

July 29, 2022

Mr. Claude Doucet  
Secretary General  
Canadian Radio-television and Telecommunications Commission  
Ottawa, ON  
K1A 0N2

*By: Intervention Comment Form*

Dear Mr. Doucet:

**Subject: Telecom Notice of Consultation CRTC 2021-102-3 – Call for comments – Review of video relay service** (Public record: 1011-NOC2021-0102)

1. The Canadian Wireless Telecommunications Association (“CWTA”) is pleased to provide these reply comments on the review of video relay service in Canada.
2. The following comments are being submitted on behalf of telecommunication service providers (“TSPs”) that have participated in collaborative industry activities to further services that meet the needs of Canadians with disabilities: Bell Canada and its affiliates, Cogeco, Eastlink, Freedom, Rogers, SaskTel, Shaw, Tbaytel, TELUS, Videotron, and Xplornet Communications Inc.

### **Introduction**

3. Access to telecommunications is important for all Canadians, including persons with disabilities. Video relay services (VRS) help meet this objective.
4. The numerous interventions put on record by users of VRS, and groups advocating on behalf of the Deaf, Deaf-Blind and hard of hearing (“DDBHH”) community, highlight the broad buy-in that users have in the system and also speak to the work done by the Canadian Administrator of VRS (CAV), Inc. (“CAV”) to successfully make the system a reality.
5. All intervenors, including those identified above, want to ensure the long-term feasibility, and usefulness of VRS in Canada.

## VRS regulatory policy and CAV

**Q5. VRS is currently delivered by the CAV, a centralized and independent administrator. Is there any evidence that the market context, including the availability of sign language interpreters, has changed since the creation of the VRS Policy in 2014 to such an extent that the Commission should consider introducing a competitive model for delivering VRS?**

6. CWTA continues to support the existing model of a centralized administrator for VRS. We think this model offers the most benefits for users of the service and supports an efficient and economical delivery of the service.
7. There have been calls from some intervenors for a competitive model for delivering VRS. They claim that a competitive model would help advance the quality of service, and features of VRS<sup>1</sup>, or cite community frustration<sup>2</sup> with the current model as a reason to introduce a competitive model. The Deaf and Hard of Hearing Coalition (“DHH Coalition”) asserts that “the Canadian scene must permit the establishment of two competing VRS systems.”
8. However, based on evidence placed on the record of this proceeding, the introduction of a competitive model could jeopardize the current level and quality of service that the CAV has achieved.
9. In its **Telecom Regulatory Policy CRTC 2014-187, Video relay service** (“TRP 2014-187”) the Commission determined at paragraph 54 that the VRS environment could not support a model in which there were multiple providers. This remains the case in the current environment.
10. A multi-provider VRS model would dilute the already limited pool of available resources, notably interpreters in Canada, and cause service delivery challenges and would hamper the ability of users to access VRS. A move to a multi-provider VRS model would also likely result in increased costs not only to CAV, but to the competing providers.
11. As identified within the CAV’s submission, the pool of interpreters remains limited:

*CAV’s ability to manage a single centralized system has enabled it to achieve considerable success towards the goal of ensuring that video interpretation services are provided from Canada. Currently, 100% of video interpreter seat-hours in both ASL-English and LSQ-French is provided from Canada. CAV is of the view that if multiple VRS providers were competing for roughly the same pool of VIs as is available today, it may no longer be possible to meet demand and to do so in an economically efficient manner solely on the basis of Canada’s domestic pool of interpreters. CAV notes in this respect that video relay interpreting is a*

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<sup>1</sup> Ontario Video Relay Services Committee-Comité Ontarien des Services de Relais Vidéo (OVRSC-COSRV), submission dated May 16, 2022, at paragraph 29.

<sup>2</sup> Canadian Deaf Grassroots Movement, submission dated May 16, 2022, at paragraph 22.

