



NOTICE OF ORAL AND WRITTEN *EX PARTE* CONTACTS

October 31, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Portals II, Room TW-A325
Washington, DC 20554

Re: Ex Parte Notice filed electronically in the proceeding captioned: *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol Relay Service and Video Relay Service, Further Notice of Proposed Rulemaking, FCC 06-58, CG Dkt No. 03-123, adopted May 3, 2006, rel. May 6, 2006.*

Dear Ms. Dortch:

On October 31, 2007, I spoke with Chris Moore, Advisor to Commissioner Tate about a NARUC resolution referencing this proceeding.

The focus of the conversation was to seek ideas on ways NARUC could work with the Commission to further educate businesses about potential abuses of the Internet Protocol (IP) Relay Service.

After our conversation, I agreed to send him a copy of the resolution and also decided to forward this ex parte notice, with an overview of that conversation, to the other four FCC Commissioners' legal advisors. In accordance with section 1.1206 of the Commission's rules, this letter is being filed electronically.

During the conversation, I pointed out that in April 2002, the FCC recognized IP Relay service as Telecommunications Relay Service (TRS) ¹ reimbursable from the Interstate TRS

¹ Title IV of the Americans with Disabilities Act of 1990 added Section 225 to the Communications Act of 1934, as amended. Section 225 requires the FCC to ensure that TRS is available, to the extent possible and in the most efficient manner, to persons with hearing or speech disabilities. The TRS service must provide access to the phone system that is "functionally equivalent" to voice services. Until the advent of IP based services, TRS calls could only be placed using a text telephone device (TTY) connected to the Public Switched Telephone Network. With TTY, the calling party types a message which is sent to a third-party Communications Assistant (CA) in a Relay center. The CA then relays the call to the called party, translating the text to voice, and vice versa. TRS is funded by a surcharge on interstate telephone service.

Fund. IP Relay service is also a form of text-based TRS, but instead of using a TTY and the PSTN, the user connects to the Communications Assistant at the Relay facility via the Internet, using a computer, web phone, personal digital assistant, or any other IP-capable device.

In May of last year, the FCC opened a Further Notice of Proposed Rulemaking requesting comment on ways to curtail the abuse of the IP Relay Service form of Telecommunications Relay Service.² Because IP Relay calls reach the Relay center via the Internet, and the calling party and the CA communicate only by text, the CA presently receives no caller identifying information. Because of this veil of anonymity, IP Relay services are being abused. In the FNPRM, the FCC acknowledged that it “continues to receive complaints and anecdotal evidence that IP Relay is being misused by persons without a hearing or speech disability to defraud merchants by making purchases over the telephone using stolen, fake, or otherwise invalid credit cards”³ The FCC also pointed out that such misuse is harmful to the merchants who are victimized, to the legitimate IP Relay users who may no longer be able to convince merchants to accept their orders for merchandise, and to the Fund which must compensate the Relay service provider for such fraudulent calls.⁴

Although calls that reach Relay centers via the Internet contain no calling party number or location information, TRS providers and their employees who process IP Relay calls can often identify wasteful calls using certain indicia. In the FNPRM, the Commission asked for comments on additional steps it might take to prevent misuse. It also asked whether it should adopt rules to guide the discretion of TRS providers in determining whether a call is illegitimate.

Over 20 million calls are placed each year through TRS, at a cost of more than \$92.5 million. Most of these calls use the TRS system for legitimate purposes, but misuse of the TRS system harms legitimate users and adds unnecessary fees to consumer bills. In the July resolution, which is attached, NARUC urged the FCC to, in conjunction with State commissions and other appropriate governmental entities, to educate the business community, especially small businesses, about ways to identify and deal with fraudulent IP Relay callers in a manner that ensures legitimate IP Relay users will not be denied the benefits of this technology.

Do not hesitate to contact me at 202.898.2207 or jramsay@naruc.org if you have any questions about this pleading.

