"affiliates that provide communications-related services."[336] Finally, relying on its ancillary jurisdiction under Title I of the Communications Act, the Commission extended the application of the CPNI rules to interconnected VoIP providers.[337]

136. *Confidentiality of TRS Customer Information.* In the *2000 TRS Order*, the Commission considered whether the CPNI requirements of section 222 would apply to the transfer of "customer profile information" between two TTY-based TRS providers when there is a change in providers.[338] In concluding that section 222's requirements would not restrict an exiting TTY-based TRS provider from transferring this information to an incoming provider (the transfer of which the Commission deemed necessary to ensure a smooth transition between providers), the Commission focused on the scope of the term "telecommunications carriers" in section 222.[339] The Commission observed that the applicability of section 222 to TRS providers depends on whether TRS providers provide "telecommunications services" and are therefore "telecommunications carriers[,]" as defined in the Communications Act.[340] Concluding that TRS providers do not provide "telecommunications" within the meaning of the Act, the Commission determined that section 222 would not apply to an existing TRS provider's transfer of customer profile information to a new provider.[341]

137. While it did not apply its CPNI rules to TRS, the Commission nevertheless emphasized that customer profile information "may not be used for any purpose other than the provision of TRS."[342]

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[336] 47 C.F.R. § 64.2007(b); *see also EPIC CPNI Order*, 22 FCC Rcd at 6947–53, paras. 37–49 (finding that new circumstances – including the growing illicit demand for personal information, the significant harm that can result from breaches of confidentiality, and the increasing risk of disclosure – "force us to reassess our existing regulations").

[337] *EPIC CPNI Order*, 22 FCC Rcd at 6954–57, paras. 54–59. The Commission explained that it was extending the CPNI rules to interconnected VoIP providers based on consumer expectations that their telephone calls would be private, regardless of whether a call was made using the service of a wireline carrier, a wireless carrier, or an interconnected VoIP provider, given that these services are "virtually indistinguishable" from the perspective of a consumer making an "ordinary telephone call." *Id.* at 6956, para. 56. The Commission also found that extending section 222's protections to interconnected VoIP service customers is necessary to protect the privacy of wireline and wireless customers who place calls to or receive calls from interconnected VoIP customers, insofar as CPNI of interconnected VoIP customers may include call information concerning both "calling and called parties." *Id.* at 6956, para. 57. The Commission determined that both elements for ancillary jurisdiction had been satisfied. First, it reaffirmed its general subject matter jurisdiction over interconnected VoIP. Second, it demonstrated that extending CPNI obligations to interconnected VoIP providers is necessary to the fulfillment of its duties to protect subscribers' private information under section 222 and to the fulfillment of its public safety duties under section 1, and, if the order motivates consumers to purchase additional interconnected VoIP services, "could promote competition in the local telecommunications market." *Id.* at 6957, para. 59.

[338] *2000 TRS Order*, 15 FCC Rcd at 5173–75, paras. 79–81. "Customer profile information" refers to information gathered by a TRS provider to facilitate handling a call relating to a TRS user's preferences regarding, among other things, the customer's preferred interexchange carrier, blocking preferences, CA gender preferences, frequently dialed numbers for speed dialing, language preferences (English, American Sign Language, a foreign language), calling instructions, preferred CA typing speed, and so forth. *See id.* at 5173, para. 77.

[339] *Id.* at 5174, para. 79 (section 222 applies to "telecommunications carriers" only); *see also* 47 U.S.C. § 222(a).

[340] *2000 TRS Order*, 15 FCC Rcd at 5174, para. 79 (citing 47 U.S.C. § 153(44) (defining "telecommunications carrier"), and 47 U.S.C. § 153(46) (defining "telecommunications service")).

[341] *Id.*; *see also* 47 U.S.C. § 222(a) (section 222 applies to "telecommunications carriers"). In that order, the Commission did not consider whether it could assert its Title I ancillary jurisdiction to apply the CPNI requirements to TRS providers.

[342] *2000 TRS Order*, 15 FCC Rcd at 5175, para. 83.

Noting that the confidentiality of customer profile information is of "paramount importance" to TRS users and that unrestricted access to TRS user information would violate the "reasonable privacy expectations" of relay users, the Commission concluded that TRS customer profile information "shall not be used for any purpose other than to connect the TRS user, for whom the profile exists, with the called parties desired by that TRS user."[343] The Commission further concluded that profile information "shall not be sold, distributed, shared, or revealed in any way" by the TRS provider or its employees, "unless compelled to do so by lawful order or in compliance with our requirement regarding a change in vendor."[344]

138. The proper handling of TRS consumer information was subsequently addressed in the *2005 TRS Marketing Practices PN*,[345] and in the recent *Consumer Contacts Declaratory Ruling*.[346] In the 2005 item, the Consumer & Governmental Affairs Bureau noted that apparently "some providers use their customer database to contact prior users of their service and suggest, urge, or tell them to make more VRS calls."[347] The item concluded that this marketing practice constitutes an "improper use of information obtained from consumers using the service," is inconsistent with the notion of functional equivalency, and may constitute a fraud on the Interstate TRS Fund because the Fund, and not the consumer, pays for the cost of the VRS call.[348] Inasmuch as the purpose of TRS is to allow persons with certain disabilities to use the telephone system, the Bureau stated that entities offering TRS should not contact users of their service in order to encourage or require them to place more TRS calls; rather, the provider must be "available to handle the calls that consumers choose to make."[349]

139. In the recent *Consumer Contacts Declaratory Ruling*, the Commission provided examples of permissible and prohibited uses of information derived from consumer or call databases established in conjunction with section 225 and clarified that, consistent with the Commission's rules and orders, providers may use information derived from such a database to contact users solely for purposes *related to the handling of relay calls*.[350] Therefore, we explained that a provider reasonably could contact relay users (using TRS consumer or call database information) to inform users of a service outage, to respond to a consumer's call for emergency services, to assist in the delivery of emergency services, or to provide technical support for TRS products or services used by the consumer.[351] We further explained

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[343] *Id.*

[344] *Id.*

[345] *See FCC Clarifies that Certain TRS Marketing and Call Handling Practices are Improper*, CC Docket No. 98-67, CG Docket No. 03-123, Public Notice, 20 FCC Rcd 1471, 1473 (Jan. 26, 2005) (*2005 TRS Marketing Practices PN*).

[346] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, CG Docket No. 03-123, FCC 08-138 (May 28, 2008) (*Consumer Contacts Declaratory Ruling*).

[347] *See 2005 TRS Marketing Practices PN*, 20 FCC Rcd at 1473.

[348] *Id.* (internal footnotes omitted).

