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

In the Matter of	)	
	)	
Misuse of Internet Protocol (IP) Relay Service	)	CG Docket No. 12-38
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
	)	
	)	
	)	

ORDER

Adopted: April 29, 2014 **Released: April 29, 2014**

By the Acting Chief, Consumer and Governmental Affairs Bureau:

1. Today, the Consumer and Governmental Affairs Bureau (CGB) takes immediate action to eliminate the 911 exception to the Commission's Internet protocol relay service (IP Relay) rules to prevent a certain type of misuse of IP Relay and to ensure the safety of life and the protection of property. Specifically, in this Order, CGB *sua sponte* grants an interim waiver of the requirement that providers of Internet protocol relay service (IP Relay)[1] handle 911 calls initiated by callers who have been registered, but not verified by an IP Relay provider.[2] In 2012, the Commission eliminated the requirement for IP Relay providers to handle calls placed by newly registered users prior to completing the verification of such users, but kept this requirement for emergency IP Relay calls placed to 911.[3] The waiver that we grant today of this requirement will become effective upon release of this Order and will remain in effect for one year in order to afford the Commission an opportunity to seek public comment on this matter and take final action on IP Relay registration and verification procedures pursuant to its open rulemaking on IP Relay matters.[4] We conclude that this is necessary to address significant exigent circumstances, and to immediately halt a harmful practice while the Commission considers how to address this issue in the longer term.

2. *Background.* IP Relay is a form of text-based telecommunications relay service (TRS)[5] that

[1] IP Relay is a form of telecommunications relay service (TRS) in which an individual with a hearing and/or speech disability or who is deaf-blind connects to a communications assistant (CA) using an IP-enabled device via the Internet. *See* 47 C.F.R. § 64.601(a)(17).

[2] *In the Matter of Misuse of Internet Protocol (IP) Relay Service; Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 12-38 & 03-123, First Report and Order, 27 FCC Rcd 7866, 7872, ¶ 13 n.53 (2012) (*IP Relay Misuse Order*).

[3] *Id*.

[4] The issues to be addressed in this open proceeding were raised in part in a public notice seeking comment to refresh the Commission's record on IP Relay matters. *See Consumer & Governmental Affairs Bureau Seeks to Refresh the Record Regarding Misuse of Internet Protocol Relay Service*, CG Docket Nos. 12-38 and 03-123, Public Notice, 27 FCC Rcd 1569 (CGB 2012) (*Refresh Public Notice*).

[5] TRS, created by Title IV of the Americans with Disabilities Act of 1990 (ADA), enables an individual with a hearing or speech disability to communicate by telephone or other device through the telephone system with a person without such a disability. *See* 47 U.S.C. § 225(a)(3), as amended by the Twenty-First Century

(continued….)

uses the Internet to allow individuals who are deaf, hard-of-hearing, or have speech disabilities to communicate with other individuals.[6] Since the inception of IP Relay, the Commission has taken measures to combat the misuse of IP Relay to respond to concerns that individuals without hearing or speech disabilities were using the anonymity of the IP Relay service to engage in fraudulent activities, such as calling merchants and placing orders using fake, stolen, or otherwise invalid credit cards.[7] Because a CA handling IP Relay calls receives only text-based communications over the Internet, the CA cannot readily determine whether an individual sending such messages, is, in fact, someone who is deaf, hard of hearing, or has a speech disability.[8]

3. In 2008, the Commission established a mandatory system requiring IP Relay users to be registered, and directing the assignment of ten-digit telephone numbers linked to the North American Numbering Plan for all such users, which was designed, among other reasons, to reduce the misuse of IP Relay.[9] As part of the registration process for assigning ten-digit numbers to users of IP Relay, the Commission directed IP Relay providers to "implement a reasonable means of verifying registration and eligibility information."[10] The Commission also required that "to the extent technically feasible, Internet-based TRS providers [including IP Relay providers] must allow newly registered users to place calls immediately,"[11] even before completing the verification of such individuals, referred to as "guest" users.[12] The Commission allowed this guest user provision in response to concerns by consumer groups that legitimate IP Relay users would be cut off from service.[13]

(Continued from previous page)
Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. No. 111-260, 124 Stat. 2751, § 103 (Oct. 8, 2010), technical amendments, Pub. L. No. 111-265, 124 Stat. 2795 (Oct. 8, 2010) (defining TRS).

[6] *Provision of Improved TRS and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Declaratory Ruling and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling*) (recognizing IP Relay as a form of TRS). In an IP Relay call, the communication between the person who is deaf, hard of hearing, or has a speech disability and the provider' s communication assistant (CA) is conveyed in text via an Internet connection, and communication between the CA and the hearing party is conveyed verbally over the public switched telephone network (PSTN).

[7] *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11625-26, ¶¶ 92-94 (2008) (*iTRS Numbering Order I*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, CG Docket No. 03-123, CC Docket No. 98-57, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 809-10, ¶¶ 37-38 (2008) (*iTRS Numbering Order II*); *IP Relay Misuse Order*, 27 FCC Rcd 7866.