*demanding and highly specialized field requiring high degrees of training to achieve the levels of service quality VRS users are entitled to expect.<sup>3</sup>*

12. Several of the interventions provide further support to this view, most notably the Canadian Association of the Deaf - Association des Sourds du Canada (“CAD-ASC”), at paragraph 73:

*The current situation of VRS for phone calls is creating fierce competition for the small pool of interpreters already. Introducing a competitive model today will only exacerbate the problems of limited interpreters. Competitors will have to offer even more exorbitant salaries to draw and maintain interpreters. American competitors will make use of interpreters pools in the United States who are unfamiliar with our local signs, our public services, and our official languages. The strain on LSQ interpreters as they are stretched to serving more and more competitors seeking to meet Canada’s bilingual requirements will be challenging for DDBHH people who reside in the LSQ community across Canada.*

13. While the delivery of VRS is centralized through CAV, the existing model utilizes competitive practices which benefit VRS users. For example, CAV has identified the existence of a competitive model in relation to its procurement process, specifically in relation to attracting interpreters, which was reiterated in its intervention at paragraphs 10 and 11.

*CAV designed and has utilized a business model for the delivery of Canada VRS which has benefited from competition between suppliers of key components of the service during the procurement process. For instance, CAV’s platform was selected through a detailed competitive evaluation and selection process conducted on an international scale. The potential scale of the operation based on the centralized character of VRS service in Canada enabled CAV to negotiate contract terms which allowed the flexibility to tailor and enhance the platform, such that it is now a made-for-Canada VRS platform which meets CAV’s specific requirements.*

*The VIPs [video interpretation service providers] which provide the interpreter services CAV’s subscribers use each time they originate or receive a VRS call were also selected on the basis of a rigorous competitive RFP process which enabled CAV to negotiate cost-effective and operationally efficient supply arrangements.*

14. This is further recognized in the submission made by the Canadian National Society of the Deaf-Blind (CNSDB) and the Deaf-Blind Planning Committee (DBPC) (collectively the “Canadian Deaf-Blind Collective,” or “CDBC.VRS”), at paragraph 35:

*CDBC.VRS presents the perspective of Deaf-Blind people that a competitive model already exists with the number of interpreter agencies available in the community.*

15. Changing the structure of CAV or introducing a “competitive model,” would negatively impact the operations of the current system without delivering any additional benefit to VRS users.

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<sup>3</sup> CAV, CAV (CRTC) NOC 2021-102 – Q5, Response to Request, at paragraph 7.

16. As identified by the Commission at paragraph 55 of TRP 2014-187:

*The Commission considers that artificially stimulating direct competition would be inconsistent with subparagraph 1(a)(ii) of the Policy Direction, which states that **the Commission, when relying on regulation, must use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.** [Emphasis added]*

**Q6. Is the CAV's current structure, including its Board of Directors and mandate, still appropriate?**

17. CWTA reiterates its view that the current structure of CAV, including its Board of Directors and mandate, remain appropriate for the effective and efficient management of VRS. This position is consistent with the one put forward by CAV:

*Based on experience, CAV's current structure of the Board of Directors continues to effectively, efficiently and appropriately meet the needs of VRS users and ensures fair representation for all stakeholders.<sup>4</sup>*

18. In **Telecom Regulatory Policy CRTC 2014-659, Structure and mandate of the video relay service administrator** ("TRP 2014-659"), the Commission stated that "seven Directors, as proposed by the Interim Board, will result in an inclusive and effective Board of Directors and will ensure administrative efficiency."<sup>5</sup> This remains the case today.

19. CWTA considers the current size of the Board appropriate and the ongoing telecom representation as crucial. Contrary to the suggestions of interveners, no evidence has been put on the record of this proceeding that would lend credibility to the assertion that the Board is "bias-controlled" by its telecom representatives, or that they are "in a financial conflict of interest." Given that TSPs only hold two Director positions and represent a minority of the votes on the Board, it is simply not possible for the Board to be "bias-controlled" by the telecom industry.

20. In fact, telecom representatives have provided their expertise for the benefit of CAV and users of VRS. For instance, CAV noted that it "has utilized the legal expertise of its TSP Board members and relied on their connections to solicit TSP support and even call centre management experience."<sup>6</sup> CAD-ASC, at paragraph 90, also identified the role of telecom companies as enablers of the service.<sup>7</sup>

<sup>4</sup> CAV, CAV (CRTC) NOC 2021-102 – Q6/7, Response to Request, at paragraph 14.