[349] *Id.* In that same year, the Commission issued the *VRS/IP Relay 911 NPRM*. In considering whether to adopt a proposed location registration requirement for VRS and IP Relay in that item, the Commission sought comment on what, if any, measures it should adopt to ensure the confidentiality of VRS and IP Relay users' location information, assuming the adoption of such a requirement by the Commission. *VRS/IP Relay 911 NPRM*, 20 FCC Rcd at 19485, para. 20.

[350] *Consumer Contacts Declaratory Ruling*, FCC 08-138, para. 9.

[351] *Id.*

that providers may use customer data developed through participation in the TRS program to comply with a federal statute, a Commission rule or order, a court order, "or other lawful authority."[352] By contrast, we clarified that providers may *not* use consumer or call database information (or any other source of consumer information) to contact TRS consumers to offer financial or other incentives to generate additional or longer calls that can be billed to the Fund.[353] Because a consumer or call database that a TRS provider develops and maintains through participation in the TRS program is "inextricably tied" to that federally funded program, we explained that the Commission may prohibit the use of a TRS consumer or call database for purposes unrelated to the handling of relay calls.[354]

140. Most recently, the Commission released the *Numbering PN* to refresh the record on numbering issues identified in the 2006 *Interoperability Declaratory Ruling and FNPRM*.[355] Among other things, the *Numbering PN* requested comment on "issues directly related to numbering," including application of the CPNI rules.[356]

141. *Discussion*. We seek comment on what, if any, specific actions the Commission should take to ensure the privacy and security of Internet-based TRS users' personal information, including the information users provide in connection with the Registered Location requirement described in section III.C. Comments addressing the issue of CPNI in response to the *Numbering PN* generally support extending the CPNI rules, or CPNI-like rules, to TRS providers in conjunction with the establishment of a ten-digit numbering plan.[357] Only one party, however, in an *ex parte* submission filed after the close of the comment cycle, addresses with specificity how such rules would apply in the TRS context.[358] In addition, none of the parties addresses whether or how the CPNI rules, if applied to TRS, would better serve the interests of TRS providers and TRS consumers than do the Commission's existing rules governing the use of TRS consumer or call database information, or how those provisions might interrelate. Accordingly, we seek further comment on the specific issues set forth below.

142. *Scope of Consumer Privacy Requirements*. Assuming the Commission adopts additional safeguards governing the use and disclosure of TRS customer data, we seek comment on whether the new

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[352] *Id.*

[353] *Id.*

[354] *Id.*, para. 11. We similarly clarified that the use of consumer or call database information acquired in the provision of federally subsidized TRS services for purposes of lobbying end users to support a service provider's position before the Commission is likewise prohibited, as this purpose is not directly related to the purpose of handling relay calls. *Id.*

[355] *Numbering PN*; *see also Interoperability Declaratory Ruling and FNPRM*, 21 FCC Rcd at 5459–60, paras. 44–50 (seeking comment on the feasibility of establishing a global, uniform ten-digit telephone numbering system for VRS).

[356] *Id.*

[357] *See, e.g.*, GoAmerica Refresh Reply Comments at 3 (stating that "[a]ll commenters . . . agree that CPNI-like . . . rules are necessary" as part of adopting a ten-digit numbering plan); CSDVRS Refresh Reply Comments at 5 (support application of the Commission's CPNI rules to "the universal numbering system"); TDI Coalition Refresh Comments at 4 ("Just as hearing users of telecommunications are entitled to the protections of the [CPNI rules], functional equivalency requires that TRS users should be entitled to the same CPNI protections . . . .").

[358] Sorenson Rules *Ex Parte* at 2 (noting an attached redline of the CPNI rules showing the changes "needed to extend those rules to protect users of [TRS], users who make point-to-point calls, and users who receive a ten-digit geographic NANP number from a TRS provider"); *cf.* GoAmerica Refresh Comments at 20 (urging the Commission "simply [to] amend" section 64.2003(o) of its rules to include TRS providers as "telecommunications carriers" subject to the Commission's CPNI rules for purposes of that subpart).

rules should apply to *all* TRS providers, including traditional TTY-based providers, or only to VRS and IP Relay providers (or some other subset of TRS providers). We also seek comment on whether the new rules should vary according to service type or whether the same rules should apply uniformly to all forms of TRS.

143. *Extending the CPNI rules to TRS.* Assuming we apply the CPNI rules to TRS providers, we seek comment on whether we should modify the present CPNI rules in the TRS context and, if so, how. Parties urging us to extend the application of our CPNI rules to TRS providers are asked to identify the specific CPNI rules they believe should apply, as well as any rule revisions that would be required to accommodate the unique nature of Internet-based TRS. In addition, we ask parties to comment on Sorenson's proposed revisions to the CPNI rules in its May 15th *ex parte* submission.[359] For example, we seek comment on the Commission's authority under section 225 to extend the CPNI protections, as suggested by Sorenson, to customers receiving "point-to-point services," given the parameters established by section 225, under which TRS is designed to permit persons with hearing and speech disabilities to access the telephone system to call persons without such disabilities.[360]

144. In addition, if the Commission were to extend the CPNI rules to TRS, we seek comment on whether we may rely on our ancillary authority under Title I as the jurisdictional basis for doing so. As noted above, ancillary jurisdiction may be employed when Title I of the Act gives the Commission subject matter jurisdiction over the service to be regulated and the assertion of jurisdiction is "reasonably ancillary to the effective performance of [its] various responsibilities."[361] In the *EPIC CPNI Order*, the Commission used ancillary jurisdiction to extend the CPNI requirements of Title II to interconnected VoIP providers notwithstanding the fact that the Commission had not formally classified interconnected VoIP as a Title I "information service" or as a Title II "telecommunications service" within the meaning of the Act.[362] Accordingly, assuming TRS is not a telecommunications service under the Communications Act definition, we seek comment on the use of ancillary jurisdiction to extend the application of the Commission's CPNI requirements to TRS providers.[363]

145. *Interplay between CPNI requirements and existing restrictions on TRS customer data.* If the Commission were to apply some or all of the CPNI requirements to TRS, we seek comment on how

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[359] Sorenson Rules *Ex Parte* at 2 & Attach. 1 (proposing revisions to the CPNI rules).

[360] 47 U.S.C. § 225(a)(3) (definition of TRS). In its *ex parte*, Sorenson proposes to define "point-to-point" service as "a video service that facilitates the transmission of non-relay calls in which a video end-user device (*e.g.*, a videophone) connects to another such device via a ten-digit NANP number that has been assigned to the called device, allowing deaf, hard-of-hearing, speech-disabled, and other individuals to communicate directly in real-time via sign language without the assistance of an interpreter." Sorenson Rules *Ex Parte*, Attach. 1, at 2.

