Proceeding: Telecommunication Relay Services and Speech-to-Speech Services for Individ

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In the Matter of	)	
	)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
Petition for New Rule on Number Provisioning	)	WC Docket No. 05-196

PETITION FOR RULEMAKING ON TEN-DIGIT NUMBER PROVISIONING

CSDVRS, LLC, (hereinafter, "Petitioner") hereby petitions the Federal Communications Commission ("FCC" or "Commission") to require providers of video relay services (VRS) to (1) provision the central numbering database with all ten-digit numbers given to deaf consumers within 48 hours of the telephone number being allocated to such individuals. (2) eliminate any proxy/faux numbers from their closed database contemporaneously with provisioning the database with each ten-digit NANP number; and (3) notify consumers that they are not locked in to their default VRS provider and may utilize other providers as they see fit. CSDVRS believes that these steps are necessary to fulfill the FCC's goals of achieving full VRS interoperability, provide stability in the VRS industry, reduce monopolistic behavior, and most importantly, eliminate the enormous amount of marketplace confusion now occurring amongst VRS consumers.

I. Background

On June 24, 2008, the FCC released a Report and Order governing the implementation of ten-digit numbering under the North American Numbering Plan ("NANP") for Internet Protocol

(IP) and VRS providers.[1] The FCC offered further clarification of ten-digit numbering later that year in its Second Report and Order on ten-digit numbering.[2] The stated purposes of providing ten-digit numbers to VRS users who are deaf are first, to further the functional equivalency mandate by ensuring that VRS communication is substantially similar to voice telephony, and second, to ensure the proper handling of emergency calls.[3] Among other things, the FCC's numbering orders require all VRS users – including all VRS users who have been using proxy/faux numbers – to be provided with NANP phone numbers by a specified date.[4] At the end of this calling period, VRS users may only be reached through their NANP phone numbers.[5] Additionally, VRS providers must stop completing non-emergency calls for unregistered users after this deadline passes.[6]

Initially, ten-digit numbering was to be implemented by December 31, 2008, with all VRS users required to be registered with a ten-digit telephone number by that time.[7] However, the Commission moved the compliance date to June 30, 2009, to accommodate several technological and practical impediments that prevented the implementation of ten-digit

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[1] *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Dkt. No. 03-123, WC Dkt No. 05-196, FCC 08-151, June 24, 2008. ("June Order").

[2] *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Dkt. No. 03-123, WC Dkt No. 05-196, FCC 08-275, December 19, 2008. ("December Order").

[3] *See*, June Order at ¶1.

[4] *See*, December Order at ¶¶21, 24. This period included an initial three month registration period from January to March of 2009, with an additional three month permissive calling period until June 30, 2009.

[5] *Id.* at ¶21.

[6] Id. at ¶22. *See, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Dkt. No. 03-123, WC Dkt No. 05-196, DA 09-1323, June 15, 2009 at 4. ("2009 Order").

[7] June Order at *Id.* at ¶162.

numbering by that original deadline.[8] In June 2009, with full compliance still not within reach and substantial confusion abounding in the consumer marketplace, the FCC again changed the compliance date, this time to November 12, 2009.[9]

In order to achieve functional equivalency and to ensure proper functionality of VRS calling and E911 services, the Commission's numbering orders have made clear that VRS user NANP phone numbers must be provisioned to a central numbering database.[10] More specifically, the database must contain each VRS user's uniform resource identifier ("URI") containing the user's IP addresses, so that these addresses can be correlated to the user's ten digit number.[11] The Commission's orders mandate that once properly provisioned, the database is to be "...used by a querying party to properly route a call to a VRS user."[12] This has the effect of ensuring that any call, whether a hearing-to-deaf VRS call or a deaf-to-deaf point-to-point call, can function smoothly and be routed immediately and directly to the proper party. Also, emergency calls through VRS can be handled more expeditiously by promptly routing the call to the appropriate public safety answering point ("PSAP") based on the user's NANP telephone number.

