

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

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for)	CC Docket No. 98-67
Individuals with Hearing and Speech Disabilities)	
)	
E911 Requirements for IP-Enabled Service)	WC Docket No. 05-196
Providers)	

ORDER

Adopted: December 4, 2009

Released: December 4, 2009

By the Chief, Wireline Competition Bureau, and Deputy Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, the Consumer & Governmental Affairs Bureau and the Wireline Competition Bureau temporarily waive a requirement regarding treatment of toll free numbers as clarified in the August 11, 2009, *Toll Free Clarification Public Notice*.¹ Additionally we grant a request filed by the TDI Coalition to restore working, assigned Video Relay Service (VRS) and Internet Protocol (IP) Relay toll free numbers to the Internet-based Telecommunications Relay Service (TRS) numbering directory (iTRS Directory) that have been removed following the *Toll Free Clarification Public Notice*. These steps will ensure that all calls – including point-to-point calls to toll free numbers – can be routed while the Commission considers toll free number policies in the context of Internet-based TRS.²

2. Specifically, to avoid possible consumer service disruption, we waive, on our own motion, for a period of four months, that portion of the *Toll Free Clarification Public Notice* that stated that toll free numbers and ten-digit geographic numbers should not be directed to the same Uniform Resource Identifier (URI) in the iTRS Directory.³ Also, to the extent that Internet-based TRS providers have removed working, assigned toll free numbers from the iTRS Directory, we direct those providers to reinstate those toll free numbers to the iTRS Directory. The waiver will remain in place for four months from the date of this Order, which will give the Commission time to consider the pending petition for

¹ *Clarification Regarding the Use of Toll Free Numbers for Internet-Based Telecommunications Relay Services*, CG Docket No. 03-123, CC Docket No. 98-67, WC Docket No. 05-196, Public Notice, 24 FCC Rcd 10626 (2009) (*Toll Free Clarification Public Notice*).

² Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Association of Late-Deafened Adults, Inc. (ALDA), National Association for the Deaf (NAD), Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), American Association of the Deaf-Blind, and the Hearing Loss Association of America (HLAA) (collectively the TDI Coalition) Supplement to Petition for Emergency Stay; Request to Return to the Status Quo Ante, CG Docket No. 03-123, WC Docket No. 05-196 (filed Nov. 12, 2009) (TDI Coalition Request for Return to the Status Quo Ante).

³ See *Toll Free Clarification Public Notice* at 2. We do not waive other guidance in the *Toll Free Clarification Public Notice*, including our reiteration of what constitutes a URI. See *id.* at n.8.

reconsideration of the *Toll Free Clarification Public Notice* filed by CSDVRS, LLC, as well as iTRS toll free issues generally.⁴

3. As discussed in the *First Internet-based TRS Order* and the *Second Internet-based TRS Order*, the ten-digit numbering system was designed to further functional equivalency by ensuring that Internet-based TRS users can be reached by voice telephone users in the same way that voice telephone users are reached.⁵ To further the goals of the numbering system, in the *Second Internet-based TRS Order*, the Commission held that “Internet-based TRS users should transition away from the exclusive use of toll free numbers” and it required all Internet-based TRS users to obtain “ten-digit geographically appropriate numbers, in accordance with our numbering system.”⁶ Furthermore, in the *Toll Free Clarification Public Notice*, the Bureaus clarified that any toll free number retained or acquired by Internet-based TRS users must be directed to their ten-digit geographic number in the SMS/800 database,⁷ and that toll free numbers and ten-digit geographic numbers should not be directed to the same URI in the Internet-based TRS directory.⁸ The Bureaus explained that directing Internet-based TRS users’ toll free numbers to their ten-digit geographic numbers in the SMS/800 database is functionally equivalent to the use of toll free numbers by voice telephone users.⁹ The Bureaus also recognized that certain point-to-point calls, as well as inbound dial-around calls, would require the use of a ten-digit geographic number.¹⁰

⁴ CSDVRS, LLC Petition for Expedited Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 (filed Sept. 10, 2009) (CSDVRS Petition).

⁵ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11592-93, para. 1 (2008) (*First Internet-based TRS Order*); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 792, para. 1 (2008) (*Second Internet-based TRS Order*).

⁶ See *Second Internet-based TRS Order*, 24 FCC Rcd at 806-07, para. 32.

⁷ By today’s Order, we are not granting a waiver of the requirement that a user’s toll free number be directed to the user’s ten-digit geographic number in the SMS/800 database.

⁸ *Toll Free Clarification Public Notice* at 2.

