

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

In the Matter of	)	
	)	
Structure and Practices of the Video Relay Service Program	)	CG Docket No. 10-51
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	

**COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®**

CTIA-The Wireless Association® (“CTIA”)<sup>1/</sup> hereby submits these comments in response to the Further Notice of Proposed Rulemaking issued by the Federal Communications Commission (“Commission” or “FCC”) in the above-captioned proceedings.<sup>2/</sup> CTIA shares the FCC’s twin goals of ensuring that Video Relay Service (“VRS”) is available to persons with hearing disabilities while also reducing the risk of waste, fraud and abuse of the VRS program. Accordingly, CTIA submits that: To prevent consumer confusion and unnecessary burdens to the Commission’s resources, the FCC should *not* adopt its proposal to review Telecommunications Relay Service (“TRS”) Fund contributions quarterly, but instead should continue to set contributions annually. The Commission’s steps to help curb waste, fraud and abuse in the TRS Fund can be implemented without causing consumer confusion or overburdening the FCC’s limited resources.

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<sup>1/</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products. More information about CTIA is available on the Association’s website at <http://www.ctia.org/aboutCTIA/>.

<sup>2/</sup> See *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (2013) (“FNPRM”).

## I. INTRODUCTION

CTIA's member companies provide critical services that enable persons who are deaf or hard of hearing to utilize TRS services conveniently and economically. CTIA supports the Commission's efforts to fund services that enable consumers to enjoy the products and services offered by wireless providers. Contributions to the TRS Fund, which come increasingly from wireless providers and ultimately from consumers of wireless services, enable the provision of these important services.<sup>3/</sup> Accordingly, like the Commission, the wireless industry remains concerned about fraud and abuse in the funding of TRS services – which drives up the funds needed to support TRS and may create unnecessary burdens on wireless consumers.

The *Report and Order* in this proceeding takes important steps toward curbing TRS Fund fraud and abuse, and the *FNPRM* solicits comment on further measures designed to ensure that high quality VRS service remains available to those consumers that need it. In general, CTIA supports these additional steps. However, in its efforts to curb fraud and abuse, the Commission must not inadvertently impose unnecessary burdens on wireless consumers and carriers or on the

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<sup>3/</sup> See 47 U.S.C. § 225(b)(1) (providing that “the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals”). The TRS Fund permits the Fund Administrator to use funds contributed from carriers that provide interstate telecommunications services to compensate eligible TRS providers for the costs of providing TRS, including traditional TRS, interstate Speech-to-Speech (“STS”), IP Relay, and VRS. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 12475 ¶ 8 (2004); see also STEPHEN J. BLUMBERG & JULIAN V. LUKE, CENTER FOR DISEASE CONTROL AND PREVENTION, WIRELESS SUBSTITUTION: EARLY RELEASE OF ESTIMATES FROM THE NATIONAL HEALTH INTERVIEW SURVEY, JULY–DECEMBER 2012, at 6 (June 2013) (showing that the number of landline-with-wireless and landline-without-wireless households has steadily decreased since 2009, while the number of wireless-only households has steadily increased during the same time period); INDUSTRY ANALYSIS AND TECHNOLOGY DIVISION, WIRELINE COMPETITION BUREAU, FCC, LOCAL TELEPHONE COMPETITION: STATUS AS OF DECEMBER 31, 2011, at 4-5 (January 2013) (stating that telecommunications traffic is shifting from wireline to wireless); Scott Mackey, *Wireless Taxes and Fees Continue Growth Trend*, STATE TAX NOTES (Oct. 2012), available at <http://www.ksefocus.com/wordpress-content/uploads/2012/11/mackey-state-tax-notes.pdf> (noting that wireless consumers pay an average of 17.18 percent in combined state and federal taxes and fees on wireless services).

Commission itself. In fact, there is no nexus between adopting rules to combat fraud and abuse in the TRS fund and the schedule for carrier contributions to the fund. Accordingly, the Commission should continue to fix carrier contributions annually, rather than adopt its proposal to reassess contributions quarterly.<sup>4/</sup>

## II. DISCUSSION

Under the Commission's current rules, carriers' contribution factor to the TRS Fund is determined annually.<sup>5/</sup> In the *FNPRM*, the Commission proposes to modify the current rules and implement procedures that may lead to a new contribution factor on a quarterly basis.<sup>6/</sup> It reasons that doing so will provide flexibility in addressing increases or decreases in requests for reimbursement.

CTIA opposes adoption of a proposal that would allow for quarterly reassessment of carrier contributions. Because the contribution is now set once each year, carriers are able to project the amount they should collect on a per-customer basis and keep that amount stable throughout the Fund year.<sup>7/</sup> If the Commission adopts the proposed rules, carriers would be

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<sup>4/</sup> See *FNPRM* ¶ 242.