Finally, to account for potential confusion that the switch to ten-digit numbering would create for consumers relying on this service, particularly the transition from proxy/faux numbers, the Commission has directed VRS providers to undertake outreach efforts to inform consumers of the numbering mandate.[13] The costs for such outreach are reimbursable to the providers from

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[8] *See*, December Order at ¶21.
[9] *See,* 2009 Order at ¶8.
[10] *See generally*, June Order ¶¶46, 50-53.
[11] *Id.* at ¶¶51, 53.
[12] *Id.* at ¶52.
[13] *See,* June Order at ¶87.

the Interstate TRS Fund ("the Fund").[14] Although the industry has, in fact, engaged in such outreach efforts, the Commission noted in its 2009 Order that the majority of VRS calls are still not being made using new ten-digit numbers.[15] This raises concerns not only to the proper allocation of numbers to consumers, but also as to whether monies from the Fund to provide for ten-digit numbering outreach have been used appropriately to educate consumers about how to use ten digit numbers.

II. Numbers Must be Provisioned for Functional Equivalency

While the FCC has ordered all providers to (1) distribute ten-digit NANP numbers to all new and current VRS users, and (2) to provision customer URIs and ten digit numbers to the central numbering database, there is evidence to conclude that the dominant VRS provider and perhaps other providers are simply not complying with the latter of these requirements in a timely manner (if at all). This failure to enter NANP-based VRS numbers into the database is causing substantial confusion amongst consumers and undermining functional equivalency by preventing an orderly calling process for deaf and hearing users of VRS and deaf users of point-to-point video communications. CSDVRS is concerned that, given the extension of the permissive calling period to November 12, 2009, such providers might continue failing to provision the central database until such time as calls can no longer be made with faux/proxy numbers.

Additionally, CSDVRS is concerned that providers are allowing callers who receive ten digit numbers to continue using their old faux/proxy numbers, a practice that can only result in consumer confusion and hinder the objectives of having consumers move to NANP-based numbers. As noted in the original petition for VRS interoperability, one of the ways that the

[14] *Id.* at ¶99.
[15] *See,* 2009 Order at ¶9.

dominant provider has maintained exclusivity of its services for the past several years has been by using a closed "lightweight directory access protocol" (LDAP), a database that only permits access to and from its users.[16] This database only resides on the provider's server for that provider's videophones, allowing access only to that provider's authorized users. When a hearing person tries to use a competitor's VRS to call a customer of the dominant provider using the proxy (LDAP) number assigned to that customer, the call is blocked. When this happens, the caller does not know why the call has failed and the deaf individual to whom the call had been attempted has no way of knowing that the call was even initiated. If providers are permitted to continue using such faux/proxy numbers for individuals who are receiving NANP ten digit numbers in the months ahead, consumers are going to continue to be very confused and extremely frustrated with the new numbering system. Because the faux numbers look and act just like NANP numbers, consumers will have no idea whether the number they call or give to hearing people is the "real" number that will allow all of their calls to go through. Indeed, unless this situation is rectified, the significant interoperability problems that will occur between and among the providers will leave consumers never knowing when their calls will be completed. Certainly, this is counterproductive to attempts to educate consumers on how to use the new numbering system, and will result in discouraging users from making the transition. As noted above, CSDVRS has discovered and confirmed that the failure to provision the central database with new ten-digit numbers is already quite prevalent by the dominant VRS provider, and is undermining these outreach efforts, as well as the overall goal of functional equivalency.

a. Non-Provisioning Obviates Effective Point-to-Point Calling

[16] See Petition for Declaratory Ruling on Interoperability filed by California Coalition of Agencies Serving the Deaf and Hard of Hearing (February 15, 2005) at 6.

When a provider fails to provision the central database with a customer's URI and ten-digit number, a point-to-point call invariably fails. Instead, when the dialed number cannot be found in the national database, the deaf caller reaches the VRS provider's platform and is connected to a video interpreter ("VI"). Because a VI is not needed in a point-to-point call, however, this immediately confuses the caller. Even worse, once receiving the call, the VI is unable to connect the point-to-point call to its final destination because there is no means of tracking a URI if the information has not been uploaded to the central database. The only means by which a point-to-point call will function when the URI has not been made a part of the central database is when: (a) the caller and recipient are on the same provider's proprietary network utilizing 800 numbers or proxy/faux numbers; or (b) the caller knows the other party's IP address. Reliance on either of these methods undermines the whole purpose of the ten-digit numbering system, as well as the Communications Act's mandate for functionally equivalent telephone service.

b. Non-Provisioning Obviates Effective Calls from Hearing Persons who Make Relay Calls to Persons who are Deaf