⁹ *Id.* We note that the record reflects confusion and frustration with respect to the proliferation of, and need for, toll free numbers. See Letter from Sheri Ann Farinha, NorCal Services for Deaf & Hard of Hearing, to Mark Stone, Deputy Chief, Consumer & Governmental Affairs Bureau, FCC, WC Docket No. 03-123 at 2 (filed Oct. 8, 2009) (claiming there is a great deal of confusion among consumers about toll free numbers and misleading information about whether these numbers are needed for basic telephone service); see also Letter from CM Boryslawskij, WC Docket No. 03-123 at 1 (filed Sept. 20, 2009) (expressing frustration and a “dissociation between the society and the deaf community” when receiving a 10-digit number and a toll free number from providers); Purple Communications, Inc. Comments in Support of CSDVRS’s Petition for Expedited Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 at 2 (filed Oct. 19, 2009) (Purple Comments in Support of CSDVRS Petition for Reconsideration) (supporting CSDVRS’s petition for expedited reconsideration, but stating that it “does not favor assigning 800 numbers to consumers. We generally see little benefit in consumers having 800 numbers except in the limited circumstance where the consumer operates a business and expects substantial non-local traffic from hearing users who wish to avoid toll charges. There is no benefit to consumers having 800 numbers in order to receive point to point calls since there are no toll charges associated with point to point calls”); TDI Coalition Comments in Support of CSDVRS’s Petition for Expedited Reconsideration, CG Docket No. 03-123, WC Docket No. 05-196 at 8 (filed Oct. 27, 2009) (TDI Coalition Comments in Support of CSDVRS Petition for Reconsideration) (also supporting CSDVRS’s petition for expedited reconsideration, but stating that they have “advocated that iTRS providers should give out ten-digit geographic numbers to their residential users, and still (continued....)

4. On September 10, 2009, CSDVRS filed a petition for expedited reconsideration of the *Toll Free Clarification Public Notice*.¹¹ Subsequently, the TDI Coalition filed a Petition for Emergency Stay¹² and the Request to Return to the Status Quo Ante, asking the Commission to stay the current requirements with respect to toll free numbers, and direct any Internet-based TRS provider that has removed toll free numbers from the iTRS Directory to reinstate those numbers.¹³ The TDI Coalition, which represents VRS users, claims that grant of their requests is necessary to avoid “disruption of service to the severe detriment of people who are deaf, hard of hearing, deaf-blind or have speech disabilities who currently use toll free numbers.”¹⁴

5. *Waiver.* The Commission may waive its rules – in whole or in part – “for good cause shown.”¹⁵ Thus, waiver of our rules is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.”¹⁶ According to information supplied by the TDI Coalition and various VRS providers in recent weeks, a significant number of callers are experiencing difficulties because they are still attempting to dial point-to-point calls using toll free numbers.¹⁷ Due to the likelihood of significant ongoing dialing difficulties for such callers, we find that good cause exists for temporarily waiving the requirement in the *Toll Free Clarification Public Notice* and allowing toll free numbers and ten-digit geographic numbers to be directed to the same URI in the iTRS Directory. This will enable such calls to be routed between users of different VRS providers based

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prefer ten-digit geographic numbers over toll free numbers for residential users” and they “do not condone the way some providers have pushed toll free numbers on consumers”); Letter from Kelby Brick, Vice President – Regulatory & Strategic Policy, Purple Communications, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Dec. 2, 2009) (Purple December 2, 2009 *Ex Parte* Letter) (stating that customer confusion is “compounded” by the “promotion of toll-free numbers over real 10 digit local numbers”).

¹⁰ *Toll Free Clarification Public Notice* at 3.

¹¹ See CSDVRS Petition at 2-17 (arguing that the *Toll Free Clarification Public Notice*: (1) contains a rule change that requires notice and comment; (2) impedes Video Relay Service interoperability; (3) undermines functional equivalency by eliminating toll free numbers for point-to-point calls and dial-around calls, as well as requiring deaf-owned businesses to use the same provider for their toll free and ten-digit number service and acquire new numbers to receive all incoming TRS calls; and (4) negatively impacts consumer choice at public phones).

¹² TDI Coalition Petition for Emergency Stay, CG Docket No. 03-123, WC Docket No. 05-196 (filed Oct. 27, 2009) (TDI Coalition Petition for Emergency Stay).

¹³ See TDI Coalition Petition for Emergency Stay at 1-2; see also TDI Coalition Request for Return to the Status Quo Ante at 4-5.

¹⁴ TDI Coalition Request for Return to the Status Quo Ante at 2.

¹⁵ 47 C.F.R. § 1.3.

¹⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); see also generally *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, CC Docket Nos. 90-571 & 98-67, CG Docket No. 03-123, 19 FCC Rcd 12475, 12520, para. 110 (2004) (discussing standard for waiving Commission rules).