<sup>5/</sup> See *Contributions to the Telecommunications Relay Services Fund*, Report and Order, 26 FCC Rcd 14532 ¶ 5 (2011). The amount contributed to the TRS Fund by telecommunications service providers is the product of the carrier's interstate end-user telecommunications revenue and a contribution factor determined annually by the Commission, the latter of which is based on the ratio between expected TRS Fund expenses to the contributors' revenues subject to contribution. See 47 C.F.R. § 64.604(c)(5)(iii).

<sup>6/</sup> See *FNPRM* ¶ 242.

<sup>7/</sup> Although not at issue here, CTIA and others have previously noted the problems presented by the compressed time frame provided in the rules for the Fund Administrator to propose a new carrier contribution rate, for the Commission to approve the rate, and for carriers to implement it. See Reply Comments of CTIA – The Wireless Association, CG Docket Nos. 10-51, 03-123, at 8 (filed June 7, 2013); Comments of IDT Telecom, Inc., Intermedia.net, Vocalcity, Inc. and Vonage Holdings Corp., CG Docket Nos. 10-51, 03-123, at 8 (filed May 31, 2013); Comments of United States Telecom Association, CG Docket Nos. 10-51, 03-123, at 3 (filed May 31, 2013). See also 47 C.F.R. § 64.604(c)(5)(iii)(H) (requiring TRS payment formulas and revenue requirements to be filed with the Commission on May 1 of each year, to be effective the following July 1). The Commission should initiate a proceeding to change

required to re-evaluate the amount they must contribute to the Fund every few months and correspondingly change the amount they collect from customers. Consumers are already sensitive to fluctuations in bills and the charges that appear on them.<sup>8/</sup> The proposed rules would be contrary to the public interest by causing consumers to become even more frustrated and confused based on the uncertainty stemming from the constant changes to bill amounts.

Moreover, quadrupling the frequency by which the contribution factor is determined would have a cascading effect for others involved in the TRS Fund process. Specifically, requiring a quarterly reassessment would unnecessarily encumber Commission resources, would be more burdensome for the Fund Administrator, and would require additional resources from wireless providers who would need to constantly implement changes to bill amounts.

In addition to the negative impact on consumers and the increased burdens on the FCC, the Fund Administrator, and wireless providers, a quarterly reassessment of carrier contributions is unnecessary to achieve the Commission's goals of ensuring the correct level of funding is available for TRS providers. The current rules already provide remedies when the TRS Fund is over- or under-funded. Under the current rules, if TRS Fund contributions exceed TRS payments and administrative costs, the contribution factor may be adjusted accordingly the

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its rules to require that the contribution rate be set in advance of the effective date, thereby allowing carriers more time to notify customers of required changes and to implement those changes.

<sup>8/</sup> See generally Mackey, Scott, "Wireless Taxes and Fees Continue Growth Trend," *State Tax Notes* (October 29, 2012) at 321 (available at [http://files.ctia.org/pdf/2012\\_Mackey\\_Study.pdf](http://files.ctia.org/pdf/2012_Mackey_Study.pdf)) (showing a 5.5% increase in wireless taxes and fees over a two-year period); See also MyWireless.org, "2013 Annual Consumer Survey", <http://www.mywireless.org/media-center/data-center/2013-national-survey/> (last accessed Aug. 14, 2013) (showing, on average, consumers underestimate the percentage of taxes and fees they pay on wireless by 7% and that 74% of consumers support a five year freeze on new wireless taxes and fees).

following year.<sup>9/</sup> Alternatively, if contributions are less than what is required to satisfy actual disbursement needs, the Fund Administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future years' contributions.<sup>10/</sup> The FCC has also historically approved the Fund Administrator's requests for a reserve fund from which additional payments in excess of contributions can be made. The Commission should therefore take advantage of the provisions in its current rules rather than continually readjusting the contribution factor.

### **III. CONCLUSION**

CTIA appreciates the FCC's efforts to curb TRS Fund waste, fraud and abuse and generally supports the proposals adopted in the *Report and Order*, but asks the FCC not to adopt its proposal to allow for a quarterly readjustment of the carrier contribution factor. By continuing to evaluate the contribution factor annually rather than creating a new requirement that it be reassessed quarterly, the Commission will save consumers from the confusion that will result from frequent changes to their wireless bills without impeding its commendable efforts to curb TRS Fund waste, fraud and abuse.

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<sup>9/</sup> See 47 C.F.R. § 64.604(c)(5)(iii)(B).

<sup>10/</sup> See *id.*

Respectfully submitted,

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