

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

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

PETITION FOR TEMPORARY WAIVER

I. Introduction

CSDVRS, LLC (“CSDVRS”) hereby respectfully requests a temporary waiver of the Federal Communications Commission’s (“Commission”) rules to enable health care, judicial and detention entities – hospitals, hospices, nursing homes, assisted living facilities, medical offices and clinics, outpatient facilities, courts, correctional facilities, prisons and detention centers - to provide individuals within their confined facilities a CSDVRS videophone (“VP”) software application to make VRS and point to point (“P2P”) video calls in compliance with the Americans with Disabilities Act of 1990, as amended (“ADA”).¹ These confined facility entities are required by Titles II and III of the ADA and their implementing regulations to furnish at their facilities auxiliary aids to individuals with disabilities when necessary to ensure effective communications.² The ADA regulations define “auxiliary aids” to include “video-based telecommunications products and systems” including “videophones.”³ These videophones must be mobile for a highly transient population widely dispersed at these entities’ confined facilities yet their functions fully locked down and controlled by the entities to accomplish their

¹ 42 U.S.C. §§ 1201 et seq.

² 28 C.F.R §35.160 (b); 28 C.F.R §36.303 (c).

³ 28 C.F.R §35.104; 28 C.F.R §36.303 (b).

information technology security requirements.

CSDVRS d/b/a Stratus Video Interpreting makes available to these entities a software video connectivity application called ODI to securely operate on their mobile devices - laptops, iPads and Android tablets - for Video Relay Interpreting ("VRI") at their confined facilities. However eligible individuals at these confined facilities are unable to use ODI for Video Relay Service ("VRS") and P2P video calls because ODI cannot, absent a Commission waiver, be provisioned a North American Numbering Plan telephone number registered in the Telecommunication Relay Service ("TRS") Numbering Directory ("iTRS number"). The absence of a specific eligible user (i.e., a deaf or hard of hearing individual who telecommunicates in sign language) at the confined facility whom "owns" the mobile device with the ODI VP prevents CSDVRS from registering the number associated with ODI in the TRS Numbering Directory.⁴ For eligible users to access VRS and P2P video calls at confined facilities consistent with the legally required effective and functionally equivalent telecommunications, the Commission must permit ODI telephone numbers to be associated with the confined facility entity and registered in the TRS Numbering Directory.

The Commission rules may be waived for good cause "where the particular facts make strict compliance inconsistent with the public interest."⁵ We respectfully request the Commission temporarily waive the applicable Telecommunication Relay Service ("TRS") rules to allow CSDVRS' ODI to be provisioned with an iTRS number given the clear and convincing showing in favor of the public interest in granting the waiver so that confined facility entities may provide its transient population the ODI VP for use with VRS and P2P video calls in compliance with their ADA obligation to make available to them auxiliary aids to enable effective telecommunications within their locations in a

⁴ 47 C.F.R §64.611 (a); 47 C.F.R §64.613 (a); and when effective, 47 C.F.R §64.615 (a).

⁵ 47 C.F.R. §1.3. *See*, 2011 Order, ¶ 62 (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)).

highly secure manner.

II. Discussion

Health care, judicial and detention entities have utilized CSDVRS' ODI software application to provide some degree of communication access by VRI to deaf and hard of hearing individuals who pass through their confined facilities. However these entities have urged CSDVRS about their need for ODI to be able to be also used for VRS and P2P video calls in order to comply with their ADA obligations to provide auxiliary aids (which is a VP with an iTRS number) to enable accessible and effective telecommunications.

Due to their population being confined to certain locations widely dispersed throughout the entities' facilities, the VPs must be mobile (e.g., a laptop, an iPad or an Android tablet) in order to be available to the confined individual at their location. With the advent of electronic records requiring robust network connectivity throughout the facility, these entities are now familiar and capable with technology which can support VPs and desire to make them available to deaf people so that they may access telecommunications. The population at these confined facility entities is highly transient, which makes it not possible to register the number associated with ODI with an eligible individual permanently located at that facility. The security requirements at these confined facilities are significantly higher, preventing eligible users from downloading their VRS access technology. These security requirements also prevent users from entering on the device their registered information or location and from being able to receive inbound calls. Inbound calling is also not feasible because the multiple users of the device would cause confidentiality issues for inbound calls to a locked in VP application operating on the device. The transient population, restricted telecommunications functions and security limitations make the use of CSDVRS' standard software VP applications such as Z5 (as with any other VRS providers' VPs) impossible or inappropriate for wide use at the confined facilities. CSDVRS intends ODI

to fulfill the confined facility entities' security requirements and effective telecommunication obligations by provisioning ODI with iTRS numbers registered to the name of the confined facility entity and allowing these entities the flexibility to set up ODI functions to only allow outbound VRS and P2P video calls.

In order for confined facility entities to provide eligible individuals ODI as an auxiliary aid for them to access VRS and P2P video calls, ODI must be provisioned with a telephone number associated with the entity which is registered in the TRS Numbering Directory. This requires a partial waiver of §64.613(a) of the TRS rules to allow an iTRS number to be assigned to an ODI VP registered to the confined facility. When effective, a partial waiver will also be required of new TRS rule §64.611(a)(4) which requires VRS providers, as part and prior to the initiation of services, to transmit to the TRS User Registration Database ("TRS-URD"), among other information, the last four digits of the user's social security number and a dated digital copy of the user's self-certification of eligibility for VRS. CSDVRS requests that that the Commission permits a confined facility entity's Federal Tax Identification Number to be transmitted in lieu of a social security number to enable the name of the entity to be entered in the TRS-URD along with its other information required by §64.611(a)(4) including the telephone number assigned to the entity's ODI application. CSDVRS requests that the Commission waive for confined facility entities the requirement of self-certification of eligibility or to require their certification that they understand that only deaf and hard of hearing registered users are eligible to use ODI for VRS and that they understand that the cost of VRS calls is paid for by contributions from telecommunications users to the TRS Fund.