[361] *See United States v. Southwestern Cable Co.*, 392 U.S. 157, 177–78 (1968).

[362] *EPIC CPNI Order*, 22 FCC Rcd at 6954–57, paras. 54–59. In using ancillary jurisdiction to extend the Commission's CPNI rules to interconnected VoIP providers, the Commission found that: (1) interconnected VoIP service "is increasingly used to replace analog voice service," and that it is therefore reasonable for American consumers to expect that their calls will be private irrespective of whether they are using traditional telephone services or interconnected VoIP services; (2) because the CPNI of interconnected VoIP customers includes call histories to or from traditional phone service users, extending section 222's protection to interconnected VoIP service customers is necessary to protect the privacy of those traditional phone service users; and (3) applying the CPNI protections to interconnected VoIP providers may encourage customer migration to VoIP services and therefore spur technological development in the digital telephone realm. *Id.* at 6956–57, paras. 55–59.

[363] Because the question of the proper classification of particular services as "telecommunications services" or "information services" under the Communications Act is beyond the scope of this proceeding, we examine our authority to extend the application of the CPNI rules to TRS only under our Title I ancillary authority.

best to reconcile the CPNI rules with the existing TRS restrictions on TRS providers' use of customer database information. The Commission has repeatedly stated that TRS customer data may not be used for any purpose other than the provision of TRS.[364] The Commission has also emphasized that, given that the obligation placed on TRS providers is to be available to handle calls consumers choose to make, when they choose to make them, *i.e.*, to be the "dial tone" for a consumer that uses relay to call to a voice telephone user, and because consumers do not pay for this service but rather providers are compensated pursuant to Title IV of the ADA, providers may not offer relay users financial and similar incentives, directly or indirectly, to use their service.[365] In contrast, section 64.2005(a) of the Commission's CPNI rules permits a carrier to "use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings" among the categories of service to which the customer already subscribes from the carrier,[366] and section 64.2005(c)(3) permits the use or disclosure of CPNI "to market services formerly known as adjunct-to-basic services."[367] In light of these and other differences between TRS, where there traditionally has been no subscription agreement and consumers do not pay for the service, and other market-based communications services that are paid for by the consumer, we seek comment on whether, in the TRS context, we should apply CPNI requirements that permit the use or disclosure of personally identifiable consumer information for marketing purposes and, if so, whether this action is consistent with the Commission's existing TRS requirements. We also seek comment on how replacing existing protections with CPNI requirements would affect the privacy of TRS consumers with regard to customer profile information; specifically, would any data protected by the current rules not fall under the definition of CPNI? Would extending the CPNI rules to cover TRS impede the provision of TRS?

146. We also seek comment on the comparative advantages and disadvantages of applying the CPNI rules to TRS providers, as opposed to expanding the existing TRS requirements governing permissible uses of database information to encompass any additional types of customer information (*e.g.*, Registered Location information) that may be generated as a result of the numbering and registration measures we adopt today. Under either approach, we seek comment on whether our rules should require express consumer consent before a TRS provider may disclose customer records of a TRS user to third parties or to any specific type of third-party entity. Commenters are also asked to identify any additional protections or safeguards they believe are needed to ensure the privacy and security of TRS customer data in light of the numbering and Registered Location measures that we adopt above. For example, should Internet-based TRS providers be required to remove all personally identifiable consumer information for Registered Internet-based TRS Users that select a different default provider? In addition, we ask commenters to describe any systems providers have in place currently to safeguard personally identifiable information of TRS users and indicate the degree to which those systems have succeeded in protecting consumers from unauthorized disclosure of personally identifiable customer data.

14. Cost Recovery Issues

147. As outlined above, we conclude that Internet-based TRS providers may seek compensation from the Fund for their actual reasonable costs of complying with the new requirements

[364] *See, e.g.*, *2000 TRS Order*, 15 FCC Rcd at 5175, para. 83 (stating that customer profile information "shall not be used for any purpose other than to connect the TRS user, for whom the profile exists, with the called parties [identified] by that TRS user").

[365] *2007 TRS Rate Methodology Order*, 22 FCC Rcd at 20173–75, paras. 89–94 (internal footnotes omitted); *see also Consumer Contacts Declaratory Ruling*, FCC 08-138, para. 13.

[366] 47 C.F.R. § 64.2005(a).

[367] 47 C.F.R. § 64.2005(c)(3). Such "adjunct-to-basic services" may include, among others, "speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features." *Id.*

adopted in the foregoing *Order*. We have not included, however, those costs directly related to consumers' acquiring a number or to the costs associated with number portability. Because these costs generally are borne by voice telephone users,[368] we seek comment on whether Internet-based TRS users acquiring ten-digit numbers should also bear these costs.

148. We note that although section 225 creates a cost recovery regime for the costs of providing relay, it also mandates that the Commission's regulations shall "require that users of [TRS] pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination."[369] Congress therefore contemplated that TRS consumers would pay *some* costs associated with making a "telephone call," just not those additional costs attributed to the use of a relay service to facilitate the call.

149. We therefore seek comment on whether, and to what extent, the costs of acquiring numbers, including porting fees, should be passed on to the Internet-based TRS users, and not paid for by the Fund. We note that because Internet-based TRS users will now have a default provider – *e.g.*, the provider from which they obtained their number or a provider to which they ported their number – that provider can pass the costs of acquiring the number, or of porting the number, to the consumer. We also seek comment on whether there are other specific costs that result from the requirements adopted in the *Order* that, mirroring voice telephone consumers, should be passed on to consumers, including, for example, E911 charges.

V. PROCEDURAL MATTERS

150. *Comments and Reply Comments*. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.[370] For additional information on this proceeding, please contact Thomas Chandler in the Consumer & Governmental Affairs Bureau, at (202) 418-1475.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and instructions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each

[368] 47 C.F.R. §§ 52.17, 52.32 (requiring carrier contributions to support numbering administration and number portability); 47 C.F.R. § 52.33 (setting forth method by which carriers may recover number portability costs).

[369] 47 U.S.C. § 225(d)(1)(D).

[370] *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (Apr. 6, 1998).

filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE, Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, D.C. 20554.

151. People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). This *Report and Order and Further Notice of Proposed Rulemaking* can also be downloaded in Word and Portable Document Formats (PDF) at http://www.fcc.gov/cgb.dro.

