

**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
	)	
	)	

**ORDER**

**Adopted: October 24, 2011**

**Released: October 24, 2011**

By the Chief, Consumer and Governmental Affairs Bureau:

**I. INTRODUCTION**

1. In this Order, the Consumer and Governmental Affairs Bureau (Bureau), acting pursuant to delegated authority, grants a waiver request filed by Convo Communications, LLC (Convo).<sup>1</sup> Convo seeks temporary waiver of section 64.604(c)(5)(iii)(N)(I)(i) and (ii) of the Commission's rules, which became effective on June 1, 2011.<sup>2</sup> We grant Convo's waiver request to the extent and for the reasons discussed below.

**II. BACKGROUND**

2. On April 6, 2011, the Commission released the *VRS Practices R&O*, which adopted rules designed to detect and prevent fraud and abuse in the provision of VRS, a form of Telecommunications Relay Service (TRS) that allows users to communicate in sign language via a video link utilizing an Internet connection and a communications assistant (CA). In the *VRS Practices R&O*, the Commission

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<sup>1</sup> Convo Communications, LLC Waiver Request, CG Docket Nos. 10-51 and 03-123 (filed May 18, 2011) (Convo Waiver Request). See Convo Amendment to Waiver Request (filed May 25, 2011) (First Convo Waiver Amendment); Waiver Request of Convo Communications, LLC (filed Aug. 26, 2011) (Second Convo Waiver Amendment); Amended Waiver Request of Convo Communications, LLC (filed Sept. 19, 2011) (Convo Waiver Supplement).

<sup>2</sup> See *Structure and Practices of the Video Relay Service Program*, 76 Fed. Reg. 24393 (May 2, 2011); *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (*VRS Practices R&O* and/or *Certification FNPRM*). On May 31, 2011, the Commission stayed until October 1, 2011 the effective date of section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission's rules, 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(iii), which prohibits an eligible video relay service (VRS) provider from contracting with or otherwise authorizing any third party to provide interpretation services or call center functions on its behalf, unless that authorized party also is an eligible provider. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order Suspending Effective Date, 26 FCC Rcd 8327 (2011) (*VRS Stay Order*). On September 30, 2011, the Commission extended the stay until November 15, 2011. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order Extending Suspension of Effective Date, FCC 11-145 (rel. Sept. 30, 2011).

adopted, among other things, rules requiring that:<sup>3</sup> (i) only an eligible VRS provider<sup>4</sup> may hold itself out to the general public as providing VRS;<sup>5</sup> (ii) VRS must be offered under the name by which the eligible provider became certified, in a manner that clearly identifies the provider of the service, and providers must route all VRS calls through a single URL address for that brand;<sup>6</sup> and (iii) an eligible VRS provider may not contract with or otherwise authorize any third party to provide interpretation services or call center functions on its behalf, unless that authorized party also is an eligible provider.<sup>7</sup> Together, these rules are intended to reduce fraud and establish better oversight of the VRS program, and to address the escalation of unauthorized revenue sharing arrangements in the VRS program.<sup>8</sup>

3. In adopting these rules, the Commission recognized that some companies offering VRS through an arrangement with an eligible VRS provider might require additional time to make adjustments to their operations in order to come into compliance with the new requirements adopted in the *VRS Practices R&O*. The Commission therefore stated that it would consider requests for a temporary waiver of those requirements, to allow these entities to continue providing VRS as a subcontractor with an eligible provider pending their certification under procedures to be adopted pursuant to the accompanying *Certification FNPRM*.<sup>9</sup> The Bureau subsequently issued a Public Notice providing guidance on filing requests for waiver of the requirements adopted in the *VRS Practices R&O*.<sup>10</sup>

4. On May 31, 2011, the Commission suspended until October 1, 2011, the effective date of section 64.604(c)(5)(iii)(N)(1)(iii) of its rules, in order to allow the Commission to complete its proceeding to establish certification requirements for iTRS providers.<sup>11</sup> The Commission stated in the *VRS Stay Order* that waiver requests filed pursuant to the *VRS Practices R&O* and *Waiver Guidance Public Notice* were rendered moot by the *VRS Stay Order* only to the extent that such requests sought waiver of section 64.604(c)(5)(iii)(N)(1)(iii). The Commission stated that requests for waiver of other

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<sup>3</sup> 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(i-iii).

