

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
)	
OMB Review of Information Collection Under the Paperwork Reduction Act)	OMB Control No. 3060-xxxx

**PAPERWORK REDUCTION ACT COMMENTS
OF SORENSON COMMUNICATIONS, INC.**

Sorenson Communications, Inc. (“Sorenson”) hereby submits these Comments, in response to the *Notice* published by the Commission in the Federal Register¹ seeking comments pursuant to the Paperwork Reduction Act of 1995 (“PRA”) concerning certain information collections required by the *VRS Structural Reform Order*.² Sorenson fully recognizes and supports the need to prevent misuse of VRS; however, several of the rules mandate information collections that are not necessary to achieve that purpose, or require information to be collected in ways that do not minimize the associated burden without compromising the program’s integrity objectives.

¹ Information Collection Being Reviewed by the Federal Communications Commission, 78 Fed. Reg. 67,146 (Nov. 8, 2013) (“*Notice*”).

² *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, FCC 13-82, 28 FCC Rcd. 8618 (2013) (“*VRS Structural Reform Order*” or “*Order*”).

In the first instance, this *Notice* is insufficient to meet the requirements of 44 U.S.C. § 3506(c)(2)(A)(ii) because it does not provide any information as to how the Commission arrived at its burden estimate, thus depriving interested parties of the ability to meaningfully comment on the Commission's burden estimate. Indeed, it is impossible to determine from this *Notice* which requirements the Commission believes impose an information collection burden and which do not, or how it has derived its estimate of 486,417 annual hours to comply. The Commission cannot simply pull such estimates from the air.

Substantively, the information collections specifically mandated by this *Order* unnecessarily collect and place into a new TRS User Registration Database ("TRS-URD") personally identifiable information, including the last four digits of the user's Social Security number and date of birth, which exposes consumers to risks of identity theft. The Commission fails to minimize this information collection burden, which could substantially reduce the risk of inadvertent disclosure of personally identifiable information. Moreover, the Commission requires submission to the TRS-URD of user call data that substantially duplicates information that providers already submit to the TRS Fund Administrator and, to the extent that it mandates additional data, does so in a way that does not minimize the information collection burden and that overcollects personally identifiable call information. Furthermore, the requirement for *per call* validation of VRS users' eligibility is unduly burdensome and could be substantially minimized by simply requiring validation of users' eligibility prior to submitting a call for compensation.

As Sorenson explains in the following sections, the Commission cannot demonstrate that the information collection obligations discussed in these Comments satisfy the PRA's criteria, and thus cannot certify to the OMB that the information collection requirements in question

comply with the statute. Accordingly, before it seeks to impose the information collections required by the *VRS Structural Reform Order*, the Commission must clarify and make revisions to (or refrain from implementing) certain rules and the proposed information collections in order to bring them into compliance with the PRA.

I. SECTION 64.611(a)(4)'S REQUIREMENTS TO COLLECT AND SUBMIT TO THE TRS-URD THE USER'S LAST FOUR DIGITS OF THE SOCIAL SECURITY NUMBER OR TRIBAL IDENTIFICATION NUMBER, AND DATE OF BIRTH ARE UNNECESSARY, NOT MINIMIZED, AND SUBJECT CONSUMERS TO UNWARRANTED RISK OF IDENTITY THEFT.

The *Notice* recognizes that the Commission's rules mandate the collection of personally identifiable information. However, the rules do not adequately safeguard personally identifiable information. Indeed, aggregating sensitive consumer data on this potentially enormous VRS user base in a centralized TRS-URD creates serious privacy risks for consumers. It is well-recognized that the best way to protect individual privacy is through "privacy by design," *i.e.*, collecting only information that is necessary and collecting it only when necessary.³ Section 64.611(a)(4) violates "privacy by design" by collecting this information when it is not necessary to do so.

