

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

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

**REPLY COMMENTS OF VRS PROVIDERS ON
THEIR JOINT PETITION FOR A WAIVER**

In this Reply, the five providers of telecommunications relay services (“TRS”)—ASL Services Holdings, LLC, d/b/a Global VRS; Convo Communications, LLC; Purple Communications, Inc.; Sorenson Communications, LLC; and CSDVRS, LLC, d/b/a ZVRS (“VRS Providers”)—who have requested a limited waiver to provide service pending verifications of both new users and those ported from another provider write to underscore the need for expedited action on their Joint Petition.¹

In the Joint Petition, the VRS Providers emphasized the adverse effects—including denying the user the ability to place non-compensable point-to-point calls, delaying VRS access to health care, community, and social services, and denying the ability to make 911 calls to the extent that no videophone may be provided until after verification—of withholding service until after verification of VRS users. On July 26, 2018, the Consumer Groups filed Comments in

¹ Joint Petition of VRS Providers for a Waiver, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practice of the Video Relay Service Program*, CG Docket Nos. 03-123, 10-51 (filed June 20, 2018) (“Joint Petition”).

Response fully supporting the Joint Petition, and specifically asking the Commission “to take rapid action on the[] request.”² Such rapid action is particularly justified in this proceeding given the unanimous views of the VRS Providers and the Consumer Groups, as well as the absence of any opposition to the Joint Petition.

I. THE VRS PROVIDERS AND THE CONSUMER GROUPS AGREE THAT THE JOINT PETITION SHOULD BE GRANTED, AND NO PARTY OPPOSES IT.

This proceeding is unusual in that it involves agreement both among the VRS providers – who are, of course, competitors—and between the providers and the organizations representing the interests of VRS users. Moreover, no party filed to oppose the Joint Petition, or even to express divergent views.

In the Joint Petition, the VRS Providers pointed out that the Commission itself has recognized that the verification process can be complex and time-consuming.³ The Commission therefore provided a 60-day window during which providers were allowed to supply service to *existing* users prior to verification—for a period of 60 days after the data submission deadline—so long as those users’ data was submitted by the deadline and actually verified within 60 days.⁴ The VRS Providers have now sought a waiver to “prevent unfair disparate treatment of new and

² Comments of Consumer Groups in Response to the Joint Petition of VRS Providers for Waiver at 5, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practice of the Video Relay Service Program*, CG Docket Nos. 03-123, 10-51 (filed July 26, 2018) (filed by Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, and Cerebral Palsy and Deaf Organization) (collectively, “Consumer Groups”) (“Consumer Groups Comments”).

³ Joint Petition at 3-5.

⁴ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, DA 18-196, OMD CGB CG Docket Nos. 10-51, 03-123 (rel. Feb. 28, 2018), ¶ 9 (“*February TRS-URD Deadline Extension Order*”).

porting users by also permitting them to obtain service—albeit for a shorter time—while verification remains pending.”⁵

Unfortunately, that disparate treatment is now the reality for new users. Because the window for receiving payment for calls made by users whose verifications were obtained *after* the data submission deadline closed as of May 30, 2018,⁶ VRS Providers are now obliged to deny service to such new users pending collection, submission, and verification of their documentation. To provide a sense of the scope of this problem, the VRS Providers estimate that, between June 1 and July 31, these delays pending verification affected new and ported users numbering in the thousands. Most of such users, on average, receive their verification in under a week—approximately 2/3 are assigned a URD ID number after a single submission. But a week is, of course, a long time to wait for service, and far longer than it takes for hearing users.⁷ In the vast majority of remaining cases—those requiring multiple submissions—the verifications eventually go through, but it can take far longer. Most take between one and two weeks, but approximately 10% take longer and, as the *February TRS-URD Deadline Extension Order* correctly recognized, the process can take nearly two months. Again, however, regardless of whether the delay is a matter of days, weeks, or months, by the time new and porting users are actually verified, many of the individuals seeking service have presumably already experienced the ill effects of delay.

Delay in the verification process can, of course, occur at multiple steps. Sometimes the delay occurs at the front end, with providers encountering difficulties in collecting all of the

⁵ Joint Petition at 7.

⁶ *February TRS-URD Deadline Extension Order*, ¶ 9.

⁷ See Joint Petition at 7.

required documentation from the new user. Some providers have attempted to redress this problem by putting processes in place to aid users in collecting the required documentation, but delays in collecting the necessary materials—and the accompanying undesirable effects of not having service—remain inevitable.

As noted in the Joint Petition, specific populations face unique problems when it comes to gathering appropriate documentation, and are therefore more frequently subject to delays. “Students, for example, will likely be at entirely new addresses, with little documentation at that address to help verify their identity.”⁸ With the new college year about to start, VRS Providers are likely to encounter this difficulty far more frequently in the coming months. But students are not alone in facing distinctive difficulties in obtaining the necessary documents. Individuals with “thin” files—few if any consumer accounts, limited credit history, and so on—also face particular challenges when it comes to verification. Like students or foreign nationals, these thin-file (or even “no-file”) individuals may lack traditional identifying information, such as social security numbers or accounts showing their current address. Significantly, research shows that this problem differentially affects historically underserved populations.⁹ The limited waiver sought by the VRS Providers here is a step toward leveling the playing field.