Respectfully Submitted,

*James Bradford Ramsay
General Counsel, NARUC*

² In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol Relay Service and Video Relay Service, *Further Notice of Proposed Rulemaking*, FCC 06-58, CG Docket No. 03-123, adopted May 3, 2006, rel. May 8, 2006.

³ *Id.* at ¶ 6.

⁴ *Id.* at ¶ 7.

IP Relay Fraud Resolution

WHEREAS, IP relay service is an Internet-based Telecommunications Relay Service (TRS) mandated by federal law to assist the deaf and hard of hearing to use the telecommunications network, and thereby to participate in society more effectively; *and*

WHEREAS, Due to the fact that a caller utilizing IP relay accesses the relay system via a computer and the Internet, rather than a dedicated TTY and a telephone, and the calling party and the communications assistant (CA) communicate only by text, the CA presently receives no identifying information, thus obscuring the identity of the caller; *and*

WHEREAS, Due to the fact that a caller using IP relay cannot be traced by telephone number or other identifying information, IP relay affords users a degree of anonymity that is generally not possible with PSTN-based relay calls; *and*

WHEREAS, The IP relay service is being used by individuals within and outside of the United States to commit fraud by contacting a business to effect a deceptive purchase using a dishonest method of payment, such as stolen, fake, or otherwise invalid credit cards; *and*

WHEREAS, Each call made using IP relay service is reimbursable from the federal TRS fund, mandated by the Federal Communications Commission (FCC); *and*

WHEREAS, Each reimbursed fraudulent call also is in essence both a drain on the federal TRS fund, and an inappropriate use of federal ratepayer dollars set aside to fund TRS for the deaf and hard-of-hearing; *and*

WHEREAS, In each type of fraudulent IP relay call, the CA who serves as the intermediary between the calling and called party is privy to the contents of the calls including theft and fraud; *and*

WHEREAS, Each CA is prohibited by federal law and State contract, for those States providing their own TRS, from disclosing the content of any relay communication to which the CA is privy; *and*

WHEREAS, IP relay providers have taken steps to reduce the incidence of fraud, either through training of CAs, the creation of supervisory policies legally allowing the TRS provider to warn called-voice parties that the call may be fraudulent or through blocking of certain numbers; *and*

WHEREAS, These efforts of IP relay providers have met with mixed results because the perpetrators of the fraudulent activity have developed the means to compensate for or to circumvent increased security measures; *and*

WHEREAS, Efforts by the FCC to work with IP Relay providers on ways to eliminate or minimize fraudulent calls have not significantly diminished the frequency of such calls; *and*

WHEREAS, The FCC issued an Notice of Proposed Rulemaking (NPRM) in May 2006 requesting comment on ways to curtail the abuse of the Internet-based forms of TRS; *and*

WHEREAS, FCC Alerts to the business community to take precautionary steps to ensure that the credit card information received through IP Relay is legitimate have been inadequate to educate the business community; *and*

WHEREAS, The business community is for the most part unable to distinguish fraudulent from legitimate calls; *and*

WHEREAS, The continuance of such fraud and misuse of IP Relay is harmful to the merchants who are victimized, to the legitimate IP Relay users who may no longer be able to convince merchants to accept their orders for merchandise, and to the customers of interstate telecommunications carriers that pay into the fund; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its July 2007 Summer Meetings in New York, New York, urges the FCC to act immediately and aggressively, in conjunction with State commissions and other appropriate governmental entities, to educate the business community, especially small businesses, about ways to identify and deal with fraudulent IP Relay callers in a manner that ensures legitimate IP Relay users will not be denied the benefits of this technology; *and be it further*

RESOLVED, That NARUC instructs the General Counsel to relay the intent of this resolution to the Federal Communications Commission either via comments to be filed in an open docket, or via an ex parte communication.

Sponsored by the Committees on Telecommunications and Consumer Affairs
Adopted by the NARUC Board of Directors July 18, 2007