¹⁷ See, e.g., Letter from Eliot J. Greenwald, Counsel to Telecommunications for the Deaf and Hard of Hearing, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Dec 1, 2009) (stating that the information it has received from Snap Telecommunications and CSDVRS “confirms that a significant number of point-to-point calls to toll free numbers are not being connected” and that “there is a great deal of consumer confusion”); see *infra* note 20.

on information in the iTRS Directory for the time being. In the absence of a waiver, many Internet-based TRS users have been, and will continue to be, unable to reach one another through point-to-point (non-TRS) calls using toll free numbers, and hearing friends, family and business contacts who chose to dial around an Internet-based TRS user's default relay service provider would not be able to reach the Internet-based TRS user at his/her toll free number. Accordingly, in order to avoid harm to users from call-routing difficulties, we conclude that it is in the public interest to waive the toll free requirement discussed above, for four months from the date of this Order, to give the Commission time to address the CSDVRS Petition and related toll free numbering issues. Although the *Toll Free Clarification Public Notice* allowed for three months time to educate consumers to use ten-digit geographic numbers rather than toll free numbers for point-to-point calls, it is evident that not all users are dialing calls in this manner.

6. During the time that the temporary waiver is in effect, we strongly encourage Internet-based TRS providers and the deaf and hard-of-hearing community to join with the Commission and engage in significant consumer education efforts regarding the role of ten-digit geographic (*i.e.*, local) numbers in providing functional equivalency, the importance of making those ten-digit geographic numbers known to friends, family, and others with whom the deaf and hard-of-hearing community interacts (especially on point-to-point calls), and the appropriate assignment and use of toll free numbers.¹⁸ Moreover, the Commission will consider the Petition for Expedited Reconsideration filed by CSDVRS and the range of toll free issues raised therein.

7. *TDI Coalition Petitions.* We grant the TDI Coalition Request to Return to the Status Quo Ante.¹⁹ There is almost unanimous support in the record for the proposition that consumers are confused about how to complete point-to-point calls between users registered with different providers; consumers

¹⁸ In fact, various consumer groups representing deaf users have expressed support for a notice and comment rulemaking proceeding designed to achieve the following objectives: (1) development of a plan to significantly reduce the use of toll free numbers by VRS users; and (2) development of rules and policies to ensure that the obtaining and use of toll free numbers by people who are deaf, hard of hearing, deaf-blind and speech-disabled is functionally equivalent to the obtaining and use of toll free numbers by people without disabilities. *See* Letter from Eliot J. Greenwald, Counsel to Telecommunications for the Deaf and Hard of Hearing, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 (filed Dec. 3, 2009). In particular, the consumer groups support direct ownership of toll free numbers by consumers rather than providers, as well as number portability of toll free numbers. *Id.*; *see also* Letter from Eliot J. Greenwald, Counsel to Telecommunications for the Deaf and Hard of Hearing, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 (filed Nov. 20, 2009) (referencing discussion between consumer groups and Commission staff on toll free issues, including iTRS toll free number portability, payment for iTRS toll free numbers, and ways for most residential consumers to transition away from the use of toll free numbers, as well as potential to explore these issues in a notice and comment rulemaking); *see* TDI Coalition Comments in Support of CSDVRS Petition for Reconsideration at 14 (suggesting that “although iTRS providers must continue to have the freedom to inform customers of the availability of toll free numbers, the Commission can prohibit providers from disseminating misleading information regarding the alleged benefits of toll free numbers to residential users. For example, the Commission can require that providers inform all consumers who are considering taking toll free numbers that point-to-point video calls from ten digit geographic numbers are already toll free since they utilize the Internet. The Commission could also require that the providers assign new toll free numbers only when specifically requested by the customer.”).

¹⁹ *Cf. Time Warner Cable, a Division of Time Warner Entertainment Co., L.P.*, MB Docket No. 06-151, Order on Reconsideration, 21 FCC Rcd 9016, 9018, 9028 (MB 2006) (denying reconsideration of bureau order that directed Time Warner to reinstate carriage of the NFL Network on its newly-acquired cable systems pending resolution of a petition filed by the NFL and “merely returned the parties to the status quo ante to allow time for full consideration of the matter.”).

are complaining to their service providers about point-to-point calls not going through when using the called party's toll free number; and consumers are suffering inconvenience because they are not able to engage in basic communications with friends, business associates and others in the same way as before the toll free numbers were removed from the iTRS Directory.²⁰ Additionally, there is the possibility of competitive harm to VRS providers with fewer registered users, as those users will not be able to make direct, point-to-point calls to the vast majority of other users with toll free numbers. We think that the public interest will best be served by restoring all working, assigned toll free numbers to the iTRS database so that all calls can be completed, pending consideration by the Commission of important issues, including the appropriate role of toll free numbers in Internet-based TRS services.²¹