Eligible individuals using ODI as an auxiliary aid in confined facilities will be required to first provide their name (or unique identifier when the TRS-URD is ready to accept that information) or personal iTRS number to the Video Interpreter ("VI") for verification using the TRS Numbering Directory (and later TRS-URD) of the caller's eligibility to use VRS. This validation requirement will ensure that any user of VRS

through ODI is registered in compliance with the TRS rules as set forth in §64.611. This process complies with new TRS rule §64.615, when effective, in that the eligibility of the party on the video side of the call is validated during the call setup process, prior to the placement of the call, by querying the TRS-URD.

CSDVRS' operational system does not enable the placement of VRS calls until at least one party's eligibility is validated. CSDVRS does not allow its VIs to place calls in the absence of the validation of eligibility for VRS use, automatically referring the individual to CSDVRS customer service to register the user if they are able to establish eligibility. CSDVRS VIs are trained to only allow VRS use by individuals who are telecommunicating in sign language and are required to immediately terminate and report any inappropriate calls. These strict measures protect against waste, fraud and abuse in the use of ODI for VRS.

Due to the highly transient population at the confined facilities, there are no eligible TRS users permanently on site to register the number associated with a VP for use at that facility. In our experience, most confined facility entities control their VPs for security reasons to the extent that they do not allow their populations to register the VPs and lock down the functionalities of the VP. These security restrictions prevent eligible users from entering their registration information on the VP or downloading on the device their VRS access technology. The right course in those circumstances is to enable the VP to be registered to the confined facility entity so that it is operating and readily available for the eligible use of VRS (as validated through the process described above) and P2P video calls.

An inability to assign iTRS numbers to ODI poses an unacceptable risk to the health, welfare and safety of people. Deaf patients in hospitals, emergency or other health care facilities find it nearly impossible to readily access VRS access technology while confined at those facilities. They are frequently not able to use facility provided devices such as laptops, iPads and Android tablets to make VRS or P2P video calls to their

families, concerned others and outside professionals regarding their circumstances. It is unreasonable and even discriminatory to require that health impaired deaf people to first download VRS access technology on unfamiliar devices before they are able to access telecommunications. These medical facilities have technology with robust network connectivity which they desire to make pre-installed and operative VPs readily available to their deaf patients, but are stymied by the requirement that the VP requires iTRS numbers assigned to an eligible individual to become functional. This barrier is equally the case for deaf people in judicial buildings or detention facilities, which not only causes a violation of Titles II and III in the failure to provide auxiliary aids to achieve effective communications, but also violates the telecommunications functional equivalency and availability mandates of Title IV of the ADA.⁶

The few VPs now in use at some confined facilities are almost always associated with an "eligible" individual who is not on site nor uses that VP. CSDVRS does not want to engage in that subterfuge and requests that the Commission allow a simple modification to enable CSDVRS to provision confined facility entities ODI which is registered to that entity and has an iTRS number associated with it. CSDVRS will maintain a separate list of ODI numbers, the confined facility entities using them, and their call data. CSDVRS will provide that information to the Commission or the TRS Fund Administrator on a quarterly basis or immediately upon demand. This reporting process allows the Commission and the TRS Fund Administrator to closely monitor the effect of the waiver.

CSDVRS' ODI application is capable of functioning in full compliance with TRS rules applicable to VRS access technology, including interoperability with other VRS provider technology, the ability to dial around to other VRS providers and emergency calling. Due to their security requirements, certain confined facility entities may choose

⁶ Pub. L. No. 101-336, § 401, 104 Stat. 327, 366-69 (adding Section 225 to the Communications Act of 1934, as amended, 47 U.S.C. § 225).

to restrict ODI to certain functionalities such as restricting it to only make outbound calls and requiring only the use of pre-cleared VIs. Similarly, certain confined facility entities, especially detention facilities, may disallow the use of VPs for emergency calls, consistent with their restrictions on telephones available for their hearing population. These types of restrictions on use have already been long put into effect for VPs by a number of entities such highly-secure federal agencies and correctional facilities. It is our understanding that the Commission has allowed these types of restrictions and has not viewed them as a violation of TRS rules such as §64.605 "Emergency calling requirements" and §64.621 "Interoperability and portability" because these restrictions are set solely by the entity and not by the VRS provider. Any such restriction in the use of ODI will be solely the decision of the confined facility entity and not CSDVRS. Accordingly CSDVRS will not seek waivers of TRS rules applicable to VRS access technology unless advised otherwise by the Commission.

III. Conclusion

CSDVRS respectfully requests a temporary waiver of the applicable TRS rules to enable CSDVRS to provide confined facility entities ODI VP applications with provisioned iTRS numbers registered to the entities. Users of ODI will be required to verify their information with the VI prior to making VRS calls. This simple modification accomplishes ADA requirements by allowing confined facility entities to make readily available operative auxiliary aids which achieve effective communications and functionally equivalent telecommunications.

Respectfully Submitted,

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