<sup>5</sup> CRTC TRP 2014-659, at paragraph 18.

<sup>6</sup> CAV, CAV (CRTC) NOC 2021-102 – Q6/7, Response to Request, at paragraph 11.

<sup>7</sup> CAD-ASC submission, at paragraph 90: CAD-ASC applauds the Commission for launching the VRS services, reviewing its structure and mandate for CAV, and overseeing the VRS services that are available for all DDBHH people. CAD-ASC would like to express our gratitude to telecom companies for making this happen that creates an accessible and inclusive Canada.

21. As Canadian TSPs provide all of the funding for VRS, it is important to have industry representation on the Board of CAV. The primary interests of TSPs are to ensure that the service is achieving the Commission's stated objectives in a meaningful and efficient manner and complying with regulatory obligations.
22. Several interventions suggested that the Board composition should be modified. While we maintain that no changes to the Board are necessary or appropriate, if any changes are to be contemplated, they must be considered in their totality, as changes to the size, structure, or composition, may have far broader impacts than those currently contemplated. As such, any proposed or contemplated changes must be thoroughly vetted to ensure that they continue to support an efficiently run organization.
23. If one of the desired outcomes of broadening the Board is to increase inclusivity and address the issues that were noted in paragraph 7 of this submission, the implementation of advisory panels may be a more effective way of meeting these objectives.
24. As noted by CAD-ASC at paragraph 76 "... the Community Advisory Panel described in the CAV's bylaws has not been established and CAD-ASC recommends that the process for selecting members to sit on the Community Advisory Panel begins. The Advisory Panel will be able to proactively identify, remove, and prevent accessibility barriers in the VRS ecosystem for DDBHH users."
25. The community panel would be an appropriate method to broaden feedback as one doesn't need to be a Board member to ensure participation and views regarding user experience are shared.
26. Should the Commission decide that changes are required to the Board, CWTA would caution that these changes should only occur after a thorough review of impacts, and that they continue to balance a range of perspectives, including those of TSPs.

## **Funding**

### ***Q9. Funding for VRS comes from the National Contribution Fund (NCF). Are the current funding model and the \$30 million annual funding cap still appropriate?***

27. CWTA reiterates that the current funding model and the \$30 million annual funding cap are still appropriate and should be maintained. However, if the Commission is of the view that changes are required, CWTA offers the following comments.

### ***Removal of Funding Cap***

28. Several interventions argue for the removal of the funding cap mechanism in its entirety.

29. These interveners suggest that VRS has suffered as a result of the cap, and that the removal of the cap is what will allow for VRS to become accessible. Others also suggest that CAV should have annually asked and spent the maximum funding cap of \$30 million.
30. In its comments made concerning the CAV 2022 budget request<sup>8</sup>, and included as part of the record of this proceeding, Deaf Wireless Canada Consultative Committee (DWCC) identifies “concern about the **underspending of the annual budget of \$30M**, knowing how government budgets are assigned annually, with the fear that **if you don’t spend it all, you won’t be guaranteed that same amount of funding the following year. With 30M at the CAV’s disposal, it should have done its due diligence to spend all 30M.**” [Emphasis added]
31. Views such as this reveal that some parties have misunderstood the difference between a budget and a cap. In addition to providing a stable mechanism for requesting funds, a funding cap provides certainty for all stakeholders. CAV and users of VRS understand that they have an identified pool of funding, from which they can draw annually, and impacted stakeholders – including TSPs who fund this service in whole – have the sound fiscal management and transparency that a cap brings.
32. The Commission has outlined the benefits of establishing a VRS funding cap in TRP 2014-187, stating:
- The Commission considers that it is appropriate to establish a VRS funding cap, as such a cap would (i) promote predictability in funding requirements; (ii) allow VRS providers to tailor their bids to meet clear funding and service criteria; and (iii) enable the implementation of VRS while allowing for the collection of data about actual costs to inform future decisions. The Commission further considers that a VRS funding cap would assist it in achieving several of the telecommunications policy objectives by permitting the orderly development of an innovative, efficient, and affordable VRS.<sup>9</sup>*
33. As CAV stated at paragraph 13 of their response to Question 9:
- The cap mechanism has met the objectives set for it set by the Commission. While the funding cap provides no assurance that the Commission will approve future annual funding applications, the cap has promoted the orderly development of an innovative, efficient, and affordable VRS by providing CAV and its suppliers the predictability they need to engage in long-term planning, and make the investment needed to efficiently carry out the Commission’s mandate for Canada VRS as technology and the marketplace for VRS evolve.<sup>3</sup>*
34. In its response, CAV further requested that the Commission retain the funding cap mechanism. CWTA supports this request. The Commission should encourage the continued development of

