

**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, DC 20554**

In the Matter of	)	
	)	
VTCSecure LLC Petition for Waiver of	)	
Sections 64.613(a)(1)-(2), (4), 64.613(b)(2) and	)	
64.623(c) of the Commission’s Rules and Request	)	WT Docket No. 10-191
for Declaratory Ruling to Permit Providers of	)	
Direct Sign Language Customer Support Service to	)	
Access the Telecommunications Relay Numbering	)	
Services Directory	)	
	)	
	)	
	)	
Petition for Waiver a	)	CG Docket No. 10-51
Video Relay Service Program	)	
	)	
Telecommunications Relay Services and Speech-to-	)	CG Docket No. 03-123
Speech Services for Individuals with Hearing	)	
and Speech Disabilities	)	

**COMMENTS OF CONSUMER GROUPS**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), National Association of the Deaf (“NAD”), Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”), Association of Late Deafened Adults, Inc. (“ALDA”), Cerebral Palsy and Deaf Organization (“CPADO”), Deaf Seniors of America (“DSA”), National Association of State Agencies of the Deaf and Hard of Hearing, Inc. (“NASADHH”) and California Coalition of Agencies Serving the Deaf and Hard of Hearing (“CCASDHH”) (collectively “Consumer Groups”) respectfully submit the following in response to the Commission’s request for comments concerning VTCSecure’s Petition filed on July 6, 2016 (“Petition”).<sup>1</sup>

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<sup>1</sup> Petition of VTCSecure LLC for Waiver of Sections 64.613(a)(1), 64.613(a)(2), 64.613(a)(4), 64.613(b)(2), and 64.623(c) of the Commissions Regulations and Request for Declaratory Ruling to Permit Providers of Direct Sign Language Customer Support Service to

Petitioner requests that the Commission permit it, and any other telecommunications relay service (“TRS”) provider that chooses to do so, to offer direct sign language (“SL”) customer support service by granting such providers access to the TRS Numbering Directory specifically to (1) add the direct SL customer service telephone number(s) to the TRS Numbering Directory, and (2) obtain routing information required to make outbound calls from the direct SL customer service telephone number(s) to enable representatives to call back deaf, hard of hearing, deaf blind or speech impaired individuals when a call is interrupted, when a particular request needs additional research or follow-up, and when a consumer leaves a message requesting a call back because customer support is closed or a consumer has reached the top of a queue.<sup>2</sup> For purposes of the Petition, “direct SL customer support service” is defined as “a service that permits consumers to use a North American Numbering Plan (NANP) telephone number to engage in real time *video* communications to share information of the user’s choosing, and provide the ability for any person, including [a deaf, hard of hearing, deaf blind or speech impaired individual or an individual with motor disabilities], to engage in communications that are functionally equivalent to voice communications by hearing individuals.”<sup>3</sup>

To enable Petitioner and other TRS providers that do not meet the definition of providers of Internet-based TRS (“iTRS”),<sup>4</sup> Video Relay Service (“VRS”),<sup>5</sup> or point-to-point service<sup>6</sup> to

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Access the TRS Numbering Directory, CG Docket Nos. 10-51 and 03-123 (filed Jul. 6, 2016) (“Petition”).

<sup>2</sup> *Id.* at pgs. 2, 4.

<sup>3</sup> *Id.* at pg. 5. (*emphasis added*)

<sup>4</sup> 47 C.F.R. §64.601(a)(15) (requires use of a communications assistant).

<sup>5</sup> 47 C.F.R. §64.601(a)(40) (requires use of a communications assistant).

<sup>6</sup> 47 C.F.R. §64.5105(m) (requires service to be offered over VRS provider facilities).

access the TRS Number Directory, Petitioner requests a waiver of the following Commission rules:

- Section 64.613(a)(1) - to the extent the rule requires registration with VRS provider or use of a communications assistant;
- Section 64.613(a)(2) - to the extent the rule requires additional instructions for the record associated with a direct SL customer support service user's geographically appropriate NANP telephone number (and not simply a VRS user or IP relay user) to consist of Uniform Resource Identifier ("URI") that contains the IP address of the user's device;
- Section 64.613(a)(4) - to permit providers of direct SL customer support services to access the TRS Numbering Directory; and
- Sections 64.613(b)(2) and 64.623(c) – to the extent the rules would prevent the TRS Numbering Administrator from allowing direct SL customer support service providers from accessing the TRS Numbering Directory (such as contractual requirements).<sup>7</sup>

Consumer Groups conditionally support the request for the reasons described herein and urge the Commission to (1) classify direct SL customer support service, as defined by Petitioner, as TRS *before* a provider of such service is permitted access to the TRS Directory and (2) require providers of direct SL customer support service to comply with consumer protection rules applicable to VRS providers with access to the TRS Numbering Directory. Consumer Groups are not addressing Petitioner's assertion that its proposed direct SL customer support service meets the definition of telecommunications relay service ("TRS") at 47 U.S.C. 225(a)(3) and 47 C.F.R. 64.601(a)(32).<sup>8</sup>

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<sup>7</sup> Petition at pgs. 17-18.