But delays do not arise only from problems in gathering the necessary documentation. They can also occur *during* the verification process, sometimes even absent a failure of validation. And when there actually is such a failure, delays may last far longer. With respect to

⁸ *Id.* at 9.

⁹ See Office of Research, Consumer Fin. Prot. Bureau, *Data Point: Credit Invisibles* at 6 (May 2015), http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf (indicating that minorities, youths, and low-income individuals are more likely to be “credit invisible” than their white, older, and higher-income peers).

the former situation, as set forth in the Joint Petition, the entities involved in the verification process may be the source of delay.¹⁰ With respect to the latter, a verification failure may occur through no fault of the user—sometimes, for example, the Lexis/Nexis database on which the Administrator relies receives bad data incorrectly calling the person’s name or address into question.¹¹ Delays may also result from the difficulties that users face in gathering information for resubmission, particularly in the absence of any ability to make point-to point calls.¹² And, of course, in the most difficult cases, appeals processes can add further substantial delay—typically about a week in the case of an appeal to the Fund Administrator (or longer during times of reduced staffing), and several times as long for an appeal to the FCC.

The proposed limited waiver will supply the flexibility to address most of these delays in verifying new users—whether caused by the need to gather documentation, by system failures, by erroneous data, or by other temporary difficulties—without impacting the VRS user experience. As the Consumer Groups point out in their comments, the requirement to gather and submit this information in the first place already falls short of full functional equivalence to the service received by the hearing population.¹³ Against that backdrop, the “VRS Providers’ limited waiver” merely “seeks to bridge a gap and provide deaf and hard of hearing individuals with a means of communication via VRS services” while verification is pending.¹⁴ And it does

¹⁰ See Joint Petition at 8.

¹¹ *Id.*

¹² *Id.*

¹³ Consumer Groups Comments at 3.

¹⁴ *Id.*

so while “minimiz[ing] risk” to the Fund because “VRS Providers will not seek compensation for such calls . . . over two weeks old before the verification.”¹⁵

With respect to users porting from other services, the Consumer Groups correctly point out that “it is surprising that the VRS providers even need to make the request” for a waiver.¹⁶ After all, “VRS users who are porting from their existing service providers are already registered with the TRS-URD and eligible to use VRS services.”¹⁷ And it is important that VRS users be able to “move more seamlessly between VRS service providers,” thereby permitting them “to find providers that better suit their needs and tastes.”¹⁸ In short, “the rationale for allowing VRS service providers to provide VRS services to previously verified and eligible users is even more compelling.”¹⁹

II. THE COMMISSION SHOULD ACT IMMEDIATELY.

As noted above, the VRS Providers’ Joint Petition for Waiver is unopposed. Indeed, the Consumer Groups not only “support the VRS Providers’ Petition for a limited waiver,” but also “encourage the Commission to take rapid action on their request.”²⁰

Rapid action is critical here. As also set forth above, for over two months, VRS Providers have been obliged to postpone initiating service—pending verification—for otherwise-eligible individuals seeking either to obtain new service or to change service providers.²¹ There is, of course, no way to know precisely what adverse effects those individuals have suffered—

¹⁵ *Id.*

¹⁶ *Id.* at 4.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 5.

²⁰ *Id.*

²¹ *See supra* at 3.

whether in seeking health care, social services, or simply in the day-to-day interactions that hearing users take for granted—but it is certain that those effects are considerable.

It is also certain that those ill effects will be compounded as the more relaxed pace of summer gives way to the hectic back-to-school season. Like hearing parents, those who are deaf, hard of hearing, or otherwise benefit from VRS services need to be able to arrange physicals, talk to teachers, interact with admissions and financial aid offices, and otherwise do all the things that parents do, on top of continuing to fulfill the duties of their paying jobs and their roles within their families.

These harms that individuals seeking VRS services suffer from delays or gaps in service are not hypothetical. They are concrete, day-to-day disadvantages—ranging from minor to debilitating—of precisely the sort that the Congress intended to address in adopting Title IV of the Americans with Disabilities Act and requiring functionally equivalent TRS.²² The Commission should take action immediately to prevent those harms in this context where the benefits of doing so vastly outweigh any cost.

CONCLUSION

As set forth in the Joint Petition, the Commission is authorized to waive rules if it has good cause to do so and “particular facts would make strict compliance inconsistent with the public interest.”²³ The Commission should accordingly permit VRS Providers to place numbers in the TRS Numbering Directory for and provide service—for a period of two weeks after their verification information is submitted to the TRS-URD, pending verification—to both new VRS users and those seeking to port from a different provider.

²² See 47 U.S.C. § 225.

²³ *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

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