152. Comments and reply comments must include a short and concise summary of the substantive discussion and questions raised in the *Further Notice*. We further direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. We strongly encourage that parties track the organization set forth in this *Further Notice* in order to facilitate our internal review process. Comments and reply comments must otherwise comply with section 1.49 and all other applicable sections of the Commission's rules.[371]

153. *Ex Parte Rules.* This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[372] Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.[373] Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

154. *Regulatory Flexibility Certifications.* As required by the Regulatory Flexibility Act of 1980 (RFA),[374] the Commission has prepared a Final Regulatory Flexibility Certification in which it concludes that, under the terms of the RFA, there is no significant economic impact on small entities of the policies and rules addressed in this document. The certification is set forth in Appendix C.

[371] *See* 47 C.F.R. § 1.49.

[372] 47 C.F.R. §§ 1.200 *et seq.*

[373] *See* 47 C.F.R. § 1.1206(b)(2).

[374] *See* 5 U.S.C. § 604.

155. As required by the RFA,[375] the Commission also has prepared an Initial Regulatory Flexibility Certification of the possible significant economic impact on small entities of the policies and rules addressed in this document. The certification is set forth in Appendix D.

156. *Paperwork Reduction Act.* The *Report and Order* contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. Public and agency comments are due 60 days after the date of publication of this document in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

157. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,[376] we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

158. In this present document, we have assessed the effects of imposing a requirement that Internet-based TRS providers implement a plan for assigning ten-digit, NANP telephone numbers to Registered Internet-based TRS Users. We have taken steps to minimize the information collection burden for small business concerns, including those with fewer than 25 employees. For example, in requiring that providers obtain users' Registered Location, the *Order* allows providers to comply with this requirement directly or by utilizing the services of a third party. The Commission also requires Internet-based TRS providers to include an advisory on their websites and in any promotional materials addressing the new requirements adopted in this *Order*. The Commission believes that posting this information on provider websites and including it in any promotional materials that are directed to consumers should entail minimal burden and will prove critical to ensuring that consumers receive timely and complete information concerning the transition to a ten-digit numbering system and that consumers are aware of the need to submit accurate Registered Location information for the proper routing of emergency calls. The Commission also finds that allowing providers until December 31, 2008, to implement the Registered Location requirement and other requirements adopted herein, under which providers must obtain or have access to consumer location information, as well as current routing information for their registered users, is a reasonable timeframe for both large and small providers. Finally, the Commission concludes that all Internet-based TRS providers, including small entities, will be eligible to receive compensation from the Interstate TRS Fund for their reasonable costs of complying with the numbering and registration requirements adopted in the *Order*. These measures should substantially alleviate any burdens on businesses with fewer than 25 employees.

159. *Congressional Review Act.* The Commission will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.[377]

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[375] *See* 5 U.S.C. § 603.

[376] Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4).

[377] *See* 5 U.S.C. § 801(a)(1)(A).

VI. ORDERING CLAUSES

160. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), this *Report and Order and Further Notice of Proposed Rulemaking* IS ADOPTED.

161. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 251, 303(r), Parts 52 and 64 of the Commission's rules, 47 C.F.R. Parts 52, 64, ARE AMENDED, as set forth in Appendix B.

162. IT IS FURTHER ORDERED that this *Report and Order and Further Notice of Proposed Rulemaking* shall become effective 30 days after publication in the Federal Register, and all requirements set forth herein must be implemented by December 31, 2008, except for the information collections, which require approval by OMB under the PRA and which shall become effective after the Commission publishes a notice in the Federal Register announcing such approval and the relevant effective date(s).

163. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

164. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Marlene H. Dortch
Secretary

APPENDIX A

List of Commenters

***Consumer & Governmental Affairs Bureau Seeks to Refresh Record on Assigning Internet Protocol (IP)-Based Telecommunications Relay Service (TRS) Users Ten-Digit Telephone Numbers Linked to North American Numbering Plan (NANP) and Related Issues*, CG Docket No. 03-123, Public Notice, 23 FCC Rcd 4727 (Mar. 19, 2008)**

Commenter/Date Filed	Abbreviation
AT&T (Apr. 8, 2008)	AT&T
Communication Service for the Deaf/CSDVRS (Apr. 8, 2008)	CSDVRS
Dash Carrier Services (Apr. 8, 2008)	Dash
GoAmerica/Hands On Video Relay Services (Apr. 8, 2008)	GoAmerica
Interstate TRS Advisory Council (Apr. 8, 2008)	TRS Advisory Council
Nebraska Public Service Commission (Apr. 8, 2008)	Nebraska PSC
NeuStar (Apr. 8, 2008)	NeuStar
Sorenson Communications, Inc. (Apr. 8, 2008)	Sorenson
Sprint Nextel Corporation (Apr. 8, 2008)	Sprint Nextel
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; California Coalition of Agencies Serving the Deaf and Hard of Hearing (Apr. 8, 2008)	TDI Coalition

Reply Commenter/Date Filed	Abbreviation
Alexander Graham Bell Association for the Deaf and Hard of Hearing (Apr. 18, 2008)	AG Bell
American Association of People with Disabilities (Apr. 18, 2008)	AAPD
AT&T (Apr. 18, 2008)	AT&T
Communication Access Center for the Deaf and Hard of Hearing (Apr. 18, 2008)	CAC
Communication Service for the Deaf/CSDVRS (Apr. 18, 2008)	CSDVRS
Dash Carrier Services (Apr. 18, 2008)	Dash
GoAmerica/Hands On Video Relay Services (Apr. 18, 2008)	GoAmerica
National Emergency Number Association (Apr. 18, 2008)	NENA
NeuStar (Apr. 18, 2008)	NeuStar
Sonny Access Consulting (Apr. 18, 2008)	Sonny
Sorenson Communications, Inc. (Apr. 18, 2008)	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc., Association of Late-Deafened Adults, Inc., National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; California Coalition of Agencies Serving the Deaf and Hard of Hearing (Apr. 18, 2008)	TDI Coalition

***Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing Disabilities*, CG Docket No. 03-123, Declaratory Ruling and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5442 (May 9, 2006)**

Commenter/Date Filed	Abbreviation
AT&T, Inc. (July 17, 2006)	AT&T
Communication Service for the Deaf (July 17, 2006)	CSD
Hands On Video Relay Services, Inc. (July 17, 2006)	Hands On
Snap Telecommunications, Inc. (July 17, 2006)	Snap
Sorenson Communications, Inc. (July 17, 2006)	Sorenson
Sprint Nextel Corporation (July 17, 2006)	Sprint Nextel
Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; and California Coalition of Agencies Serving the Deaf and Hard of Hearing (July 17, 2006)	TDI Coalition
Verizon (July 17, 2006)	Verizon