<sup>4</sup> Under Commission rules in effect at the time Convo filed its waiver request, an eligible provider was defined as an entity that meets at least one of four Commission eligibility requirements to provide TRS and receive compensation from the Interstate TRS Fund (Fund). See 47 C.F.R. § 64.604(c)(5)(iii)(F)(1-4)(2010). On July 28, 2011, the Commission released an order amending its rules to require that all Internet-based TRS (iTRS) providers, including VRS providers, obtain certification from the Commission in order to be eligible to receive compensation from the Fund. See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Second Report and Order and Order, 26 FCC Rcd 10898 (2011) (*iTRS Certification Order*). The Commission therein established the timeframes by which entities seeking to become or remain eligible for compensation from the Fund must apply for Commission certification. See *id.* at 10922-23, paras. 59-61.

<sup>5</sup> See 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(i); *VRS Practices R&O*, 26 FCC at 5574, para. 57.

<sup>6</sup> See 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(ii); *VRS Practices R&O*, 26 FCC at 5574, para. 57. Herein, we refer to these requirements as the branding provisions and URL provisions, respectively, of section 64.604(c)(5)(iii)(N)(1)(ii).

<sup>7</sup> See 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii); *VRS Practices R&O*, 26 FCC at 5574, para. 58.

<sup>8</sup> *VRS Practices R&O*, 26 FCC at 5574, para. 57.

<sup>9</sup> *Id.* at 5575, para. 62; see *iTRS Certification Order* (adopting procedures proposed in the *Certification FNPRM*).

<sup>10</sup> *Consumer and Governmental Affairs Bureau Provides Guidance on Filing Requests for Waiver of New Requirements Adopted in the Video Relay Services Fraud Order*, CG Docket No. 10-51, Public Notice, 26 FCC Rcd 6863 (CGB 2011) (*Waiver Guidance Public Notice*).

<sup>11</sup> The Commission subsequently extended the stay until November 15, 2011. See note 2, *supra*.

Commission rules or requirements filed in response to the *VRS Practices R&O* and *Waiver Guidance Public Notice* were not rendered moot, and thus remained pending.<sup>12</sup>

5. Convo was founded as a company in March 2009, and in October 2009 applied for Commission certification for eligibility for compensation from the Fund for its provision of VRS.<sup>13</sup> Convo receives compensation from the Fund for its provision of VRS via a billing agreement with Snap Telecommunications, Inc. (Snap), which is a certified VRS provider.<sup>14</sup> While not eligible for direct compensation from the Fund, Convo asserts that it has “thousands” of deaf and hard of hearing customers, and is the fifth-largest VRS provider measured by the number of minutes per month of VRS calls relayed.<sup>15</sup> Convo offers several different VRS products, including IM, an Apple iChat-based VRS; Mobile and Desktop, which are video communications applications that allow deaf and hard of hearing callers to make VRS calls from any computer with a web camera and an Internet connection; Anywhere, which allows users to access VRS by opening a web browser on any Adobe Flash-powered computer or smartphone that can be used to access the Internet; and access to Convo’s VRS for users of videophones furnished by other VRS providers.<sup>16</sup>

6. In support of its request to waive section 64.604(c)(5)(iii)(N)(I)(i),<sup>17</sup> Convo cites its “diligent, good faith efforts” to obtain certification since filing a certification application in October 2009. It also asserts that such a waiver is consistent with the Commission’s stated goal in the *VRS Practices R&O* that it would consider requests for temporary waiver in order to afford non-certified VRS providers “an opportunity to continue to provide VRS as a subcontractor with an eligible provider until such time as they obtain certification,”<sup>18</sup> and that such a waiver would avoid the result of Convo having to cease operations, abandon its customers, and lay off its workforce.<sup>19</sup>

7. In support of its request to waive the branding provisions of section 64.604(c)(5)(iii)(N)(I)(ii), Convo asserts it has developed a reputation as an “established and reputable provider of VRS” that handles more VRS minutes per month than the majority of certified providers,<sup>20</sup>

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<sup>12</sup> See *VRS Stay Order*, 26 FCC Rcd at 8328, para. 3 n.6. For these reasons, we dismiss as moot Convo’s request for waiver of section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission’s rules, and address Convo’s request for waiver of section 64.604(c)(5)(iii)(N)(I)(i) and (ii). See ¶ 18, *infra*.

<sup>13</sup> See Convo Waiver Request at 3-4.

<sup>14</sup> See *id.* at 4.

<sup>15</sup> See *id.* at 2-4.

<sup>16</sup> See generally *id.* at 7-8; Second Convo Waiver Amendment, Attach.

<sup>17</sup> Convo requests waiver of section 64.604(c)(5)(iii)(N)(I)(i) of the Commission’s rules, and the branding provisions of section 64.604(c)(5)(iii)(N)(I)(ii) of the Commission’s rules, until September 1, 2011, by when, it asserts, it would complete the process of restructuring its business to become a *bona fide* subcontractor of Snap. See Second Convo Waiver Amendment at 2. Convo originally requested waiver of these rules until the Commission acts on Convo’s application for Commission certification for its provision of VRS, see Convo Waiver Request at 13, but modified the time period covered by its request in the Second Convo Waiver Amendment.

