

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matters of	)	
	)	
Telecommunications Relay Services	)	CG Docket No. 03-123
and Speech-to-Speech Services for	)	
Individuals with Hearing and	)	
Speech Disabilities	)	
	)	CG Docket No. 10-51
Structure and Practices of the	)	
Video Relay Service Program	)	

**REQUEST FOR CLARIFICATION OR, IN THE ALTERNATIVE, FOR WAIVER**

Sorenson Communications, LLC (“Sorenson”) hereby requests the Federal Communications Commission (“FCC” or “Commission”) to clarify the scope and requirements of 47 C.F.R. §§ 64.615(a)(3)(ii)(A) & (a)(1), and paragraphs 19 and 27–29 of the Report and Order released on May 15, 2019.<sup>1</sup> *First*, Sorenson requests that the Commission clarify that the rule requiring the administrator of the TRS User Registration Database (“TRS-URD”) to remove the data of any user who “has neither placed nor received a VRS or point-to-point call in a one year period”<sup>2</sup> does not apply to enterprise and public video relay service (“VRS”) phones. Alternatively, Sorenson seeks a waiver of this requirement, as it can limit the availability of public and enterprise phones that are in areas of infrequent use, but which are nonetheless in the public interest. *Second*, Sorenson seeks clarity on what providers may do in the event there is a

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<sup>1</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd. 3396 (2019) (“Order”).

<sup>2</sup> 47 C.F.R. § 64.615(a)(3)(ii)(A).

failure of the all-call query (“ACQ”).<sup>3</sup> *Third*, Sorenson seeks confirmation that point-to-point calls are not subject to ACQ. *Fourth*, Sorenson seeks guidance on how a DVC provider is to effectuate a transfer of a DVC call to VRS. *Fifth*, Sorenson seeks guidance on the form of an on-screen menu option for direct video calling (“DVC”) or VRS with which it may provide its customers who call a single, unified customer support number.<sup>4</sup>

**I. THE ONE-YEAR USAGE RULE SHOULD NOT APPLY TO ENTERPRISE AND PUBLIC PHONES.**

VRS providers are currently required to request the removal of user information from the TRS-URD for any registered VRS user who, among other things, “has neither placed nor received a VRS or point-to-point call in a one year period.”<sup>5</sup> The rule is intended to ensure the integrity of the data in the TRS-URD by removing stale information.<sup>6</sup>

The rule, however, is ambiguous as to whether it should apply to enterprise and public videophones that are registered in the TRS-URD following the May 2019 Order.<sup>7</sup> Section 64.615 seems to differentiate between “VRS users” and “enterprise and public videophones.”<sup>8</sup> And the rule requiring removal from the TRS-URD applies only to “VRS users”—*not* enterprise and public videophones. Similarly, the May 2019 Order requires only that VRS providers

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<sup>3</sup> 47 C.F.R. § 64.615(a)(1).

<sup>4</sup> Order at ¶ 19.

<sup>5</sup> 47 C.F.R. § 64.615(a)(3)(ii)(A).

<sup>6</sup> *Structure & Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd. 8618, 8652 ¶ 74 (2013) (“2013 Order”).

<sup>7</sup> Order at ¶¶ 28–30. Sorenson has been informed by the administrator that it intends to apply the rule to enterprise and public videophones.

<sup>8</sup> Compare 47 C.F.R. § 64.615(a)(1) with *id.* § 64.615(a)(2).

“notify the TRS Fund administrator within one business day after a registered enterprise or public videophone is removed or permanently disconnected from VRS.”<sup>9</sup>

The distinction between individual VRS users and enterprise and public videophones, and the different data integrity rules that appear to apply make sense. Enterprise and public videophones differ from phones assigned to individual users in that they may not be used with the same kind of regularity as an individual’s own phone. This is particularly true of public videophones, which are not intended to be used by any group or entity that expresses a desire for them,<sup>10</sup> but rather are “made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building.”<sup>11</sup> The point of maintaining these videophones is to provide a resource for Deaf and Hard of Hearing individuals if and when the need arises. At best, it would appear to be an unintended consequence of the Commission’s rules for these phones to be unregistered and thus, potentially, incapable of being used when they are needed just because they had not been used in the past year. At worst, this would be an arbitrary interpretation of the rule. In either case, the effect of this interpretation would be to undermine functional equivalency.

Finally, it bears noting that there is little (if any) harm in permitting these videophones to remain registered in the TRS-URD. Because providers are only compensated for VRS call

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<sup>9</sup> Order at ¶ 32; *see also* 47 C.F.R. § 64.611(a)(6)(v).