Reply Commenter/Date Filed	Abbreviation
AT&T, Inc. (July 31, 2006)	AT&T
Hands On Video Relay Services, Inc. (July 31, 2006)	Hands On
Neustar, Inc. (July 31, 2006)	Neustar
Snap Telecommunications, Inc. (July 31, 2006)	Snap
Sorenson Communications, Inc. (July 31, 2006)	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; and California Coalition of Agencies Serving the Deaf and Hard of Hearing (July 31, 2006)	TDI Coalition
Verizon (July 31, 2006)	Verizon

***Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Further Notice of Proposed Rulemaking, 21 FCC Rcd 5478 (May 8, 2006)**

Commenter/Date Filed	Abbreviation
Alliance for Telecommunications Industry Solutions (July 3, 2006)	ATIS
AT&T, Inc. (July 3, 2006)	AT&T
Country Boy Trailers (June 1, 2006)	Country Boy Trailers
Communication Service for the Deaf (June 28, 2006)	CSD
Hamilton Relay, Inc. (July 6, 2006)	Hamilton
Sorenson Communications, Inc. (July 3, 2006)	Sorenson
Sprint Nextel Corporation (July 3, 2006)	Sprint Nextel
Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; and California Coalition of Agencies Serving the Deaf and Hard of Hearing (July 3, 2006)	TDI Coalition
Verizon (July 3, 2006)	Verizon

Reply Commenter/Date Filed	Abbreviation
Hamilton Relay, Inc. (July 14, 2006)	Hamilton
Sorenson Communications, Inc. (July 17, 2006)	Sorenson
Telecommunications for the Deaf and Hard of Hearing, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; and California Coalition of Agencies Serving the Deaf and Hard of Hearing (July 17, 2006)	TDI Coalition

***Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Notice of Proposed Rulemaking, 20 FCC Rcd 19476 (Nov. 30, 2005)**

Commenter/Date Filed	Abbreviation
Communication Access Center (Feb. 22, 2006)	CAC
Communication Service for the Deaf (Feb. 22, 2006)	CSD
Hamilton Relay, Inc. (Feb. 22, 2006)	Hamilton
National Association of the Deaf (Feb. 22, 2006)	NAD
New Jersey Division of the Ratepayer Advocate (Feb. 22, 2006)	NJ Ratepayer
Rehabilitation Engineering Research Center on Telecommunications Access (Feb. 22, 2006)	RERC
Sorenson Communications, Inc. (Feb. 22, 2006)	Sorenson
Sprint Nextel Corporation (Feb. 22, 2006)	Sprint Nextel
Telecommunications for the Deaf, Inc. (Feb. 22, 2006)	TDI
Verizon (Feb. 22, 2006)	Verizon

Reply Commenter/Date Filed	Abbreviation
Hands On Video Relay Services, Inc. (Mar. 8, 2006)	Hands On
Intrado (Mar. 8, 2006)	Intrado
National Emergency Number Association (Mar. 8, 2006)	NENA
New Jersey Division of the Ratepayer Advocate (Mar. 8, 2006)	NJ Ratepayer
Sorenson Communications, Inc. (Mar. 8, 2006)	Sorenson
TDI and NorCal Center on Deafness (Mar. 8, 2006)	TDI & NorCal
Texas 9-1-1 Alliance and Texas Commission on State Emergency Communications (Mar. 8, 2006)	Texas911 Alliance
Verizon (Mar. 8, 2006)	Verizon

APPENDIX B

Final Rule Changes

Part 52 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 52 – NUMBERING

1. The authority citation for part 52 continues to read as follows:

Authority: Secs. 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154 and 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–27, 251–52, 271 and 332 unless otherwise noted.

2. Section 52.21 is amended by redesignating paragraphs (i) through (n) as paragraphs (j) through (o), redesignating paragraphs (o) through (s) as paragraphs (q) through (u), and adding new paragraphs (i), (p), and (v) to read as follows:

* * * * *

(i) The term *IP Relay provider* means an entity that provides IP Relay as defined by 47 C.F.R. § 64.601.

* * * * *

(p) The term *Registered Internet-based TRS User* has the meaning set forth in 47 C.F.R. § 64.601.

* * * * *

(v) The term *VRS provider* means an entity that provides VRS as defined by 47 C.F.R. § 64.601.

* * * * *

3. Section 52.34 is amended to read as follows:

<u>§ 52.34 Obligations regarding local number porting to and from interconnected VoIP or Internet-based TRS providers.</u>

(a) An interconnected VoIP or VRS or IP Relay provider must facilitate an end-user customer's or a Registered Internet-based TRS User's valid number portability request, as it is defined in this subpart, either to or from a telecommunications carrier or an interconnected VoIP or VRS or IP Relay provider. "Facilitate" is defined as the interconnected VoIP or VRS or IP Relay provider's affirmative legal obligation to take all steps necessary to initiate or allow a port-in or port-out itself or through the telecommunications carriers, if any, that it relies on to obtain numbering resources, subject to a valid port request, without unreasonable delay or unreasonable procedures that have the effect of delaying or denying porting of the NANP-based telephone number.

(b) An interconnected VoIP or VRS or IP Relay provider may not enter into any agreement that would prohibit an end-user customer or a Registered Internet-based TRS User from porting between

interconnected VoIP or VRS or IP Relay providers, or to or from a telecommunications carrier.

Part 64 of the Code of Federal Regulations is amended as follows:

PART 64 – MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403 (b)(2)(B), (C), Public Law 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 225, 226, 228, and 254(k) unless otherwise noted.

2. Section 64.601 is amended by redesignating paragraphs (a)(3) through (a)(9) as paragraphs (a)(4) through (a)(10), redesignating paragraph (a)(10) as paragraph (a)(14), redesignating paragraph (a)(11) as paragraph (a)(16), deleting paragraph (a)(12), redesignating paragraphs (a)(13) through (a)(17) as paragraphs (a)(19) through (a)(23), redesignating paragraphs (a)(18) and (a)(19) as (a)(26) and (a)(27), and by amending subsection (a) and adding new paragraphs (a)(3), (a)(11) through (a)(13), (a)(15), (a)(17), (a)(18), (a)(24), and (a)(25) to read as follows:

(a) For purposes of this subpart, the terms *Public Safety Answering Point (PSAP)*, *statewide default answering point*, and *appropriate local emergency authority* are defined in 47 C.F.R. § 64.3000; the terms *pseudo-ANI* and *Wireline E911 Network* are defined in 47 C.F.R. § 9.3; the term *affiliate* is defined in 47 C.F.R. § 52.12(a)(1)(i), and the terms *majority* and *debt* are defined in 47 C.F.R. § 52.12(a)(1)(ii).
* * *

* * * * *

(3) *ANI*. For 911 systems, the Automatic Number Identification (ANI) identifies the calling party and may be used as the callback number.