<sup>18</sup> *VRS Practices R&O*, 26 FCC Rcd at 5575, para. 62.

<sup>19</sup> Convo Waiver Request at 14.

<sup>20</sup> *Id.* at 15, 18-19. Convo originally sought to continue to offer VRS under its own brand name until the Commission acts on its VRS certification application, but in the Second Convo Waiver Amendment modified the time period covered by its request. See note 17, *supra*.

with very few requests for reimbursement from the Fund being denied by the Fund administrator.<sup>21</sup> Nevertheless, in conjunction with moving its call traffic to Snap's automatic call distribution (ACD) platform by September 1, 2011, Convo pledges to brand its service "under a Snap logo that includes reference to Convo as a subcontractor of Snap."<sup>22</sup> Convo submits a series of web screenshots demonstrating the changes made to its branding, and explaining other actions it took to comply with section 64.604(c)(5)(iii)(N)(I)(i-ii).<sup>23</sup>

8. As general support for its requested waivers, Convo argues that granting the waivers is in the public interest, and will not undermine the purposes of the rules adopted in the *VRS Practices R&O*.<sup>24</sup> Convo states that the rules adopted in the *VRS Practices R&O* are intended to substantially reduce and ultimately eliminate fraud and abuse, a goal that it shares given its own emphasis on implementing internal controls to assure compliance and its lack of any history of fraud or abuse.<sup>25</sup> Convo details how it would come into compliance with all of the new requirements adopted in the *VRS Practices R&O* once effective (except for those for which it requests temporary waiver)<sup>26</sup> and has provided the requisite documentation to support its request and to demonstrate its compliance with other regulations applicable to VRS.<sup>27</sup> Moreover, it reiterates that grant of the waivers is in the public interest because it would prevent Convo from having to abandon service to its "thousands of VRS customers."<sup>28</sup>

9. Although Convo originally requested waiver of section 64.604(a)(7) of the Commission's rules,<sup>29</sup> which generally prohibits compensation from the Fund for VRS calls originating from an international Internet Protocol address, Convo subsequently sought to withdraw such request, and asserted that it was in compliance with that rule prior to its effective date of June 1, 2011.<sup>30</sup>

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<sup>21</sup> Convo maintains that the Fund administrator denies less than 0.05% of the minutes it requests for reimbursement. See Convo Waiver Request at 19.

<sup>22</sup> Second Convo Waiver Amendment at 2.

<sup>23</sup> See Second Convo Waiver Amendment; Convo Waiver Supplement. See also ¶ 13, *infra*. While it maintains that separate URLs for its Anywhere and videophone products are a "technological necessity" for such products utilizing different VRS interface technologies, and thus should be deemed in compliance with the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii) of the Commission's rules, Convo nevertheless also requests waiver of this portion of section 64.604(c)(5)(iii)(N)(I)(ii) until October 1, 2011, in the event the Commission rejects its interpretation. See Second Convo Waiver Amendment at 2-4.

<sup>24</sup> Convo Waiver Request at 16-17; see *VRS Practices R&O*, 26 FCC Rcd at 5575, para. 62.

<sup>25</sup> Convo Waiver Request at 19.

<sup>26</sup> See *id.* at 20-32. See also First Convo Waiver Amendment; Second Convo Waiver Amendment.

<sup>27</sup> See Convo Waiver Request, Appendix. While not specifically required by the *VRS Practices R&O*, Convo has submitted information to support its assertion that it has complied with the VRS regulations in effect prior to the effectiveness of the *VRS Practices R&O*. See Convo Waiver Request at 17, 32-43.

<sup>28</sup> Convo Waiver Request at 19.

<sup>29</sup> 47 C.F.R. § 64.604(a)(7).

<sup>30</sup> See Second Convo Waiver Amendment at 4.