³ The Federal Trade Commission released a report in 2012 calling on companies to incorporate "privacy by design" principles, one of which is to limit data collection to only that which is necessary for a specific business purpose, to ensure that consumer's private and sensitive information is protected from unauthorized access and theft. *See* Federal Trade Commission, *Protecting Consumer Privacy in an Era of Rapid Change: Recommendations For Business and Policymakers*, FTC Report, at 5-6, 26-34 (Mar. 2012) available at <http://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-report-protecting-consumer-privacy-era-rapid-change-recommendations/120326privacyreport.pdf>. The federal government is subject to similar restrictions under the E-Government Act of 2002. *See* Executive Office of the President, M-03-22, Memorandum for Heads of Executive Departments and Agencies, *OMB Guidance for Implementing the Privacy Procedures of the E-Government Act of 2002* (Sept. 26, 2003), http://www.whitehouse.gov/omb/memoranda_m03-22/ (last visited Jan. 3, 2014).

More fundamentally, it is unclear what purpose the collection of this specific information will serve for VRS: the Commission did not provide in the *VRS Structural Reform Order* any purpose served by the collection of date of birth and last four digits of Social Security number or Tribal Identification number. A centralized database that contains the date of birth and last four digits of Social Security number or Tribal Identification number does not serve a specific business purpose and, in fact, creates a single point of failure for the industry, which is an unacceptable risk that hearing users do not face.

These risks are not theoretical. Centralized databases of information are incredibly vulnerable to attack. In 2012, the Utah Medicaid program was hacked, resulting in the theft of sensitive personal information or Social Security numbers of approximately 780,000 individuals.⁴ Similarly—and much more recently—Adobe announced that information on over 2.9 million of their users was stolen, including credit card numbers and expiration dates.⁵

Collection of this specific information cannot be justified by reference to Lifeline program requirements.⁶ In Lifeline, collection of this information could be justified because of

⁴ See Emil Protalinski, *Medicaid Hack Update: 500,000 Records and 280,000 SSNs Stolen*, ZDNet (Apr. 9, 2012), <http://www.zdnet.com/blog/security/medicaid-hack-update-500000-records-and-280000-ssns-stolen/11444> (last visited Jan. 3, 2014).

⁵ Dan Goodin, *Adobe Source Code and Customer Data Stolen in Sustained Network Hack*, ArsTechnica (Oct. 3, 2013), <http://arstechnica.com/security/2013/10/adobe-source-code-and-customer-data-stolen-in-sustained-network-hack> (last visited Jan. 3, 2014).

⁶ *VRS Structural Reform Order*, 28 FCC Rcd. at 8650 n.170. Although the Commission has contended that its experience in the Lifeline context indicates that collection of date of birth and last four digits of Social Security number are necessary to ensure that the validation process is effective, *see id.*, it appears that the FCC and USAC may not actually be utilizing all the information collected to determine Lifeline eligibility. *See, e.g.*, Telrite Corporation's Request for Review at 9-11, WC Docket Nos. 11-42 and 03-109 (filed Dec. 30, 2013). This finding further supports deferring additional collection requirements until after the use process is actually defined.

the need to enforce the one-account-per-household requirement for Lifeline Program Participation.⁷ This is not Lifeline with a one-per-individual or one-per-household mandate to enforce; the VRS rules do not place any limit on the number of qualified persons that can receive service in a given household or the number of VRS phones or phone numbers that an individual VRS user could have. In fact, individuals are permitted to have more than one VRS number at a given address, and indeed functional equivalence requires that this be permitted (*e.g.*, personal and work phones, mobile and fixed at the same address with the same person). Lifeline is not analogous.

At most, date of birth and the last four digits of Social Security number or Tribal Identification number are only necessary to distinguish persons with the same names living at the same address (*e.g.*, John Jones Sr. and John Jones Jr.) from one another. The Commission has not established why this is necessary in the database, since nothing in the TRS-URD or in the mandated verification processes authenticates the specific individual using the VRS phone rather than the VRS phone number from which a VRS call is placed or received. For two individuals living at the same address, no additional level of program protection is achieved by collecting information to distinguish two individuals with the same name living at the same address. Even if there is a need to distinguish two individuals living at the same address, collection could then be minimized by only requiring collection in situations when two individuals with the same name are living at the same address.