* * * * *

(11) *Internet-based TRS*. A telecommunications relay service (TRS) in which an individual with a hearing or a speech disability connects to a TRS communications assistant using an Internet Protocol-enabled device via the Internet, rather than the public switched telephone network. Internet-based TRS does not include the use of a text telephone (TTY) over an interconnected voice over Internet Protocol service.

(12) *Internet Protocol Captioned Telephone Service (IP CTS)*. A telecommunications relay service that permits an individual who can speak but who has difficulty hearing over the telephone to use a telephone and an Internet Protocol-enabled device via the Internet to simultaneously listen to the other party and read captions of what the other party is saying. With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the Internet, rather than the public switched telephone network.

(13) *Internet Protocol Relay Service (IP Relay)*. A telecommunications relay service that permits an individual with a hearing or a speech disability to communicate in text using an Internet Protocol-enabled device via the Internet, rather than using a text telephone (TTY) and the public switched telephone network.

* * * * *

(15) *Numbering Partner*. Any entity with which an Internet-based TRS provider has entered into a commercial arrangement to obtain North American Numbering Plan telephone numbers.

* * * * *

(17) *Registered Location*. The most recent information obtained by a VRS or IP Relay provider that identifies the physical location of an end user.

(18) *Registered Internet-based TRS User*. An individual that has registered with a VRS or IP Relay provider as described in section 64.611.

* * * * *

(24) *TRS Numbering Administrator*. The neutral administrator of the TRS Numbering Directory selected based on a competitive bidding process.

(25) *TRS Numbering Directory*. The database administered by the TRS Numbering Administrator, the purpose of which is to map each Registered Internet-based TRS User's NANP telephone number to his or her end device.

* * * * *

3. Section 64.605 is amended to read as follows:

§ 64.605 Emergency Calling Requirements

(a) *Additional Emergency Calling Requirements Applicable to Internet-based TRS Providers*.

(1) As of December 31, 2008, the requirements of paragraphs (a)(2)(i) and (a)(2)(iv) of this section shall not apply to providers of VRS and IP Relay.

(2) Each provider of Internet-based TRS shall:

(i) Accept and handle emergency calls and access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location, and to relay the call to that entity;

(ii) Implement a system that ensures that the provider answers an incoming emergency call before other non-emergency calls (*i.e.*, prioritize emergency calls and move them to the top of the queue);

(iii) Request, at the beginning of each emergency call, the caller's name and location information, unless the Internet-based TRS provider already has, or has access to, a Registered Location for the caller;

(iv) Deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of the outbound leg of an emergency call, at a minimum, the

name of the relay user and location of the emergency, as well as the name of the relay provider, the CA's callback number, and the CA's identification number, thereby enabling the PSAP, designated statewide default answering point, or appropriate local emergency authority to re-establish contact with the CA in the event the call is disconnected;

(v) In the event one or both legs of an emergency call are disconnected (*i.e.*, either the call between the TRS user and the CA, or the outbound voice telephone call between the CA and the PSAP, designated statewide default answering point, or appropriate local emergency authority), immediately re-establish contact with the TRS user and/or the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority and resume handling the call; and

(vi) Ensure that information obtained as a result of this section is limited to that needed to facilitate 911 services, is made available only to emergency call handlers and emergency response or law enforcement personnel, and is used for the sole purpose of ascertaining a user's location in an emergency situation or for other emergency or law enforcement purposes.

(b) *E911 Service for VRS and IP Relay*

(1) *Scope.* The following requirements are only applicable to providers of VRS or IP Relay. Further, the following requirements apply only to 911 calls placed by users whose Registered Location is in a geographic area served by a Wireline E911 Network.

(2) *E911 Service.* As of December 31, 2008:

(i) VRS or IP Relay providers must, as a condition of providing service to a user, provide that user with E911 service as described in this section;

(ii) VRS or IP Relay providers must transmit all 911 calls, as well as ANI, the caller's Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number for each call, to the PSAP, designated statewide default answering point, or appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter, provided that "all 911 calls" is defined as "any communication initiated by a VRS or IP Relay user dialing 911";

(iii) All 911 calls must be routed through the use of ANI and, if necessary, pseudo-ANI, via the dedicated Wireline E911 Network; and

(iv) The Registered Location, the name of the VRS or IP Relay provider, and the CA's identification number must be available to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority from or through the appropriate automatic location information (ALI) database.

(3) *Service Level Obligation.* Notwithstanding the provisions in paragraph (b)(2) of this section, if a PSAP, designated statewide default answering point, or appropriate local emergency authority is not capable of receiving and processing either ANI or location information, a VRS or IP Relay provider need not provide such ANI or location information; however, nothing in this paragraph affects the obligation under paragraph (c) of this section of a VRS or IP Relay provider to transmit via the Wireline E911 Network all 911 calls to the PSAP, designated statewide default answering point, or

appropriate local emergency authority that serves the caller's Registered Location and that has been designated for telecommunications carriers pursuant to §64.3001 of this chapter.

(4) *Registered Location Requirement.* As of December 31, 2008, VRS and IP Relay providers must:

(i) Obtain from each Registered Internet-based TRS User, prior to the initiation of service, the physical location at which the service will first be utilized; and

(ii) If the VRS or IP Relay is capable of being used from more than one location, provide their Registered Internet-based TRS Users one or more methods of updating their Registered Location, including at least one option that requires use only of the CPE necessary to access the VRS or IP Relay. Any method utilized must allow a Registered Internet-based TRS User to update the Registered Location at will and in a timely manner.

4. Section 64.611 is added to read as follows:

§ 64.611 Internet-Based TRS Registration

(a) *Default Provider Registration.* Every provider of VRS or IP Relay must, no later than December 31, 2008, provide users with the capability to register with that VRS or IP Relay provider as a "default provider." Upon a user's registration, the VRS or IP Relay provider shall:

(1) Either:

(i) Facilitate the user's valid number portability request as set forth in 47 C.F.R. § 52.34; or

(ii) If the user does not wish to port a number, assign that user a geographically appropriate North American Numbering Plan telephone number; and

(2) Route and deliver all of that user's inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider.

(b) *Mandatory Registration of New Users.* As of December 31, 2008, VRS and IP Relay providers must, prior to the initiation of service for an individual that has not previously utilized VRS or IP Relay, register that new user as described in paragraph (a) of this section.

(c) *Obligations of Default Providers and Former Default Providers.*

(1) Default providers must:

(i) Obtain current routing information, including IP addresses or domain names and user names, from their Registered Internet-based TRS Users;

(ii) Provision such information to the TRS Numbering Directory; and

(iii) Maintain such information in their internal databases and in the TRS Numbering Directory.