<sup>8</sup> *Id.* at pgs. 5, 12-15. Petitioner asserts its service is subject to the Commission's jurisdiction as an "advanced communications service" as defined in 47 C.F.R. §153(1), and an "interconnected VoIP service" as defined in 47 C.F.R. §153(25) because such advanced communication service is an "interoperable video conferencing service" as defined in 47 C.F.R. §153(27) and uses Internet protocols.

## **I. Petitioner’s Waiver Request Promotes Functional Equivalency and Should be Granted With Conditions**

The Consumer Groups have long supported permitting eligible VRS users to communicate directly with hearing people who can use ASL. For example, in response to the Commission’s Further Notice of Proposed Rulemaking (“FNPRM”) proposing improvements for VRS,<sup>9</sup> the Consumer Groups supported a number of proposed improvements to VRS, including the assignment of ten-digit iTRS numbers to hearing individuals so that they would be able to place and receive direct (point-to-point) video calls to and from other VRS users (“VRS Comments”).<sup>10</sup> The Consumer Groups noted in their VRS Comments that “[e]nabling VRS users to communicate directly with hearing individuals who can sign will not only conserve the resources of the TRS Fund, as people will elect to use a video phone instead of VRS minutes, but will also allow more natural, efficient and effective communications between the parties.”<sup>11</sup>

The Americans with Disabilities Act (“ADA”)<sup>12</sup> requires the Commission to ensure that deaf, hard of hearing, speech-disabled and other disabled individuals to have nationwide access to the telephone system and network “in a manner that is *functionally equivalent* to the ability of an individual who does not have hearing impairment or speech impairment to communicate using voice communications services by wire or radio.”<sup>13</sup> The Consumer Groups’ TRS Policy

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<sup>9</sup> *Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51, 03-123, FCC 15-143, at ¶¶ 29-66 (Nov. 3, 2015) (“FNPRM”).

<sup>10</sup> Comments of Consumer Groups on Section III – VRS Improvements, at pgs. 12-14 (filed December 24, 2015) (“VRS Comments”).

<sup>11</sup> *Id.* at 13.

<sup>12</sup> PL 101-336, July 26, 1990, codified at 47 U.S.C. § 225 of the Communications Act of 1934, as amended (“Act”).

<sup>13</sup> 47 U.S.C. § 225(a)(3) (emphasis added).

Statement outlines goals and objectives to ensure that TRS achieves and maintains functional equivalency, as required by law.<sup>14</sup> Among the core functional equivalency principals cited include advancing the objectives of (a) providing a call experience for individuals who are deaf, hard of hearing, deaf-blind or speech disabled equivalent to that of a call between two hearing persons; (b) providing the full benefit of TRS to all parties on a call; and (c) motivating vendors to continually improve the calling experience.<sup>15</sup>

The Consumer Groups generally support the Petitioner's request because it seeks to advance these aforementioned important policy objectives as well as significantly improve the privacy and security of sensitive communications between parties.<sup>16</sup> As Petitioner points out, approximately 10% of calls requiring VRS are made to approximately 100 telephone numbers.<sup>17</sup> More specifically, the Commission found that of the top 100 telephone numbers, approximately 3 million minutes are terminated to government agencies including the Social Security Administration, Medicare, the Internal Revenue Service, and state agencies like the Florida Department of Children and Families, and approximately 2.7 million minutes are terminated primarily to large banks (e.g., Bank of America, Wells Fargo), technology companies (e.g.,

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<sup>14</sup> Consumer Groups' TRS Policy Statement (attached to *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Consumer Groups' Notice of *Ex Parte* Meeting (filed April 12, 2011)) ("TRS Policy Statement").

<sup>15</sup> *See, id.* at 2.

<sup>16</sup> As the Petitioner observes, individuals without hearing or speech impairments regularly communicate directly with third-parties – including corporations, health care providers, and government organizations such as the Social Security Administration and the Internal Revenue Service. Often times these communications contain sensitive personal information that the customer does not wish to make available to a third party. *See* Petition at p. 1.

<sup>17</sup> Petition at pg. 1.

Apple, Dell), and service providers (e.g., eBay, GEICO, UPS, Southwest Airlines).<sup>18</sup> By granting the requested waiver to allow direct SL customer support service, the Commission will (a) provide a call experience for individuals who are deaf, hard of hearing, deaf-blind or speech disabled equivalent to that of a call between two hearing persons; (b) provide the full benefit of TRS to all parties on a call; and (c) motivate vendors to continually improve the calling experience.