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<sup>8</sup> Telecom Part 1 Application CRTC 2021-0528-8: Filing of Canadian Administrator of VRS (CAV) Inc. 2022 Annual budget – Comments, Filed February 7, 2022, at paragraph 8.

<sup>9</sup> CRTC TRP 2014-187, at paragraph 70.

an innovative, efficient, and affordable VRS. It serves no stakeholder's interest to use resources inefficiently and irresponsibly.

### ***Amount of Funding Cap***

35. Several interventions called for increasing the current \$30 million cap. For the reasons set out in our intervention, we maintain that any increase to the current cap is not necessary. However, if the Commission is of the view that an increase to the funding cap is necessary, then an increase to no more than \$35 million per year would meet CAV's needs, provide the necessary flexibility, and ensure efficiency. Any further increases, including CAV's proposed increase of \$11 million (which CWTA believes includes the reserve), and CAD-ASC's proposed increase of \$30 million, are not justified.
36. Given that CAV has reached the current \$30 million cap for the first time this year, and that service usage will likely level out with the return of normal post-COVID activity, a more reasonable increase to the cap would be to no more than \$35 million. This would allow CAV to fill its reserve and meet its operational needs, as well as provide it with additional flexibility.
37. This approach would provide continued reliable funding for CAV while encouraging ongoing sound fiscal management. Since CAV is required to file a yearly budget request, any need to request additional funding to cover unexpected, or costly items, can be made and considered on a case-by-case basis. To support such requests, CAV should provide clear and transparent information - which would include at a minimum the status of expenditures to date, a forecast of expenditures for the next budget period and operational indicators that clearly link to the expenditures of the organization - to ensure that all stakeholders (including VRS users and TSPs) understand what is being asked for and how it will be used.
37. CAD-ASC recommended that the cap be set at \$60 million<sup>10</sup> and identified a series of initiatives to justify this 100% increase. However, this increase is not supported by the evidence on the record of the proceeding. Specific to the CAD-ASC proposal, many of the items provided as rationale for the increase already fall within the scope of the CAV's activities, and therefore form part of its regular operations (for example, training, ASL/LSQ resources). Other activities are time-limited and might require a temporary increase in funding but do not justify a permanent 100% funding cap increase (for example platform-related or technology upgrades). Other activities fall outside of CAV's mandate altogether and should not be considerations in funding (for example, fund research and development for accessible technologies solutions in the VRS ecosystem; promote internet services; establish funding for equipment/devices). Finally, we note that the proposal to increase funding is not supported by any specific cost estimates.
38. CAV recommended that the cap be set at \$41 million, for a 5-year period. This represents a 36.67% increase. CAV argued that the increase is needed to:
- maintain a \$3 million reserve that it could draw from to deal with unexpected items; and

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<sup>10</sup> CAD-ASC, at paragraph 78.

- meet what it describes as an “upward trajectory” for service demand and the resulting delivery costs.

39. In explaining the potential upward trajectory, CAV relies on information from the COVID-19 pandemic, which CAV acknowledges were “unusual years”.<sup>11</sup> Based on this unusual information, CAV projects that “longer average call length and higher number of calls are here to stay.”<sup>12</sup>
40. However, CAV also acknowledges that changes in usage are “much less predictable” since the advent of the COVID-19 pandemic.<sup>13</sup> As a result, it is difficult, if not impossible, to accurately predict the future trajectory of call volumes. In particular, it is unknown whether call volumes and lengths will drop given the lifting of public health restrictions and the move to increased in-person interactions. Within its own submission, CAV projects that service growth rates will decline from 2022 (6.9%) to 2028 (3.5%).<sup>14</sup>
41. CAV also identifies inflation as a risk. However, inflation is expected to stabilize and decline<sup>15</sup>, and any cost increases associated with it can be dealt with through the reserve for that year.
42. In addition, the request for the \$41 million cap also does not factor in a decision from Canada Revenue Agency concerning CAV’s HST-related restructuring, which would reduce CAV’s annual funding requirements by \$2-3 million annually. If and when CAV makes an application to the Commission in respect of such tax-efficiency measures, we respectfully ask that the Commission approve any appropriate changes at that time.