(2) Internet-based TRS providers (and, to the extent necessary, their Numbering Partners) must:

(i) Take such steps as are necessary to cease acquiring routing information from any VRS or IP Relay user that ports his or her number to another VRS or IP Relay provider or otherwise selects a new default provider; and

(ii) Communicate among themselves as necessary to ensure that:

(A) Only the default provider provisions routing information to the central database; and

(B) VRS and IP Relay providers other than the default provider are aware that they must query the TRS Numbering Directory in order to obtain accurate routing information for a particular user of VRS or IP Relay.

(d) *Proxy Numbers.* After December 31, 2008, a VRS or IP Relay provider:

(1) May not assign or issue a proxy or alias for a NANP telephone number to any user; and

(2) Must cease to use any proxy or alias for a NANP telephone number assigned or issued to any Registered Internet-based TRS User.

(e) *Customer Premises Equipment (CPE).*

(1) Every VRS or IP Relay provider must ensure that all CPE they have issued, leased, or otherwise provided to VRS or IP Relay users delivers routing information or other information only to the user's default provider, except as is necessary to complete or receive "dial around" calls on a case-by-case basis.

(2) All CPE issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers must be capable of facilitating the requirements of this section.

(f) *User Notification.* Every VRS or IP Relay provider must include an advisory on its website and in any promotional materials addressing numbering or E911 services for VRS or IP Relay.

(1) At a minimum, the advisory must address the following issues: (i) the process by which VRS or IP Relay users may obtain ten-digit telephone numbers, including a brief summary of the numbering assignment and administration processes; (ii) the portability of ten-digit telephone numbers assigned to VRS or IP Relay users; (iii) the process by which persons using VRS or IP Relay may submit, update, and confirm receipt by the provider of their Registered Location information; and (iv) an explanation emphasizing the importance of maintaining accurate, up-to-date Registered Location information with the user's default provider in the event that the individual places an emergency call via VRS or IP Relay.

(2) VRS and IP Relay providers must obtain and keep a record of affirmative acknowledgement by every Registered Internet-based TRS User of having received and understood the advisory described in this subsection.

5. Section 64.613 is added to read as follows:

§ 64.613 Numbering Directory for Registered Internet-based TRS Users

(a) TRS Numbering Directory.

(1) The TRS Numbering Directory shall contain records mapping the NANP telephone number of each Registered Internet-based TRS User to a unique Uniform Resource Identifier (URI).

(2) For each record associated with a VRS user, the URI shall contain the user's Internet Protocol (IP) address. For each record associated with an IP Relay user, the URI shall contain the user's user name and domain name that can be subsequently resolved to reach the user.

(3) Only the TRS Numbering Administrator and Internet-based TRS providers may access the TRS Numbering Directory.

(b) Administration.

(1) *Neutrality.*

(A) The TRS Numbering Administrator shall be a non-governmental entity that is impartial and not an affiliate of any Internet-based TRS provider.

(B) Neither the TRS Numbering Administrator nor any affiliate may issue a majority of its debt to, nor derive a majority of its revenues from, any Internet-based TRS provider.

(C) Nor may the TRS Numbering Administrator nor any affiliate be unduly influenced, as determined by the North American Numbering Council, by parties with a vested interest in the outcome of TRS-related numbering administration and activities.

(D) Any subcontractor that performs any function of the TRS Numbering Administrator must also meet these neutrality criteria.

(2) *Terms of Administration.* The TRS Numbering Administrator shall administer the TRS Numbering Directory pursuant to the terms of its contract.

(3) *Compensation.* The TRS Fund, as defined by 47 C.F.R. § 64.604(a)(5)(iii), may compensate the TRS Numbering Administrator for the reasonable costs of administration pursuant to the terms of its contract.

APPENDIX C

Final Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA),[1] requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[2] The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[3] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[4] A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

2. In this *Order*, the Commission adopts a system for assigning ten-digit telephone numbers linked to the NANP to persons using Internet-based TRS. This *Order* will further the functional equivalency of TRS mandated in Title IV of the Americans with Disabilities Act. The Commission finds that utilization of NANP numbers will achieve the goal of making Internet-based TRS functionally equivalent to traditional circuit switched telephony, and will provide Internet-based TRS users a reliable and consistent means by which they may receive calls from voice telephone users in the same way that voice telephone users are called. Under this *Order*, each Internet-based TRS provider must provide Internet-based TRS users with the capability to register with that provider as a "default" provider. Upon a user's registration, each provider must either facilitate the user's valid number portability request or, if the user does not wish to port a number, assign that user a geographically appropriate NANP telephone number. Each provider also must route and deliver all of its Registered Internet-based TRS Users' inbound and outbound calls unless the user chooses to place a call with, or receives a call from, an alternate provider. Further, this *Order* requires Internet-based TRS providers to obtain from each of their Registered Internet-based TRS users, prior to the initiation of service, the physical location at which the service will first be utilized. Moreover, providers of Internet-based TRS that can be utilized from more than one physical location must provide registered users one or more methods of updating their Registered Location. As noted in the *Order*, the numbering system adopted enables individuals with hearing and speech disabilities using Internet-based TRS access to emergency services. Specifically, the *Order* is intended to ensure that emergency calls placed by Internet-based TRS users will be routed directly and automatically to the appropriate emergency services authorities by Internet-based TRS providers. The Commission also requires each Internet-based TRS provider to include an advisory on its website and in any promotional materials addressing the new requirements adopted in the *Order*. Providers must obtain and keep a record of affirmative acknowledgement by every user assigned a

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[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] 5 U.S.C. § 605(b).

[3] 5 U.S.C. § 601(6).

[4] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[5] Small Business Act, 15 U.S.C. § 632.

number of having received and understood this advisory. The Commission also states its belief that instituting a numbering system and a Registered Location requirement, as provided in the *Order*, will reduce the misuse of IP Relay by persons seeking to use this service for fraudulent purposes. Finally, the *Order* concludes that Internet-based TRS providers will be compensated from the Interstate TRS Fund for their reasonable actual costs of complying with the new rules adopted in this item.

3. To the extent that all Internet-based TRS providers, including small entities, will be eligible to receive compensation from the Interstate TRS Fund for their reasonable costs of complying with these numbering and Registered Location requirements, the Commission finds that these requirements will not have a significant economic impact on a substantial number of small entities. Further, the Commission believes that allowing providers until December 31, 2008, to implement the ten-digit numbering plan adopted in the *Order* is a reasonable timeframe for both large and small providers. The Commission also authorizes the Managing Director to include in the third-party administrator contract the requirement to refer all implementation disputes that it is unable to resolve in a reasonable time to the Chief of the Wireline Competition Bureau for resolution, which will ease burdens on providers, including small entities. For all of these reasons, the Commission concludes that these measures will not have a significant economic impact on a substantial number of small entities, in particular because each small business will receive financial compensation for reasonable costs incurred rather than absorb an uncompensated financial loss or hardship.

