

April 21, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Notice of Ex Parte – 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**

Dear Ms. Dortch:

On April 19, 2016, Michael Strecker, Vice President of Regulatory Affairs of Purple Communications, Inc. (Purple), and Monica Desai of Squire Patton Boggs (US) LLP, Counsel to Purple, met with (1) Karen Peltz Strauss, Deputy Bureau Chief of the Consumer & Governmental Affairs Bureau (CGB), and Bob Aldrich, CGB Front Office Legal Advisor;¹ and (2) Gregory Hlibok, Chief, Disability Rights Office (DRO), CGB, and Eliot Greenwald, Deputy Chief, DRO, CGB.

Purple expressed concern that the Telecommunications Relay Service user registration database (“TRS-URD”) appears to be on a trajectory to be implemented in a manner that is inconsistent with the Commission’s explicit directives, creating unnecessary hurdles for consumers, anti-competitive results, and increased security risks. Specifically, in the *2013 VRS Reform Order*, the Commission provided that the “TRS-URD shall assign a unique identifier to *each user* in the TRS-URD,” and codified that requirement in its rules.² The Commission further supported this concept by stating “[w]hen registering a user that is transferring service from another VRS provider, VRS providers shall obtain and submit a

¹ John Goodman, Chief Legal Officer of Purple, also participated in this meeting, via telephone.

² *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, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-82, ¶ 73 (June 10, 2013) (*2013 VRS Reform Order*) (emphasis added); 47 C.F.R. § 64.615(a)(2).

properly executed certification [of eligibility] if a query of the TRS-URD shows a properly executed certification has not been filed.”³ And, the Commission amended Rule Section 64.611 to include that exact same language.⁴

Moreover, the Commission explicitly pointed to this feature in the Final Regulatory Flexibility Act submission supporting the *2013 VRS Reform Order*, stating not once, but *twice*, that that the use of a unique TRS-URD identifier would reduce burdens on providers “when collecting information from users who switch providers, *because the user information of those consumers is already in the database.*”⁵

Purple has learned that, despite the Commission’s unanimous, explicit directive to assign a single, unique identifier to *each user*, and despite the Commission’s reliance on this characteristic as a justification for the change in its accompanying Regulatory Flexibility Act Analysis, through administrative decisions the TRS-URD may be implemented in the opposite way. It appears that the TRS-URD is on a trajectory to now being developed such that each consumer will be forced to obtain a *different* identifying number for each provider, and that each provider will have to collect highly sensitive information from consumers every time a consumer wants to switch to that provider.

If implemented in this manner, not only is this directly contrary to the Commission’s explicit directives, but such an implementation will create unnecessary hurdles for consumers, is contrary to the competition goals of the order, and will result in higher data breach and other security risks. Purple urges that the Commission ensure that the TRS-URD be implemented as directed and expected by the Commission in 2013 – one unique identifier for each consumer.

Forcing Consumers to Obtain A Different Identifying Number for Each Provider Is Difficult, Frustrating and Unnecessary for Consumers. Purple discussed that it would be difficult, frustrating and detrimental for consumers to have to apply for different TRS-URD identifiers for each provider. There is no need to force consumers to go through a separate, laborious, and ultimately redundant validation process for each provider with which the user is currently registered, or have to go through that process in order to change or try other providers in the future.

Purple understands that under the current plans for implementation, consumers are required to validate their identity with each provider with which they are registered, and will be required to do so again in order to change providers – submitting highly personal and sensitive information each time.⁶ In many instances, the user must also submit multiple

³ *2013 VRS Reform Order* ¶ 82.

⁴ *2013 VRS Reform Order*, Appendix A – Final Rules, amending 64.611(a)(3)(ii)(B)(vi).

⁵ *2013 VRS Reform Order*, Appendix B – Final Regulatory Flexibility Analysis, ¶¶ 12, 23 (emphasis added).

⁶ *2013 VRS Reform Order* ¶ 70 (the information required to be provided includes the user’s full name, full residential address, ten-digit telephone number assigned in the TRS

pieces of additional sensitive documentary proof such as a driver's license, birth certificate, tax return, W-2, passport, or other personal documents.⁷ It is a significant and unnecessary burden to require users to separately validate with each provider with which the user registers, rather than allowing the user to submit this information and be validated once under a unique identifier – as anticipated by the Commission in 2013.

Imposing a Cumbersome and Difficult Process on Consumers Will Hurt Competition, Contrary to the Commission's Stated Goals of Increasing Competition in the VRS Marketplace. Furthermore, the additional burden of obtaining a new validation will deter TRS users from changing providers, which contravenes an explicit underlying goal of the 2013 VRS Reform Order – to implement structural reforms intended to create a “competition-friendly” VRS market.⁸

As the Commission has found, portability is a cornerstone of functionally equivalent TRS service because it prevents TRS users from being “locked in” and facilitates competition among TRS providers.⁹ If TRS users are required to undertake a separate, cumbersome validation process in order to port, those users will be deterred from changing providers.

Requiring Multiple Redundant Enrollments Requiring the Repeated Submission of Highly Sensitive Information Increases Security Risks. The Commission has emphasized the critical importance of maintaining the security of sensitive, personal information. For example, the Commission's recent proposal to apply privacy requirements to broadband Internet access service acknowledged that privacy protects “important personal interests” including “freedom from identity theft, financial loss, or other economic harms,” and stated explicitly that “consumers must be able to protect their privacy.”¹⁰ The current design of the TRS-URD creates unnecessary data privacy and

numbering directory, last four-digits of the Social Security number, date of birth, registered location information, a self-certification of eligibility for VRS, and other data).

⁷ The documentary proof that can be used to validate a user for TRS-URD purposes is substantially the same as the documents that the Commission required VRS providers to obtain as a condition of the Commission's grant of a waiver of the requirement that providers obtain the user's Social Security number or Tribal identification number. *See, e.g., 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, Order, DA 15-589, ¶ 8 (May 15, 2015).

⁸ *2013 VRS Reform Order* ¶ 200.

⁹ *2013 VRS Reform Order* ¶ 43; *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, Further Notice of Proposed Rulemaking, FCC 11-184, ¶ 16 (Dec. 15, 2011).

¹⁰ *See Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, Notice of Proposed Rulemaking, FCC 16-39, ¶¶ 2-3 (Apr. 1, 2016).

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security risks, because it would require a significant number of users to submit highly sensitive information and documents (such as a birth certificate, tax documents, or a passport) to multiple providers. Multiplying the number of times this information must be submitted, and the number of locations where this information is stored, creates numerous ways for the information to be illegally accessed. Assigning a unique identifier to each user allows users to submit that information only once, and to a single database – the TRS-URD – and so would minimize the risk of exposure of the consumer’s personal information.

An administrative contracting process cannot disregard and unravel a Commission Order through which the Commission unanimously, repeatedly and clearly set forth its directives and intentions with respect to the TRS-URD. It is critical that the Commission step in and correct course before the TRS-URD is implemented in a manner that is anti-consumer, anti-competitive, and carries unnecessary security risks. In sum, Purple submits that the TRS-URD must utilize a unique identifier for each user consistent with the Commission’s directives in the *2013 VRS Reform Order*, which will advance portability and functional equivalence and promote competition in the VRS market while minimizing data privacy risks for TRS users.

Respectfully submitted,



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