⁷ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training, Report and Order and Further Notice of Proposed Rulemaking*, FCC 12-11, 27 FCC Rcd. 6656, 6709-12 ¶¶ 111-14, ¶ 120 (2012) (“*Lifeline & Link Up Reform and Modernization Order*”).

To the extent that the Commission's idea is that this information will assist with the verification of identity as discussed in paragraphs 84-86 of the *Order*, that judgment is premature.⁸ If, for example, the TRS-URD Administrator will use third-party databases, it is not clear whether the customer information or third-party database information would be correct, and thus create false indications of non-verification. The mandate to collect this information should wait until there is a clearly articulated verification process with a specified need for, and use of, the information required to be provided. Until that is done, this information collection only serves to create risk of unauthorized disclosure for consumers of their personally identifiable information.

II. IF PARAGRAPH 70 REQUIRES CONSTANT UPDATING OF THE DATE OF A USER'S LAST VRS OR POINT-TO-POINT CALL, SUCH AN INFORMATION COLLECTION IS UNDULY BURDENSOME AND SUBSTANTIALLY DUPLICATIVE OF INFORMATION ALREADY PROVIDED TO THE TRS FUND ADMINISTRATOR FOR VRS CALL COMPENSATION.

As part of the new user registration and verification process, section 64.611(a)(4) of the rules requires VRS providers to collect and transmit to the TRS-URD (in addition to other information) the date on which the registered TRS user last placed a point-to-point or VRS call.⁹ But it is not clear from the language in paragraph 70 of the *Order*, which explains the requirement, whether it imposes an ongoing obligation to update monthly in the TRS-URD the user's last VRS or point-to-point call.¹⁰ In contrast to the apparent scope of the requirement discussed in paragraph 70, section 64.611(a)(4) only requires for existing users the date of the last VRS or point-to-point call, suggesting a one-time data collection at the time of the

⁸ *VRS Structural Reform Order*, 28 FCC Rcd. at 8655-8656 ¶¶ 84-86.

⁹ 47 C.F.R. § 64.611(a)(4).

¹⁰ *VRS Structural Reform Order*, 28 FCC Rcd. at 8650-8652 ¶ 70 & n.175, ¶ 74.

implementation of the TRS-URD. To the extent the Commission intends the former, *i.e.*, a monthly update in the TRS-URD of the user's last VRS or point-to-point call, that requirement is unduly burdensome.

VRS providers already submit to the TRS Fund Administrator call detail for every VRS call placed from or to a VRS user's telephone number. Accordingly, the TRS-URD can obtain information as to a VRS user's last VRS call from the TRS Fund Administrator without requiring the submission of information from the provider. Indeed, the PRA requires that this be done, to eliminate what would otherwise be duplicative information collections.¹¹

If the TRS-URD Administrator needs to know that a particular user who has not placed a VRS call within the past year also has not placed a point-to-point call within the past year,¹² that information could be requested or provided for only that subset of users, rather than collecting such information across all users in every month. This would significantly minimize the amount of information collected. The FCC must undertake such minimization in order to comply with the PRA.¹³ This is especially important here because the information being sought is CPNI, which the Commission separately—and appropriately—recognizes in its rules as sensitive.

III. SECTION 64.615(a)'S REQUIREMENT OF PER CALL VALIDATION *PRIOR TO CALL SET-UP* IS UNDULY BURDENSOME AND DOES NOT ENHANCE PROGRAM INTEGRITY.

Section 64.615(a) of the rules requires not only that a VRS provider validate the eligibility of a user on the video side of a VRS call by checking the VRS database, but it also requires that such validation occur during the call "setup process, prior to the placement of the

¹¹ 44 U.S.C. § 3506(c)(3)(B).

¹² *VRS Structural Reform Order*, 28 FCC Rcd. at 8652 ¶ 74.