**Q.11(a) The CAV must file its annual budget application in French and English, by 31 July each year, to receive funding from the National Contribution Fund (NCF). Is this process still appropriate? If not, what changes or additions are required and why?**

43. CWTA supports CAV’s request to modify the filing date for CAV’s annual budget approval application from 31 July to 31 August.
44. In addition, CWTA views the National Contribution Fund (NCF) as the most appropriate mechanism for funding of CAV’s activity.

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<sup>11</sup> CAV, CAV(CRTC) NOC 2021-102 ABRIDGED – Q9, at paragraph 24.

<sup>12</sup> CAV, at paragraph 24.

<sup>13</sup> CAV, CAV(CRTC) NOC 2021-102 ABRIDGED – Q9, Response to Request, at paragraph 20.

<sup>14</sup> CAV, CAV(CRTC) NOC 2021-102 ABRIDGED – Q9, Response to Request, at paragraph 32.

<sup>15</sup> Source: Bank of Canada website: <https://www.bankofcanada.ca/2022/05/the-perfect-storm/>



45. Several interventions have suggested that other mechanisms should be investigated to fund VRS. These suggestions range from direct funding from the federal government<sup>16</sup> to including a fee on the phone bills of all Canadians.<sup>17 18</sup>
46. The “support” provided for these proposals erroneously suggest that telecommunication service providers have hindered the implementation of VRS and that ongoing usage of the NCF will negatively impact VRS. There is no evidence on the record to support such claims. To date, TSPs have provided limited input into CAV’s annual funding requests. However, ability to have the opportunity to review budgets and comment accordingly on the public record is essential for TSPs who fund this service in whole.
47. The NCF is well known, and well understood, by impacted parties. A potential move to another funding mechanism would lead to higher administrative costs, and potentially additional confusion.
48. In addition, the Commission does not have the jurisdiction to order funding from sources such as governments. If VRS continues to be a regulated CRTC service, then the only funding sources feasible under the *Telecommunications Act* are from users of the service or from the NCF. If VRS users wish for the service to be provided to them without cost, the NCF is the only viable funding mechanism.

### **Awareness and promotion of VRS**

***Q12. Is there sufficient awareness of VRS among sign language users, as well as among the businesses, institutions, and individuals that may receive VRS calls? If not, what additional measures are appropriate?***

***Q13. What role should stakeholders other than the CAV take in promoting and increasing awareness of VRS, especially among the general public?***

49. CWTA supports CAV’s efforts with respect to stakeholder engagement and reiterates its position that any awareness or promotional activities should remain the explicit and direct responsibility of CAV. CAV has provided information on the record of this proceeding about the activities it has undertaken to raise awareness of VRS among potential users as well as businesses, institutions and the general public who may receive VRS calls. In particular, CAV notes that it deploys its Community Relations team to conduct extensive community outreach activities across the country, which has greatly improved awareness of the service.<sup>19</sup>

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<sup>16</sup> CDBC.VRS, at paragraph 57.

<sup>17</sup> CDBC.VRS, at paragraph 60.

<sup>18</sup> DWCC, Public record: 1011-NOC2021-0102: CRTC TNC 2021-102 Call for comments – Review of video relay service - Addendum to an Intervention, filed May 16, 2022, at paragraph 8.

<sup>19</sup> CAV, NOC 2021-102 – Q12, at paragraph 4.