8. It is clear that institution of the new ten-digit calling system has been enormously popular with deaf and hard of hearing consumers.²² We do not want to risk undermining consumer acceptance of ten-digit numbering by allowing call routing problems to persist for an indefinite period while consumer education efforts continue and the Commission considers broader toll free number-related questions. Therefore, we hereby direct any provider that removed working, assigned toll-free numbers from the iTRS Directory to reinstate those numbers to the iTRS Directory as expeditiously as possible.²³

²⁰ See Letter from William Banks, General Counsel, CSDVRS, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 at 1 (filed Nov. 24, 2009) (stating that certain point-to-point calls cannot be completed, which is causing confusion among consumers); Letter from Eliot J. Greenwald, Counsel to Telecommunications for the Deaf and Hard of Hearing, Inc. to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Nov. 25, 2009) (same); Purple Comments in Support of CSDVRS Petition for Reconsideration at 3-4 (same); Purple Comments in Support of Petition for Emergency Stay and Request to Return to the Status Quo Ante, CG Docket No. 03-123, WC Docket No. 05-196 (filed Nov. 19, 2009) at 1-2 (commenting that it is "experiencing a significantly high number of abandoned calls on a daily basis as a result of misrouted toll-free numbers"); Purple December 2, 2009 *Ex Parte* Letter at 2 (noting that "trending statistics point to approximately 24,000 misrouted calls per month"); Letter from Jeff Rosen, General Counsel, Snap!VRS to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Dec. 2, 2009) (stating that "whether calling out or receiving calls, VP200 customers with their 800 numbers removed from the iTRS database are not connecting point to point with SNAP!VRS Ojo customers; these calls are instead being automatically diverted to VRS."). *But see* Letter from Celia Nogales, AVP – Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123, CC Docket No. 98-67, WC Docket No. 05-196 at 1 (filed Dec. 1, 2009) ("AT&T has not been contacted by any VRS customers indicating an inability to complete point to point calls to 800 numbers.").

²¹ We note that nothing in this Order should be construed to preclude a provider from removing a consumer's toll free number from the iTRS Directory if requested to do so by the consumer.

²² See AT&T, Inc., CAC, CSDVRS, LLC, Hamilton Relay, Inc., Purple Communications, Inc., Sprint Nextel Corporation, and Viable, Inc. Petition to Extend Registration Deadline, CG Docket No. 03-123, WC Docket No. 05-196 at 7 (filed Apr. 29, 2009) (commenting that the Commission's numbering system for Internet-based TRS is "critical as a milestone in the nation's civil rights history"); GoAmerica, Inc. (now Purple Communications, Inc.) Comments in Response to the *Further Notice of Proposed Rulemaking*, CG Docket No. 03-123, WC Docket No. 05-196 at 1 (filed Aug. 8, 2008) (stating that "[t]he ten digit numbering system will enhance functional equivalence for Internet-based relay users by allowing them to receive TRS and point to point calls through a standard 10 digit telephone number" and "[t]he Commission is to be commended for taking this giant step toward true functional equivalency for deaf and hard of hearing users of Internet-based TRS"); TDI Coalition Comments in Response to the *Further Notice of Proposed Rulemaking*, CG Docket No. 03-123, WC Docket No. 05-196 at 1-2 (filed Aug. 8, 2008) (commending the Commission for its decision to assign ten-digit telephone numbers to users of Internet-based TRS).

²³ See 47 C.F.R. §§ 0.291, 0.361; *First Internet-Based TRS Order*, 23 FCC Rcd at 11628, para. 103 (delegating authority to the Wireline Competition Bureau to resolve implementation issues associated with the iTRS Directory).

9. Finally, because we grant, on our own motion, a temporary waiver that effectively provides the relief sought by the TDI Coalition in its Petition for Emergency Stay, that petition is dismissed as moot.

10. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(i), 4(j), 225, 251(e), and 255 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 225, 251(e), and 255, and sections 0.91, 0.141, 0.291, 0.361, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.141, 0.291, 0.361, 1.3, that this Order is ADOPTED.

11. IT IS FURTHER ORDERED that the Petition for Emergency Stay, filed by the TDI Coalition on October 27, 2009, is dismissed as moot.

12. IT IS FURTHER ORDERED that the Request to Return to the Status Quo Ante, filed by the TDI Coalition on November 12, 2009, is granted to the extent described herein.

13. IT IS FURTHER ORDERED that this Order is effective upon release.

14. 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 & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This Order can also be downloaded in Word and Portable Document Formats (PDF) at <http://www.fcc.gov/cgb/dro/trs.html#orders>.

FEDERAL COMMUNICATIONS COMMISSION

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