<sup>10</sup> But note that an enterprise may find it desirable to maintain an enterprise videophone for any number or reasons even if, at any given time, it does not have Deaf or Hard-of-Hearing individuals in their employ. The availability of a videophone can be valuable in creating and demonstrating an inclusive work environment that appeals to individuals who may need to use a videophone for functionally equivalent telecommunications service. The FCC, for example, has a videophone on its entry level. The availability of that phone provides access to VRS for Deaf visitors, regardless of whether it is used within a given 365-day period.

<sup>11</sup> *Id.* at ¶ 27.

minutes, and not, for instance, on number of customers or phones, keeping these videophones in the TRS-URD does not harm the Fund. Further, following the Order there are additional safeguards to prevent the already minimal chance of waste, fraud, and abuse from these videophones. There must be an “individual associated with the organization, business, or agency who is responsible for the[se] videophone[s],”<sup>12</sup> whose responsibilities include (in the case of public videophones) a signed certification from that individual confirming an understanding of the function of the videophone and the source of financing,<sup>13</sup> and (for enterprise videophones) a certification that the organization “will make reasonable efforts to ensure that only persons with a hearing or speech disability are permitted to use the phone for VRS.”<sup>14</sup>

Given the different purposes enterprise and public videophones serve (as compared to individual accounts)—coupled with the new safeguards against waste, fraud, and abuse—the Commission should clarify that the one-year usage rule does not apply to enterprise and public videophones.

## **II. PROVIDERS SHOULD BE PERMITTED TO COMPLETE CALLS WITHOUT COMPENSATION WHEN THE ALL-CALL QUERY FAILS, BUT MAY SEEK A WAIVER FOR COMPENSATION UNDER APPROPRIATE CIRCUMSTANCES.**

The Commission also should clarify its rules dealing with scenarios where ACQ fails. Section 64.615 (a)(1) provides that “VRS providers shall validate the eligibility of the party on the video side of each call by querying the [TRS-URD] on a per-call basis.” Section 64.615 (a)(1)(ii) then states that “[i]f the eligibility of at least one party to the call is not validated using the [TRS-URD], the call shall not be completed, and the VRS provider shall either terminate the

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<sup>12</sup> Order at ¶ 28.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at ¶ 29.

call or, if appropriate, offer to register the user if they are able to demonstrate eligibility.” Thus, on their face, the rules indicate that providers should not connect a VRS call if ACQ querying function fails.

But this reading fails to contemplate circumstances where the provision of functionally equivalent telecommunications would be better served by enabling providers to connect VRS calls where ACQ fails, and then permitting them to seek compensation via a waiver by demonstrating that at the time of the VRS call, at least one party to the call was properly registered in the URD. This could arise in several circumstances. For instance, there could be a systematic issue with the ACQ querying function that could functionally shut down all VRS until the issue’s resolution. Similarly, an ACQ query could return an error when the provider listed in the iTRS Directory differs from the provider listed in the URD—for example, when a port is in progress. Surely the Commission did not intend to deny VRS users access to VRS in situations such as these, yet that would be the unintended consequence of an overly strict reading of the Commission’s rules. Indeed, a clarification from the Commission that the rules are intended to prevent compensation to providers (absent a waiver) for VRS calls where the ACQ query fails would provide helpful guidance and accord with functional equivalence.

### **III. POINT-TO-POINT CALLS ARE NOT SUBJECT TO THE ALL CALL QUERY REQUIREMENT.**

Separately the Commission should clarify that point-to-point calls are not subject to the ACQ requirement. Section 64.615(a)(1) purports to require that “each call” be validated, which can be read to encompass both VRS and point-to-point calls. But as the Commission has explained, per-call validation is intended “to ensure the compensability of each call.”<sup>15</sup> Because

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<sup>15</sup> 2013 Order at ¶ 72.

point-to-point calls are not compensable, there is no similar need to validate those calls.<sup>16</sup> And requiring querying the ACQ for point-to-point calls would overwhelm the system given the significant volume of point-to-point calls relative to VRS calls that providers handle. This commonsense clarification will give providers certainty and ensure the proper functioning of the ACQ system.

**IV. FOR CALLS TO A UNIFIED NUMBER, PROVIDERS MAY USE A NEUTRAL POP-UP MENU ALLOWING THE USER TO CHOOSE VRS OR DVC AS APPROPRIATE.**

Next, Sorenson seeks guidance on what is permissible for providers to offer customers who dial a unified customer service number from their videophone.