[8] Depending on the circumstance, the CA may also not be able to determine whether the individual is calling from a location outside the United States.

[9] *iTRS Numbering Order I*, 23 FCC Rcd at 11626, ¶ 34.

[10] *iTRS Numbering Order II,* 24 FCC Rcd at 809, ¶ 38.

[11] *iTRS Numbering Order II,* 24 FCC Rcd at 803, ¶ 25.

[12] *iTRS Numbering Order II,* 24 FCC Rcd at 803, ¶ 25. *See also Consumer & Governmental Affairs Bureau Reminds Video Relay Service (VRS) and Internet Protocol (IP) Relay Service Providers of their Outreach Obligations and Clarifies their Call Handling Obligations for Unregistered Users after the November 12, 2009, Ten-Digit Numbering Registration Deadline,* CG Docket No. 03-123, WC Docket No. 05-196, Public Notice, 24 FCC Rcd 12877, 12878-79 (CGB 2009) (*iTRS Numbering Implementation PN*), *citing iTRS Numbering Order I,* 23 FCC Rcd at 11610, 11615-16, ¶¶ 44, 60-63; *iTRS Numbering Order II,* 24 FCC Rcd at 803, 808-10, ¶¶ 25, 36-38.

[13] *iTRS Numbering Order II,* 24 FCC Rcd at 803, ¶ 25 (noting that consumers expressed concerns that legitimate IP Relay users would be cut off from service during the transition to the new ten-digit numbering and registration system).

4. In the 2012 *IP Relay Misuse Order*, based on concerns about the continued abuse of IP Relay, the Commission eliminated the guest user provision for unverified registrants.[14] The 2012 *IP Relay Misuse Order* instead established a requirement for IP Relay providers to verify a new IP Relay registrant before such registrant can use the service in accordance with the Commission's standards.[15] However, the Commission, in response to consumer groups' concern that users who had registered but had not been verified might be prevented from placing a legitimate 911 call, granted an exception to the prohibition of the guest period provision for emergency calls to 911 placed by unverified registrants.[16]

5. *Discussion.* The Commission may waive any provision of its rules on its own motion if good cause is shown.[17] Waivers are appropriate only if "both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest."[18] CGB has determined that there is good cause to waive for one year the requirement that IP Relay providers allow newly registered users to place emergency 911 calls immediately, before completing the verification of such individuals. Specifically, Sprint, an IP Relay provider, has brought to the Bureau's attention that there has been an increase in the past year of unverified registrants using IP Relay to place emergency calls to 911, in an attempt to trick Public Safety Answering Points (PSAPs) into dispatching emergency services based on false reports of emergency situations.[19] Because these calls at times have required the dispatch of police special weapons and tactical teams (SWAT teams), this mischief has been referred to as "swatting."[20] These actions have the potential to cause alarm and even danger for the targeted residents and emergency service personnel, in addition to wasting the limited resources of emergency responders.[21] Sprint, which was asked by law enforcement agencies to investigate such calls, found that a very high percentage of the swatting calls came from unregistered users, many of whom were hiding their identity through the use of Internet servers that were utilized to provide anonymity to the user before the call reaches the IP Relay provider.[22] Sprint further reports that these callers provide very little information to the PSAP and hang up quickly, but not before the need to dispatch emergency personnel has been triggered.[23] In Sprint's experience, these calls from unregistered users are not legitimate, and "Sprint cannot imagine any circumstance in which an unregistered user of IP Relay services, in a true emergency situation, would suddenly adopt a new way of calling 9-1-1."[24] Sprint concludes that if IP Relay calling to 911 were to be

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[14] *IP Relay Misuse Order*, 27 FCC Rcd at 7870-73, ¶¶ 8-13.

[15] *IP Relay Misuse Order*, 27 FCC Rcd at 7872, ¶ 13.

[16] *IP Relay Misuse Order*, 27 FCC Rcd at 7872, ¶ 13 and n.53.

[17] 47 C.F.R § 1.3.

[18] *See, e.g.,* Lazo Technologies, Inc., *Order on Reconsideration,* 26 FCC Rcd 16661, 16668 & n.56 (2011); *see also Northeast Cellular Tel. Co. v. FCC,* 897 F.2d 1164 (D.C. Cir. 1990). Section 1.925 of the Commission's rules, which pertains to wireless radio services, further provides that "the Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative." 47 C.F.R. § 1.925(b)(3). This rule applicable to wireless services requires "substantially the same" showing as 47 C.F.R. § 1.3. Barry P. Lunderville, *Memorandum Opinion and Order,* 28 FCC Rcd 665, 671, ¶ 14 n.51 (2013).

[19] Letter from Scott R. Freiermuth, Counsel – Government Affairs, Sprint, CG Docket No. 03-123, March 18, 2014, at 1 (Sprint *Ex Parte*). This practice has been referred to as "spoofing" 911 calls.

[20] Sprint *Ex Parte* at 1.

[21] Sprint *Ex Parte* at 1.

[22] Sprint *Ex Parte* at 1; *see also* ¶ 2, *supra*.