Accordingly, the Commission should grant the requested waiver, to the extent necessary and subject to the proposed conditions set forth below, to any qualified party seeking to provide direct SL customer support services on behalf of third parties. The Consumer Groups also reiterate their request that the Commission permit VRS providers to assign ten-digit iTRS numbers to hearing individuals so that they are able to place and receive direct (point-to-point) video calls to and from other VRS users.

## **II. Classify Direct SL Customer Support Services Offered by Third-Parties as TRS Before Permitting Access to the TRS Directory**

The Commission should expressly classify direct SL customer support service, as defined by Petitioner, as TRS *before* a provider of such service is permitted access to the TRS Directory.

The definition of TRS in Section 64.601(a)(32) is:

Telephone transmission services that provide the ability for an individual who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communication using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech

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<sup>18</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, 28 FCC Rcd 8618, CG Docket Nos. 10-51, 03-123, at ¶223 (2013).

services, video relay services and non-English relay services. TRS supersedes the terms “dual party relay system,” “message relay services,” and “TDD Relay.”<sup>19</sup>

Such definition is sufficient to cover the direct SL customer support service defined by Petitioner. In addition, a classification of direct SL customer support service as TRS should help to protect the security of the database by ensuring that only those providers that meet the definition will have access. Moreover, a classification of direct SL customer support service as TRS will ensure application of appropriate consumer protections (as addressed in the next section).

As noted above, Consumer Groups are not addressing Petitioner’s assertion that its purposed direct SL customer support service meets the definition of TRS, or advanced communications services, interoperable video conferencing service using Internet Protocol, or interconnected VoIP service. Consumer Groups do not have enough information about the way Petitioner’s service would be provisioned to agree or disagree with the representations.

### **III. Apply Consumer Protection Rules, Including CPNI Protections, to Providers of Direct SL Customer Support Services**

As a condition to obtaining access to the TRS Numbering Directory, the Consumer Groups urge the Commission to require providers of direct SL customer support service to comply with all privacy and related consumer protection requirements applicable to VRS providers with access to the TRS Numbering Directory, including Customer Proprietary Network Information (“CPNI”) requirements.<sup>20</sup>

The Commission noted in its VRS Reform Order that “[b]ecause voice telephone users enjoy the privacy protections of the Commission’s CPNI regulations... applying these same protections to TRS users advances the Act’s mandate of functional equivalency.”<sup>21</sup> The

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<sup>19</sup> 47 C.F.R. §64.601(a)(32).

Commission also noted at the time that it has ancillary authority to apply CPNI requirements to point-to-point video services.<sup>22</sup>

The Consumer Groups maintain their support for CPNI protection, particularly in the context of a national database.<sup>23</sup> The TRS Numbering Directory contains information on practically every deaf and hard of hearing person in the country, and protection of such personal information is paramount. The success of a centralized database system depends on maintaining the security and privacy of users' information and ensuring it is accessible only by those providers which need information in order to provide service.<sup>24</sup>

The Consumer Groups also submit that any direct SL customer service telephone number (or ten-digit number for hearing individuals) added to the TRS Numbering Directory might be flagged so that it is not eligible for VRS reimbursement while allowing them to use the system to place point-to-point calls. The Consumer Groups understand the ongoing concern with potential fraudulent calls. But the proposed flagging within TRS Numbering Directory should alleviate these concerns.

#### **IV. Conclusion**

The Consumer Groups conditionally support, as detailed herein, the Petitioner's request for the waiver or clarification necessary to support the provision of direct SL customer support

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<sup>20</sup> See 47 CFR §§64.4101 *et. seq.*

<sup>21</sup> *In the Matter of Structure and Practices of the Video Relay Services Program*, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 7063, CG Docket No. 10-51, at ¶ 154 (2015).

<sup>22</sup> *Id.* at 171.

<sup>23</sup> See *e.g.*, Comments of Consumer Groups, CG Docket Nos. 10-51 and 03-123, at pgs. 22-24 (filed March 9, 2012).

<sup>24</sup> See Comments of Consumer Groups, CG Docket Nos. 10-51 and 03-123, at pg. 18 (filed November 14, 2012).

services. The Consumer Groups also respectfully request that the Commission permit VRS providers to assign ten-digit iTRS numbers to hearing individuals. Both proposals advance the important goal of extending the functional equivalence of VRS services.

To the extent that the Commission grants the Petitioner's request, it should do so only to the extent that (i) similar relief is granted to other qualified providers of direct SL customer support service; (ii) direct SL customer support services offered by third parties is classified as TRS before such providers may access the TRS Numbering Directory; and (iii) applicable consumer protection rules including CPNI protections are applied to providers of direct SL customer support services.

Respectfully submitted,

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