Just as a direct point-to-point call will fail when a provider fails to provision the central database with a customer's NANP number, so too will a VRS call from a voice user ultimately fail unless the hearing caller knows the other party's IP address. This is because when the call is placed, the system will fail to find the number, the call will be directed to a VI, and the interpreter will likewise be unable to find a number in the central database. Again, if the IP address is known, the call may be placed, but utilization of IP addresses is exactly what the Commission seeks to preclude by the allocation of ten-digit numbers.

c. Non-Provisioning Causes Consumer Confusion

Noncompliance with the FCC's mandate on the provisioning of ten-digit numbers in the central database is causing appreciable consumer confusion and frustration, as deaf users try to differentiate what is required under the FCC rules and what their providers may or may not be telling them, and as hearing callers get their relay calls denied. As illustrated above, when a provider does not have access to a user's ten-digit number, interoperability and effective point-to-point and VRS calling simply cannot occur. Since the June 2008 Order, consumers have been lead to believe that once they have their ten-digit number, everything will go smoothly. Yet when their provider willfully or negligently fails to upload the URI to the central database, the opposite comes to fruition and the calling process becomes both burdensome and problematic for all parties to the call.

d. Non-Provisioning Depletes the Interstate TRS Fund

As evidenced above, the Commission allows providers to receive reimbursement for outreach and certain non-administrative costs for ten-digit numbering. However, the recent extension of the permissive dialing period through November 12, 2009, although obviously much needed given the small percentage of VRS calls being made via ten-digit numbers, may have the unintended side effect of imposing costs on the Fund that would otherwise not be necessary. This is because some providers, including the Petitioner, are being forced to spend additional monies for outreach to inform consumers about both the failure of other providers to provision numbers to the central database, and what these consumers must do to still get their calls connected (i.e. to overcome such noncompliance). These additional outreach costs, passed on to the National Exchange Carriers Association ("NECA") for reimbursement as permitted by Commission rules, would be unnecessary if all providers were specifically required to provision the database with all of their customers' NANP numbers in a timely manner.

e. Non-Provisioning Promotes Monopolistic Control

When the dominant provider does not provision the central database and instead traps its customers in a closed network, it undermines consumer choice and maintains continued monopolistic control of the VRS marketplace. This is particularly egregious in circumstances where such provider warns consumers that they must only use the default provider's service to place VRS calls (i.e., implying that such consumers may not dial around to other providers). Not only does the failure to provision numbers trap consumers that use the noncompliant provider as their default provider, it also has the effect of making providers who are actually in full compliance with the provisioning requirements look poorly in the eyes of the consumer, inasmuch as they are unable to connect calls to the noncompliant provider's closed environment network. Indeed, a consumer who is using a cooperative provider might ultimately succumb and be forced to utilize the provider that does not upload the database in an attempt to ensure all of his/her calls go through – effectively bringing us right back where we started, with a closed system of proxy telephone numbers. In this fashion, the failure to comply with the provisioning requirements completely negates the goals of ten digit numbering – to implement a fully interoperable VRS system that allows all individuals to call one another directly or via relay, regardless of the provider that any individual uses within this system to make or receive calls.

III. Conclusion

It is apparent that willful or negligent failure by the dominant VRS provider and possibly other providers to promptly provision the central database is having profound and far-reaching effects on the efficient and effective implementation of the FCC's ten-digit VRS numbering system. Such failure is confusing for both deaf and hearing VRS consumers who are not having their calls completed in a reliable and interoperable fashion, is affecting call proficiency, can

promote monopolistic trade practices, and is forcing the Fund to incur unnecessary costs, as compliant providers are forced to expend additional funds in outreach to educate the public about the problem.

For the reasons stated above, CSDVRS urges the FCC to expeditiously adopt a rule requiring each VRS provider to: (1) provision the central database with a consumer's ten-digit NANP number(s) within 48 hours of allocating the number; (2) eliminate any proxy/faux numbers from their closed database contemporaneously with provisioning the database with each ten-digit NANP number; and (3) notify consumers that they are not locked in to their default VRS provider and may utilize other providers as they see fit. Enacting these rules will promptly and equitably end this ongoing problem, preserve Fund resources, and ensure that deaf consumers have equal and unfettered access to the VRS provider of their choice without regard to interoperability issues or inter-provider functionality.

Respectfully submitted,

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