

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

In the Matter of)
)
Structure and Practices)
of the Video Relay Service)
Program)
)
Petition for Rulemaking)
_____)

CG Docket No. 10-51

PETITION FOR RULEMAKING

CSDVRS, LLC (“CSDVRS”), by and through counsel and pursuant to FCC Rule Section 1.401 *et seq.*, hereby petitions the Federal Communications Commission (“FCC” or the “Commission”) to amend the 47 C.F.R. §64.611, or add a new subsection to Title 47, Part 64, to clarify and standardize the process of porting local ten-digit telephone numbers from one video relay service (“VRS”) provider to another. The regulation currently does not adequately provide for nor address an appropriate and seamless means for number porting between VRS providers. The open-ended regulation concerning the process has exacerbated consumer confusion about ten-digit numbering and number portability, despite the considerable outreach undertaken by VRS providers. CSDVRS therefore would respectfully request the petition to initiate a rulemaking proceeding on standardizing the porting process.

1. 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 Further clarification of ten-digit numbering was offered by the FCC later that year in its Second Report and Order on ten-digit numbering.² An important focal point of the numbering orders was the mandate that VRS users must be allowed to port their local ten digit phone numbers from one provider to another.³ While number porting has been occurring fairly regularly since numbering went into effect, the Commission has not expressly delineated the requirements for a VRS ten-digit number port, or even a “best practices” to effectuate a seamless porting process. This lack of a standard has caused considerable consumer confusion and could invite manipulation of consumer choice and usage.

On January 29, 2010, CSDVRS filed a petition in the present docket concerning, *inter alia*, the systematic breakdown of seamless porting absent a coherent standard.⁴ In that petition, CSDVRS clearly identified what it believes to be a functional and seamless port to the CSDVRS platform.⁵ The petition identified serious problems occurring in the porting of phone numbers from Sorenson Communications (“Sorenson”) to CSDVRS, and associated liabilities, and sought a declaratory ruling compelling VRS providers to maintain their functionalities as a default provider until a port completes.⁶ On February 12, 2010, Sorenson filed comments in response to the CSDVRS petition denying wrongdoing, but also raising the very valid point that the

¹ 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, FCC 08-151, June 24, 2008. (“June Order”).

² 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, FCC 08-275, December 19, 2008. (“December Order”).

³ See, June Order at ¶34.

⁴ See, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Petition for Expedited Declaratory Ruling of CSDVRS, January 29, 2010 (“January Petition”).

⁵ *Id.* at p.3

⁶ *Id.* at p.4

Commission must take steps to clarify the porting process.⁷ With this latter point, CSDVRS agrees entirely.

2. DISCUSSION

The number porting mandate contained in the June Order requires VRS providers to partner with a telecommunications carrier to effectuate provider-to-provider ports.⁸ The Commission held that VRS providers were to be held to the same number porting obligations as voice over internet protocol (VoIP) providers per the VoIP LNP Order, and left it at that.⁹ This ruling obviated the need for the Commission to “reinvent the wheel” with number portability. However, as Sorenson correctly asserts in its comments, additional FCC guidance is needed to address the unique circumstances surrounding number porting for internet-based relay providers – specifically the steps that should be taken to comply with the Commission’s porting rules.¹⁰

CSDVRS highlighted a model porting process in its January Petition, and believes that the standard presented therein could effectively simplify the porting process. Additional considerations, however, should be instituted and made a part of the Commission’s Rules to protect consumer interests and obligate providers to abide by a set standard. CSDVRS therefore petitions the FCC to institute a “best practices” porting standard to include the following measures:

(a) Informed Consent

It has become apparent to CSDVRS that there exists considerable consumer confusion as to what a port actually does and how it works. The VRS providers [presumably] know the requirements and processes for number porting as well as their obligations as default providers,

⁷ See, *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Comments of Sorenson Communications, February 12, 2010 (“Sorenson Comments”).

⁸ See, June Order ¶¶30-35.

⁹ *Id.* at ¶34.