4. With regard to whether a *substantial number* of small entities may be affected by the requirements adopted in this *Order*, the Commission notes that, of the 11 providers affected by the *Order*, only three meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.[6] Currently, eleven providers receive compensation from the Interstate TRS Fund for providing VRS, IP Relay and IP CTS: AT&T Corp.; CSDVRS; CAC; GoAmerica; Hamilton Relay, Inc.; Hands On; Healinc; Nordia Inc.; Snap Telecommunications, Inc; Sorenson; and Sprint. Because only three of the providers affected by this *Order* are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities affected by our decision in this *Order* is not substantial. Moreover, given that all affected providers, including the three that are deemed to be small entities under the SBA's standard, will be entitled to receive prompt reimbursement for their reasonable costs of compliance, the Commission concludes that the *Order* will not have a significant economic impact on these small entities.

5. Therefore, for all of the reasons stated above, the Commission certifies that the requirements of this *Order* will not have a significant economic impact on a substantial number of small entities.

6. The Commission will send a copy of the *Order*, including this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.[7] In addition, the *Order*, including the Final Regulatory Flexibility Certification, will be sent by the Commission's

[6] 13 C.F.R. § 121.201, NAICS code 517110. According to Census Bureau data for 1997, there were 2,225 firms in this category which operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 (issued Oct. 2000). Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more.")

[7] *See* 5 U.S.C. § 801(a)(1)(A).

Consumer & Governmental Affairs Bureau, Reference Information Center to the Chief Counsel for Advocacy of the SBA and will be published in the Federal Register.[8]

[8] *See* 5 U.S.C. § 604(b).

APPENDIX D

Initial Regulatory Flexibility Certification

7. The Regulatory Flexibility Act of 1980, as amended (RFA),[1] requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[2] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[3] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[4] A "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5]

8. In the *Further Notice of Proposed Rulemaking*, the Commission seeks comment on additional issues relating to the assignment and administration of ten-digit telephone numbers for VRS and IP Relay users. For example, the Commission proposes a modification of the call completion requirement under the Commission's TRS rules so that if a CA is handling a non-emergency relay call and identifies an incoming 911 call, the CA may terminate the existing call to immediately answer the 911 call.[6] The Commission also seeks comment on ways in which Registered Location information might be made available to alternative relay providers for the purpose of routing emergency calls in the event that an Internet-based TRS user places an emergency call through an Internet-based TRS provider other than the user's default provider. The Commission seeks comment on how long a registration period Internet-based TRS providers should have to register their users. The Commission also seeks comments on the eligibility of Internet-based TRS users for multiple telephone numbers and on whether Internet-based TRS users should pay a fee for toll free numbers. Further, the Commission seeks comment on the steps it should take, if any, to facilitate standards-based signaling between service providers. The Commission seeks comment on whether functional equivalency requires that a single telephone number be assigned to multiple end-user devices and on whether multi-line telephone systems pose particular problems for the numbering and 911 requirements imposed here. The Commission seeks comment on who should be eligible to obtain a telephone number from Internet-based TRS providers. The Commission also contemplates additional security measures designed to ensure the integrity of the TRS system and the equipment and networks of Internet-based TRS users, and proposes to extend the numbering system to IP CTS. The Commission proposes the application of the Commission's anti-slamming rules to protect relay consumers against unauthorized default provider changes and the Commission's privacy rules to protect relay consumers against unauthorized disclosure of private information. Finally, the Commission seeks comment on whether the costs of acquiring ten-digit

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[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[2] 5 U.S.C. § 605(b).

[3] 5 U.S.C. § 601(6).

[4] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

[5] 15 U.S.C. § 632.

[6] *See* 47 C.F.R. § 64.604(a)(30)(i) ("Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services.")

telephone numbers, and porting those numbers, should be passed on to Internet-based TRS users.

9. *The Commission concludes that these proposed changes may be necessary to ensure that* users of Internet-based TRS receive functionally equivalent telephone service, as mandated by Title IV of the Americans with Disabilities Act. Although the proposed changes may result in additional reporting and recordkeeping requirements on the part of the affected providers, including small entities, the providers will be promptly reimbursed from the Interstate TRS Fund for the costs of complying with the proposed rules, if adopted. Entities, especially small businesses, are encouraged to quantify the costs and benefits of any reporting requirement that may be established in this proceeding. The modifications the Commission proposes consist of policies aimed at achieving a functionally equivalent telephone service for Internet-based TRS users and are not expected to have a substantial economic impact upon providers, including small businesses, because each small business will receive financial compensation for reasonable costs incurred rather than absorb an uncompensated financial loss or hardship.

10. With regard to whether a *substantial number* of small entities may be affected by the requirements proposed in this *Further Notice*, the Commission notes that, of the fourteen providers affected by the *Further Notice*, only four meet the definition of a small entity. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees.[7] Currently, fourteen providers receive compensation from the Interstate TRS Fund for providing any form of TRS: Ameritech, AT&T Corp.; CSDVRS; CAC; GoAmerica; Hamilton Relay, Inc.; Hands On; Healinc; Kansas Relay Service, Inc.; Nordia Inc.; Snap Telecommunications, Inc; Sorenson; Sprint; and State of Michigan. Because only four of the providers that would be affected by this *Further Notice*, if adopted, are deemed to be small entities under the SBA's small business size standard, the Commission concludes that the number of small entities potentially affected by our proposed rules is not substantial. Moreover, given that all providers potentially affected by the proposed rules, including the four that are deemed to be small entities under the SBA's standard, would be entitled to receive prompt reimbursement for their reasonable costs of compliance, the Commission concludes that the *Further Notice*, if adopted, will not have a significant economic impact on these small entities.

11. Therefore, we certify that the proposals in this *Further Notice*, if adopted, will not have a significant economic impact on a substantial number of small entities.

12. The Commission will send a copy of the *Further Notice*, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.[8] This initial certification will also be published in the Federal Register.[9]

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[7] 13 C.F.R. § 121.201, NAICS code 517110. According to Census Bureau data for 1997, there were 2,225 firms in this category which operated for the entire year. U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 5, NAICS code 513310 (issued Oct. 2000). Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more.")

[8] 5 U.S.C. § 605(b).

[9] 5 U.S.C. § 605(b).