¹³ 44 U.S.C. § 3506(c)(3)(C).

call.”¹⁴ Such a requirement is unnecessarily burdensome. The program integrity objectives could be fully satisfied by requiring that a VRS provider validate the user’s eligibility prior to submission of a call for compensation.

While validation prior to call set-up is desirable, and reduces a provider’s risk, this requirement assumes and presumes that the eligibility validation database works flawlessly for every call. As the roll-out of healthcare.gov has reminded everyone, it should not be assumed that IT systems will always work flawlessly, particularly from the outset.

Instead of requiring eligibility validation prior to call set up, the Commission should simply require validation prior to submission for compensation. This would leave it to providers to best manage when eligibility validation occurs. This is particularly justifiable for VRS, in which the ability to use ASL is a functional prerequisite, and which the Commission in other contexts is less subject to use by ineligible individuals than other forms of TRS.

IV. THE RULES ARE AMBIGUOUS ABOUT HOW TO HANDLE PERSONS WITH NO SOCIAL SECURITY NUMBER.

As part of the new user registration and verification process, section 64.611(a)(4) requires VRS providers to collect the last four digits of a user’s Social Security number.¹⁵ In early attempts to collect this information, Sorenson has discovered that many persons provide incorrect Social Security number information, presumably out of concern of being required to produce personal information, as the Commission has already noted.¹⁶ While the Commission indicated it was cognizant of these concerns, it determined that the collection of such information

¹⁴ 47 C.F.R. § 64.615(a)(1)(i); *see also VRS Structural Reform Order*, 28 FCC Rcd. at 8651 ¶ 72.

¹⁵ 47 C.F.R. § 64.611(a)(4).

¹⁶ *VRS Structural Reform Order*, 28 FCC Rcd. at 8650 n.170.

is consistent with FCC practices in the Lifeline context, and the privacy and security practices that have been mandated should be sufficient to allay such concerns.¹⁷ However, given the potential for users to continue to provide incorrect Social Security number information, Sorenson requests that the Commission provide specific guidance on how providers should address this very real issue.

In addition, Sorenson has discovered many users who, for understandable reasons, do not have Social Security numbers. But Section 225 mandates that the Commission ensure that telecommunications relay services are available, to the extent possible and in the most efficient manner, “to hearing-impaired and speech-impaired individuals in the United States.”¹⁸ The constellation of “individuals in the United States” includes many persons who do not have Social Security numbers, including, for example: hearing-impaired and speech-impaired persons who are naturalized citizens, foreign individuals traveling in the United States, foreign students attending school in the United States, Canadian citizens who reside in southern parts of the United States during winter months, persons who have been issued green cards, and undocumented persons. To date, the Commission has accommodated persons living on Tribal lands who lack a Social Security number by allowing them to provide an official Tribal identification card number in lieu of the last four digits of a Social Security number.¹⁹ The Commission also indicated that the database and other processes must be able to accommodate such persons.²⁰ Under the PRA, the Commission must be able to certify that its rules are being

¹⁷ *Id.*

¹⁸ 47 U.S.C. § 225(b)(1).

¹⁹ *VRS Structural Reform Order*, 28 FCC Rcd. at 8650 n.170.

²⁰ *Id.*

“implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond.”²¹ To comply, the Commission must make similar accommodations for other hearing-impaired and speech-impaired individuals who do not have Social Security numbers before implementing the new registration requirement, or grant a waiver until an acceptable solution can be found.

V. CONCLUSION.

The proposed information collections discussed above fail the PRA requirements. As demonstrated above, the proposed collections are deficient because they: are vague and ambiguous; produce burdens that are excessive and out of proportion to the potential benefits of regulation; lack practical utility; or have not been shown to be necessary for the proper performance of the Commission. If the Commission intends to make the information collections referenced in the *VRS Structural Reform Order*, it must first revise and clarify the information collections, and the Commission’s underlying rules, in various respects to make them compliant with the PRA so that VRS providers have a clear and unambiguous explanation of the applicable requirements.

Respectfully submitted,



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²¹ 44 U.S.C. § 3506(c)(3)(E).