRS user is using when the Company handled a VRS call initiated through the Company's URL.
- Routed a VRS call through the Company's URL, a URL not used by an Eligible Provider for its brand or sub-brand(s).

Our investigation of the Company's violations is continuing. Recovery of any monies associated with minutes that were processed through the Company's URL and submitted to the TRS Fund administrator for reimbursement will be handled through a separate process. The Commission and/or the TRS Fund administrator will notify the Eligible Provider that submitted such minutes to the TRS Fund administrator of any monies that must be repaid.<sup>11</sup>

**If, after receipt of this citation, the Company again violates section 225 of the Act or section 64.601 *et seq.* of the Commission's rules, the Commission may impose monetary forfeitures up to \$16,000 for each such violation, or up to \$16,000 per day of a continuing violation. You are advised that the Company's continued engagement in the activities discussed above or engaging in the provision of VRS without proper certification after issuance of this citation is a violation of section 64.601 *et seq.* and section 225 and could subject the Company to monetary forfeiture in accordance with section 503 of the Communications Act.**

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#### **RESPONDING TO THIS CITATION**

You may respond to this citation within 30 days of the date of this letter through (1) a written statement, (2) a telephone interview with the Commission's Telecommunications Consumers Division in Washington, DC, or (3) a personal interview at the Commission Field Office nearest to your place of business.

**If you would like to arrange a teleconference or personal interview, please contact Ms. Sharon Lee at (202) 418-7534. Such teleconference or interview must take place within 30 days of the date of this letter.**

**If you would like to submit a written response, including any supporting documentation, you must send the response within 30 days of the date of this letter to the address below:**

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<sup>11</sup> See section 64.604(c)(5)(iii)(C) of the Commission's rules, 47 C.F.R. § 64.604(c)(5)(iii)(C).

Richard A. Hindman, Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Rm. 4-C224  
Washington, D.C. 20554

**Reference EB-11-TC-086 when corresponding with the Commission.**

Reasonable accommodations for people with disabilities are available upon request. Provide a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:

202-418-0530 (voice), 202-418-0432 (TTY);

For accessible format materials (Braille, large print, electronic files, and audio format):

202-418-0531 (voice), 202-418-7365 (TTY).

Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment pursuant to 18 U.S.C. § 1001.

Thank you in advance for your cooperation.

Sincerely,

Richard A. Hindman, Chief  
Telecommunications Consumers Division  
Enforcement Bureau  
Federal Communications Commission

Cc: Andrew O. Isar