The Order provides that the customer may be given the option to elect a point-to-point or VRS call when dialing a unified direct video call number.<sup>17</sup> In the case of a unified number, the Order states that a VRS user seeking to communicate with customer support via a direct video call will simply dial the unified number, and because the unified number will be listed in the TRS directory, the call will be routed as a point-to-point call. The Order also provides, however, that a caller who instead wants to make a VRS call has the right<sup>18</sup> to “bypass the direct video option by first entering their VRS provider’s URL (or selecting a menu option on their device’s screen to do this) and then directing the VRS CA to place a VRS call to the generally advertised customer support number.”<sup>19</sup>

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<sup>16</sup> Note that the newly adopted 47 C.F.R. § 64.615(a)(2)(i) requires VRS providers to “validate the registration of an enterprise or public videophone used for a VRS call,” which reflects a recognition that ACQ should only be required for VRS calls.

<sup>17</sup> Order at ¶ 19.

<sup>18</sup> *Id.* n.66.

<sup>19</sup> *Id.* at ¶ 19.

In providing this functionality, however, the Order states that “[a]ny prompts or announcements conveyed to VRS users regarding calls to direct-video-equipped call centers must be neutral and must not be worded so as to ‘steer’ the user towards requesting that a customer support call be handled as a VRS call rather than as a direct video call.”<sup>20</sup> As an example of what is impermissible, the Order offers the following: “For example, the use of on-screen menus that encourage users to choose VRS over DVC or make it more challenging for users to access DVC than VRS, is impermissible.”<sup>21</sup>

Sorenson believes that this rule permits providers to feature a menu (such as the one included in Exhibit 1 below) informing the customer that the number they dialed supports both DVC and VRS calling and then asking them to select which one they want. Because footnote 67 provides a negative example, Sorenson asks for specific clarification that a menu as described here and shown in Exhibit 1 is permissible.

**V. FOR DVC CALLS THAT ARE TRANSFERRED TO VRS CALLS, THE DVC PROVIDER MUST TRANSFER THE CALL TO THE INDIVIDUAL CUSTOMER’S DEFAULT PROVIDER.**

While the Order contemplates a caller from a DVC number asking to transfer to a VRS call, it is unclear as to the mechanism for effectuating that transfer and to what VRS provider the call should be transferred. Although it is the DVC provider’s responsibility to make the transfer, the better reading of the Order seems to be that the call should be transferred to the individual’s default VRS provider rather than the DVC’s default provider. Indeed, the Order notes that “existing protocols, such as the Session Internet Protocol (SIP) transfer procedure, provide a framework for call transfers, whereby *the caller’s default VRS provider* could re-connect the call

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* n.67.

to a VRS CA, who would then complete the call between the VRS user and the hearing customer support agent via VRS.”<sup>22</sup> To effectuate the transfer in this manner, Sorenson suggests that the Commission clarify that the DVC provider must provide the individual’s default provider with a voice number to which the call can be transferred. This will enable the provider to convert a DVC call to a VRS call so that a VRS interpreter can be added to the call.

### **CONCLUSION**

The Commission should clarify its rules to make clear that (1) the rule requiring the TRS-URD administrator to remove the data of any user who “has neither placed nor received a VRS or point-to-point call in a one year period” does not apply to enterprise and public VRS phones; (2) providers are permitted to connect VRS calls that fail the ACQ query but only seek compensation for such calls via a waiver; (3) point-to-point calls are not subject to ACQ; (4) providers may offer a neutral, on-screen menu option for DVC or VRS for customers who call a single, unified customer support number; and (5) for DVC calls that are transferred to VRS calls, DVC providers must transfer the call to the individual customer’s default VRS provider and give the individual’s default provider the relevant voice number to effectuate the transfer. In the event the Commission believes the language of a particular rule prevents clarification, Sorenson, in the alternative, requests that the Commission grant a waiver to achieve the same result.

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<sup>22</sup> Order at ¶ 21 (emphasis added).

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Respectfully submitted,

/s/ John T. Nakahata  
John T. Nakahata  
Christopher J. Wright  
Stephen W. Miller  
HARRIS, WILTSHIRE & GRANNIS, LLP  
1919 M Street, NW, Eighth Floor  
Washington, DC 20036  
Telephone: (202) 730-1300  
jnakahata@hwglaw.com  
*Counsel for Sorenson Communications, LLC*

## EXHIBIT 1