50. Should the Commission be of the view that there is a need to further educate businesses, institutions and individuals concerning the use of VRS, CAV is best positioned to ensure that this occurs, and to work with the impacted groups as appropriate via a targeted approach to remedy these concerns.
51. Requiring other stakeholders to also conduct general awareness campaigns is not necessary for a specialized service like VRS, would be duplicative and unnecessary, and, ultimately, their efforts would certainly not be as effective as the efforts of CAV.

### **Timing of the next review**

#### ***Q14. When should the Commission next review VRS?***

52. Commission policy reviews typically occur on a 5-year cycle. The review process is labour and administratively intense and requires organizations to reorient from their core activities to participate.

Shortening the review cycle from every five years to every two or three will increase the administrative burden on all stakeholders, including the CAV and the Commission.

53. As CAV highlighted in their response to this question, it is already subject to ongoing regulatory oversight by the Commission. Processes currently in place, including the Part 1 filing process for budgets, allow for stakeholders to provide their feedback on the CAV's proposed activities and budget requests each year. In addition, the annual report process also provides an additional layer of accountability and identifies how the CAV met its identified objectives.
54. A shortened review process will be harmful because it will remove the certainty that is required for CAV to effectively plan as an organization and meet the requirements of the framework, including any new requirements imposed by the outcome of this proceeding.
55. CWTA reiterates its support for the maintenance of the current 5-year cycle.

### **Other – Scope of activities**

Several of the interventions have identified additional activities as part of their interventions that include the following examples:

- CAD: stakeholders work with CAV to establish a fund, outside of the CAV, to provide compensation for DDBHH users to purchase devices to access VRS services.<sup>20</sup>

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<sup>20</sup> CAD-ASC, at paragraph 78 (k) and (m).

- DWCC: CRTC create a solution that would make funds available to the Deaf-Blind and those who cannot afford the equipment to access VRS.<sup>21</sup>
- CDBC.VRS: federal government create a 5-year or 10-year limited-time funding boost to increase the number of instructors trained to teach sign language interpreter students.<sup>22</sup>
- CDGM: VRS platform be provided at the airport, malls, train and greyhound bus.<sup>23</sup>

CWTA notes that these items are outside the scope of a review of the VRS framework and the provision of a VRS service. Any inclusion of these items by the Commission would require additional thoughtful review.

## **Summary**

### **56. VRS regulatory policy and CAV:**

CWTA continues to support the existing model of a centralized administrator for VRS. This model offers the most benefits for users of the service and supports an efficient and economical delivery of the service. As CWTA had identified in its comments, changing the structure of CAV or introducing a “competitive model,” would not provide any additional benefit to VRS users. It is even clearer now that attempts to stimulate competition could negatively interfere with the operations of the current system.

CWTA reiterates its view that the current structure of CAV, including its Board of Directors and mandate, remain appropriate for the effective and efficient management of VRS. Should the Commission decide that changes are required to the Board, CWTA would caution that these changes should only occur after a thorough review of impacts, and that they continue to balance a range of perspectives, including those of telecom.

### **57. Funding:**

CWTA reiterates that the current funding model and the \$30 million annual funding cap are still appropriate and should be maintained.

For the reasons set out in our intervention, we maintain that any increase to the current cap is not necessary. However, if the Commission is of the view that an increase to the funding cap is necessary, then an increase to no more than \$35 million per year would meet CAV’s needs, provide the necessary flexibility, and ensure efficiency. Any further increases are not justified.

### **58. Awareness and promotion of VRS:**

CWTA supports CAV’s efforts with respect to stakeholder engagement and reiterates its position that any awareness or promotional activities should remain the explicit and direct responsibility of CAV. Should the Commission be of the view that there is a need to further educate businesses,

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<sup>21</sup> DWCC Intervention, filed May 11, 2022, at paragraph 104 (8).

<sup>22</sup> CDBC.VRS, at paragraph 37.

<sup>23</sup> CDGM, at paragraph 43.

institutions and individuals concerning the use of VRS, CAV is best positioned to ensure that this occurs, and to work with the impacted groups as appropriate via a targeted approach to remedy these concerns.

**59. Timing of the next review:**

CWTA reiterates its support for the maintenance of the current 5-year cycle.

**Conclusion**

60. CWTA appreciates the opportunity to further share its views with the Commission on this important proceeding.

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