¹⁰ See, Sorenson Comments at p.3

but these technicalities are often lost on deaf consumers. CSDVRS therefore proposes that a porting-in provider obtain informed consent from the porting consumer prior to initiating the porting process. This should be, at a minimum, an informational letter of agency (“LOA”) that includes an actual signed confirmation from the consumer affirming that the porting process has been explained to them, that they agree to it, understand the obligations, and authorize the porting-in provider to act on their behalf with the local exchange carriers to effectuate the port. These signed LOAs should be maintained by the porting-in provider for a period of no less than five years and subject to audit by the FCC.

The effect of this standard would be to obviate consumer confusion as to number porting, and will also ensure that no VRS provider can violate the Commission’s “slamming” rules and port a consumer’s number without first offering a written explanation and obtaining a written confirmation. It is important that the Commission require these LOAs to be in writing and actually signed by the consumers, and not simply online affirmations. CSDVRS believes that online representations could present and allow for LOAs by deceitful measures and have the potential to circumvent the necessity that consumers understand the porting process.

(b) Provider Cooperation

Following the execution of the LOA, the porting-in provider can begin the porting process with the appropriate exchange carriers. Once the Firm Order Commitment (“FOC”) date is issued by the carrier, the FCC must mandate that the porting-in and porting-out providers must work in congruence to ensure the port will be streamlined and that the consumer’s current videophone will not be disabled, de-featured, or otherwise rendered unusable until such time as the porting-in provider assumes the role of the new default provider on the FOC date. It is essential that the Commission mandate that VRS providers fully and expeditiously cooperate

with one another to effectuate a seamless port just as landline, wireless, and VoIP providers are required to do.

(c) Acquisition of Routing Information

As Sorenson indicates in its comments, the Commission must delineate a precise procedure as to when a former default provider must cease acquiring routing information and when the new default provider must begin doing so.¹¹ Absent such a protocol, CSDVRS agrees with Sorenson insofar as VRS providers may develop different modalities on how ports are to be effectuated, and this can lead to disputes between providers, consumer complaints, and a potential threat to public safety.

The Commission must specifically identify the precise date on which the porting-out provider ceases acquiring the consumer's routing information and the porting-in provider begins to do so. Also, the Commission should be clear that the porting-out provider must contemporaneously remove the consumer's routing information from its internal databases. Given that number porting can take several days to weeks in advance of the actual FOC date, providers have ample time to prepare for the port, including the installation of any new videophones. As such, the acquisition and termination of routing information should all occur on the FOC date and no later. This will give the providers and the consumer reasonable expectations as to how the port will function and will ensure the consumer will not be without VRS access at any time with the possible exception of a brief interruption on the FOC date while the transition is effectuated.

¹¹ See, Sorenson Comments at p. 5, citing June Order at ¶¶61-62 and 47 CFR §64.611.

(d) Ninety Day Commitment

Given the costs and constraints of number porting, CSDVRS would propose that the Commission mandate that a ported number be locked in to the new default provider for ninety (90) days following the FOC date, absent a nominal fee. Consumers, of course, would still have the ability to “dial around” during the 90-day lock in. To protect informed consumer choice, and somewhat similar to standard wireless services (where service contracts generally last two years), if a consumer desired to port away from the new default provider, then that consumer would be obligated to pay a nominal disconnect equal to, but not exceeding, the charges assessed by the exchange carriers to port a number.

The institution of a ninety-day commitment will prevent “port back wars” between the VRS providers, which only confuse the consumers, and result in ongoing porting back and forth between providers. It will also prevent providers from intimidating consumers and threatening them with a loss of service if they do not port back immediately (CSDVRS has evidence to believe that this is occurring). Moreover, a ninety-day commitment will protect the integrity of the Interstate TRS Fund in that providers will not have to undertake additional outreach measures to educate consumers about “snapbacks” and other porting anomalies.

3. CONCLUSION

Based upon the foregoing, CSDVRS would respectfully request that the Commission promptly take steps to delineate a proper ten-digit number porting protocol. CSDVRS agrees with Sorenson’s comments insofar as a “best practices” for the process is very much needed, but would propose the matter be opened up as a rulemaking proceeding to ensure that all providers are afforded the opportunity to comment. The industry requires FCC guidance on this matter, and the functional equivalency mandate necessitates swift Commission action to ensure porting is processed in a seamless manner in the best interests of the consumers.

Respectfully Submitted,

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