

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Telecommunication Relay Services and
Speech-to-Speech Services for Individuals
with Hearing and Speech Disabilities

CG Docket No. 03-123

REQUEST FOR WAIVER OF SORENSON COMMUNICATIONS, INC.

Sorenson Communications, Inc. (“Sorenson”) hereby petitions the Federal Communications Commission (“FCC” or “Commission”) for a waiver in certain circumstances of the requirement in 47 C.F.R. § 64.604(c)(5)(iii)(C)(2) to collect and submit IP addresses.¹ Specifically, Sorenson seeks a waiver permitting it to obtain compensation for IP Relay calls involving Google Talk (and comparable applications) without providing an IP address because Google Talk uses XMPP protocol, which prohibits the transmission of IP addresses. Waiver of Section 64.604(c)(5)(iii)(C)(2) is in the public interest because it will ensure that deaf and hard-of-hearing individuals can use, and/or communicate with other individuals who use, Google Talk and similar popular instant messaging applications.²

¹ Sorenson originally filed this Request for Waiver on August 31, 2011 in CG Docket No. 10-51. However, pursuant to a request by CGB, Sorenson is now filing its August 31, 2011 Waiver Request in CG Docket No. 03-123.

² The new rule will take effect only after the Office of Management and Budget grants approval under the Paperwork Reduction Act. *See Structure and Practices of the Video Relay Service Program; Correction*, 76 Fed. Reg. 30,841, 30,842 (May 27, 2011) (stating that 47 C.F.R. § 64.604(c)(5)(iii)(C)(2) takes effect after OMB approval).

As recently amended, Section 64.604(c)(5)(iii)(C)(2) requires telecommunications relay service (“TRS”) providers to collect specific data associated with each TRS call for which compensation is sought. Among the data TRS providers are required to collect is the “incoming ... IP address (if call originates with an IP-based device) at the time of the call” and the “outbound ... IP address (if call terminates to an IP-based device) at the time of call.”³ Sorenson is currently able to provide both incoming and outbound IP addresses for IP Relay calls involving AOL Instant Messenger (“AIM”) because its software captures and transmits that information.

Sorenson seeks to expand its IP Relay offerings by allowing its users to complete IP Relay calls over other messaging services, including Google Talk. Google Talk uses a different messaging system protocol than AIM, however, and its protocol does not permit capture or transmission of IP addresses. Google Talk uses the XMPP protocol, which is an open source protocol that specifically states that “A client’s IP address and method of access MUST NOT be made public by a server (e.g., as typically occurs in IRC [Internet Relay Chat architecture]).”⁴ As the capitalization of “MUST NOT” shows, the developers of the protocol made a considered decision to prohibit the transmission of IP addresses. They did so for security reasons – the rule is the first entry in a subsection entitled “Information Leaks” within the section entitled “Security Considerations.” The rule does not further spell out the reasons underlying it, but an IP address provides information about matters such as the geographic location of the user, thus presenting privacy issues, and can be used as part of a scheme to gain unauthorized access to a person’s computer, thus presenting security issues.

³ 47 C.F.R. § 64.604(c)(5)(iii)(C)(2)(v) and (vi).

⁴ RFC 6120, 13.10.1, *available at* <http://xmpp.org/rfc6120.html#security-leaks-ipaddress>.

The FCC may waive its rules when there is “good cause” to do so.⁵ Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than would strict adherence to the general rule.⁶ Moreover, it is arbitrary and capricious to enforce requirements that are impossible to satisfy.⁷

Waiver is appropriate in this circumstance. Google Talk is a popular form of instant messaging, as are other applications that use the XMPP protocol. Just as some hearing individuals prefer Google Talk to AIM, so do some deaf and hard-of-hearing individuals. The functional equivalence requirement of 47 U.S.C. § 225(a)(3) requires communications services that are available to hearing individuals to be available to deaf and hard-of-hearing individuals as well.

Moreover, waiver will not substantially harm the public interest. The Commission adopted the rule at issue, which requires the submission of ten different forms of data, because the data can be used to “detect anomalies in submitted minutes” and “will further prove useful in locating specific instances of illegitimate calling practices.”⁸ Although each of the ten forms of data is useful, no single item is absolutely necessary to detect fraud. Moreover, fraud is more likely in connection with VRS than IP Relay because of the higher compensation available for providing VRS, and the Commission solely addressed VRS in the course of justifying the rule. Given the choice between denying deaf and hard-of-hearing individuals access to XMPP-based

⁵ 47 C.F.R. § 1.3.

⁶ *See Ne. Cellular Tel. Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

⁷ *See Alliance for Cannabis Therapeutics v. DEA*, 930 F.2d 936, 940 (D.C. Cir. 1991).

⁸ *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 6862, ¶ 73 (2011).