[23] Sprint *Ex Parte* at 1-2.

[24] Sprint *Ex Parte* at 2.

limited to registered users only, swatting initiated via IP Relay calling can be significantly reduced. For this reason, Sprint urges the Commission to permit IP Relay providers to block 911 calls from unregistered users.[25]

6. Given the severity and growing trend of spoofing 911 calls via IP Relay, we take this necessary action to waive for one year the requirement that IP Relay providers enable unverified IP Relay registrants to place calls to 911 during a "guest period." Information provided to the Commission, as discussed above, indicates that this exception to the prohibition against handling calls by guest users is being misused in a way that is dangerous to the public and to first responders, and that the abuse may grow rapidly if we do not take immediate action. Moreover, we believe that the 911 call exception during the guest period is no longer warranted because facts before the Commission indicate that it is unlikely for a recently registered user who has not been verified to depend on IP Relay to call 911 services if this is not their customary way of making telephone calls. This analysis is consistent with findings conducted in a survey by the Commission's former Emergency Access Advisory Committee (EAAC) in 2011,[26] which revealed that the overwhelming majority of relay consumers, including consumers of IP Relay, typically utilize the communication technologies that they routinely use when placing emergency calls.[27] In other words, although those who are accustomed to using IP Relay and are already verified may tend to use the IP Relay service to call 911 calls in the event of an emergency (because this is their customary way of making phone calls), it is far less likely that a newly registered IP Relay user who has not yet been verified will use this service to place a legitimate 911 call during the guest period in an emergency, when they need to think fast to obtain swift 911 assistance.[28] In fact, as noted above, the record indicates the opposite: that illegitimate users of IP Relay are exploiting the guest period to report false emergencies, resulting in the dispatch of tactical police squads to the residences of innocent people, with attendant threats to the safety of life and property.

7. Accordingly, we conclude that allowing guest period use for calls to 911 has resulted, and is continuing to result, in the misuse of IP Relay and 911 services in a manner that endangers the safety of the public. For this reason, we waive for one year the requirement for IP Relay providers to handle calls to 911 prior to verification of the IP relay user, effective upon release of this Order. CGB takes this action because of the potential and immediate dangers associated with allowing the current guest user policy for 911 calls to remain in place while the Commission proceeds with a rulemaking proceeding on

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[25] Sprint *Ex Parte* at 2.

[26] The Commission established the EAAC in accordance with the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. No. 111-260, 124 Stat. 2751 (Oct. 8, 2010), technical corrections, Pub. L. 111-265, 124 Stat. 2795 (Oct. 8, 2010), for the purpose of achieving equal access to emergency services by individuals with disabilities as part of our nation's migration to a national Internet-protocol-enabled emergency network, also known as next generation 911 system ("NG911"). Emergency Access Advisory Committee, *Report on Emergency Calling for Persons with Disabilities Survey Review and Analysis 2011* at 1, July 21, 2011, available at http://transition.fcc.gov/cgb/dro/EAAC/EAAC-REPORT.pdf (*EAAC Survey Report*), *citing* CVAA, Pub. L. 111-260, § 106. To fulfill the EAAC's mission to determine the most effective and efficient technologies and methods by which to enable access to NG 911 emergency services by people with disabilities, the CVAA directed that the EAAC to conduct a national survey, after which the EAAC was to develop and submit to the Commission recommendations to implement such technologies and methods. *EAAC Survey Report* at 1, *citing* CVAA, Pub. L. 111-260, § 106(c). The EAAC completed this survey in the spring of 2011, and released its report on the survey's findings in July 2011. *EAAC Survey Report*. The EAAC has since completed its responsibilities under the CVAA and has disbanded.

[27] *EAAC Survey Report* at 30. Of the survey takers (97% of all survey takers) responding to the question asking how important is it to be able to call 911 using the same device that the survey taker uses to typically communicate with friends and co-workers every day, 82.8% said it was very important, and 12.1% said it was somewhat important. *Id*.

[28] *IP Relay Misuse Order*, 27 FCC Rcd at 7870, ¶ 9. We note that our VoIP 911 rules similarly require that VoIP providers obtain location information from subscribers before any service is initiated. *See* 47 C.F.R. § 9.5(d).

this and other issues addressing the provision of IP Relay services.[29] Finally, we remind IP Relay providers that during the one year period that the guest period provision is waived, they must continue to ensure that registered, verified IP Relay users are able to place emergency 911 calls through IP Relay.

8. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(i), 4(j), 5, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155, and 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.3, that the requirement that IP Relay providers must handle 911 calls initiated by unverified callers is WAIVED as provided herein.

9. IT IS FURTHER ORDERED that the interim waiver of the requirement that IP Relay providers handle 911 calls initiated by unverified callers, SHALL BE EFFECTIVE upon the date of the release of this Order and SHALL REMAIN IN EFFECT for a period of one year.

10. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This Order may be downloaded from http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
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[29] Until this rulemaking is complete, we remind IP Relay providers of their obligation to obtain and complete expeditiously their user verification processes for new registrants of IP Relay.