

FCC Consumer Advisory Committee

RECOMMENDATION: FCC CERTIFICATION OF VRS AND INTERNET RELAY PROVIDERS

The Consumer Advisory Committee (CAC) recommends that the FCC:

- (1) Establish a mechanism to certify VRS and Internet Relay providers who do not meet one of three existing criteria as specified in 47 C.F.R. § 64.604
(c) (5) iii (F) (1) through (3).

- (2) Undertake proactive enforcement actions when a VRS or Internet Relay provider is out of compliance with FCC rules.

The FCC has issued a *Report and Order and Order on Reconsideration (Order)* which establishes an FCC certification process for VRS and Internet Relay providers.¹ Thus, it would seem that the first objective above has now been addressed. Therefore, the focus of the following recommendations from the CAC is on the second objective: oversight and enforcement.

The *Order* cited above contains very little reference to oversight and enforcement, certainly very little compared to the scrutiny that some states give to traditional relay providers. To advance the case for closer scrutiny of VRS and Internet Relay providers' performance and practices, the TRS Work Group, in anticipation of support from the full CAC, makes the following points:

1. "Compliance" by VRS and Internet Relay providers certified by the FCC is based on a combination of providers' self-description that they are compliant, and on the complaint process that relies on consumers to file complaints of non-compliance.

Compliance is defined as being compliant with mandatory minimum standards, and filing complaint logs detailing complaints and their resolution.

It is widely known that relatively few consumer complaints ever reach the level of the FCC. Indeed, although current FCC Rules require that all state programs make "available to TRS users informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints,"² there is very little evidence to show they do

¹ *Report and Order, and Order on Reconsideration*, CG Docket No. 03-123, Adopted December 8, 2005. http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-05-203A1.doc

² 47 C.F.R. § 64.605(b)(2)

this in ways that are understood by the largest number of people and with processes that are efficient and readily accessible.

There is also some question as to how forthcoming providers would be in any report to the FCC when out of compliance with TRS Rules.

2. It is recommended that the FCC establish a mechanism for oversight, reporting, and accountability for all VRS and Internet Relay providers, including those already ‘certified’ by some other means and receiving reimbursements from the Interstate TRS Fund. This mechanism needs to include independent verification through random test calls with standardized rating, including published objective criteria.
3. It is recommended that the FCC post the complaint reports filed by VRS and Internet Relay providers on the FCC’s TRS website, retroactively and henceforth. Currently these reports are simply filed via the FCC’s Electronic Comment Filing System and they get lost in the midst of hundreds if not thousands of other comments from consumers. This makes it difficult for consumers to keep track of complaints and make informed choices about which providers to use.
4. To our knowledge, there have been no fines or penalties imposed on a VRS or Internet Relay provider found to be non-compliant with FCC Rules. We recommend that the FCC put into place an appropriate system of fines or penalties when providers are found to be non-compliant. State TRS Administrators try to enforce compliance with FCC regulations and need to have the leverage and support of the FCC in this endeavor. Regulation without enforcement and penalties renders Federal regulations meaningless.
5. There has been a long history of non-compliance with TRS Rules by VRS and Internet Relay providers that has gone by the FCC without comment or action, such as non-compliant ASA reported by users of both Internet Relay and VRS.
6. Repeated efforts by consumer members of the Interstate TRS Fund Advisory Council to call attention to VRS and Internet Relay provider deficiencies and practices have been continuously declined by the Fund administrator who, following the direction of the FCC, believes that such issues are not within the purview of the Council.
7. The FCC imposes only minimum standards. State requirements frequently exceed them in an effort to achieve a higher level of service quality. It is recommended that the FCC raise the bar to be met by all TRS providers, especially Internet Relay and VRS, for both intrastate and interstate service.

8. In its *Orders*, the FCC noted Comments filed by TDI Inc. “that it is vital that measures be implemented to ensure that interstate TRS providers provide *quality service*, and that the federal certification program can ensure a baseline *national level of quality*, consistency of service, and outreach requirements. TDI strongly urged the Commission to establish a federal TRS certification program to ensure the *quality* provision of TRS when there is no state program oversight of interstate TRS providers.”³ (emphasis added)

9. In view of the ongoing problems related to scams and other fraudulent Internet Relay calls, it is recommended that the FCC establish mechanisms to carefully examine the qualifications, experience, and provision of service of any new provider applying for certification by the FCC to ensure that new providers are not being established for the purpose of perpetuating fraud.

In this regard, it is also recommended that the FCC mandate semiannual reports from all Internet Relay providers, regardless of their method of certification, on the number of fraudulent calls, the number of such attempted calls that were successfully blocked, and the provider’s methods for blocking and preventing such calls. The Consumer Advisory Committee recognizes that implementation of these recommendations may require changes to current FCC rules.

In conclusion, it is worthwhile to point out that in this proceeding one provider recognized that “if the Commission adopted a certification program it would need to continually monitor the entities that it had certified in the same manner that the states currently do.”

Indeed, consumers expect nothing less.

³ Id., at 10.