### III. DISCUSSION

10. Based on our review of Convo's showings, we find good cause to grant Convo a waiver of section 64.604(c)(5)(iii)(N)(I)(i-ii) of the Commission's rules for the period from June 1, 2011, the date these rules became effective, until September 1, 2011.<sup>31</sup> Generally, the Commission's rules may be waived for good cause shown.<sup>32</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>33</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>34</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>35</sup> An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.<sup>36</sup>

11. In addition to the general "high hurdle" that waiver applicants face, the Commission specified in the *VRS Practices R&O* what was particularly required of applicants seeking waiver of any of the new requirements adopted therein. The Commission stated that a waiver applicant "will have the burden of showing that the waiver is in the public interest, that grant of the waiver request will not undermine the purposes of the rules that we adopt today, and that it will come into compliance with those rules within a short period of time."<sup>37</sup> In addition, the Commission required each waiver applicant "to provide, in writing, a description of the specific requirement(s) for which it is seeking a waiver, along with documentation demonstrating the applicant's plan and ability to come into compliance with all of these requirements (other than the certification requirement)" within three months after the rules become effective.<sup>38</sup> The Commission elaborated that "[e]vidence of the applicant's plan and ability to come into compliance with the new rules shall include the applicant's detailed plan for modifying its business structure and operations in order to meet the new requirements."<sup>39</sup> The Commission further specified that it would grant waivers "only after a rigorous showing that the applicant has workable plans and the ability to continue providing VRS in a manner that will not undermine the measures adopted in [the *VRS Practices R&O*] to eliminate the fraud and abuse that have plagued the VRS program."<sup>40</sup>

12. As noted above, the rules adopted in the *VRS Practices R&O* for which Convo is seeking a waiver became effective on June 1, 2011, and the Commission has required that any applicant seeking

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<sup>31</sup> As discussed in paragraph 17, *infra*, we also grant Convo a waiver of the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii) from June 1, 2011 until September 9, 2011.

<sup>32</sup> 47 C.F.R. § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown").

<sup>33</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

<sup>34</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular*, 897 F.2d at 1166.

<sup>35</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>36</sup> *WAIT Radio*, 418 F.2d at 1157 (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp., Memorandum Opinion and Order*, 18 FCC Rcd 1414, 1415 (2003).

<sup>37</sup> *VRS Practices R&O*, 26 FCC Rcd at 5575, para. 62.

<sup>38</sup> *Id.* at 5575-76, para. 63.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 5576, para. 63.

waiver of such rules must show, among other things, its ability to comply with the relevant requirements within three months after the rules became effective, *i.e.*, September 1, 2011.<sup>41</sup> We find that Convo timely sought a waiver of section 64.604(c)(5)(iii)(N)(I)(i-ii) for the period from June 1, 2011 to September 1, 2011, made all of the particular waiver showings required in the *VRS Practices R&O*,<sup>42</sup> and substantially came into compliance with section 64.604(c)(5)(iii)(N)(I)(i-ii) by September 1, 2011.<sup>43</sup> We therefore find that Convo has demonstrated good cause to grant its requested waivers. The Commission specifically contemplated considering requests for a temporary waiver of the requirements adopted in the *VRS Practices R&O*, in order to give entities an opportunity to continue to provide VRS as a subcontractor with an eligible provider until such time as they may obtain, if merited, certification under the procedures ultimately adopted in the *iTRS Certification Order*.<sup>44</sup> Combined with the stay of effectiveness of section 64.604(c)(5)(iii)(N)(I)(iii), these waivers accomplish precisely that objective by allowing Convo – the fifth-largest VRS provider (as measured by the number of minutes per month of VRS calls relayed) with “thousands” of deaf and hard of hearing customers – to continue providing service pending certification as an eligible provider.<sup>45</sup>

13. In conjunction with its waiver showing, Convo also asserted that it has complied with all of the requirements adopted in the *VRS Practices R&O* by their June 1 effective date, except for those subject to the instant waiver request. As for its compliance with section 64.604(c)(5)(iii)(N)(I)(i) and the branding provisions of section 64.604(c)(5)(iii)(N)(I)(ii), Convo asserts that, by September 1, 2011, it had rebranded its VRS logo to a “Subcontractor Logo” which first exhibits the name and logo of an eligible VRS provider, Snap, and then presents the Convo name, which is clearly identified as “a subcontractor of Snap!VRS.”<sup>46</sup> The top of Convo’s VRS homepage, which is found at the URL <http://snapvrs.convorelay.com/vrs.html>,<sup>47</sup> displays the Subcontractor Logo prominently.<sup>48</sup> In addition, for all of its products, Convo states that it has sent its users an email explaining that Convo has become a subcontractor to Snap, and no longer independently offers VRS.<sup>49</sup> According to Convo, except for calls from its “Anywhere” product, none of the Convo products utilizes a URL in order to connect to a CA for purposes of placing a VRS call.<sup>50</sup> Furthermore, Anywhere is accessed using the URL

<sup>41</sup> See *VRS Practices R&O*, 26 FCC Rcd at 5575-76, para. 63.

<sup>42</sup> See ¶¶ 6-8, *supra*.

<sup>43</sup> As discussed *infra*, although Convo was not in compliance with the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii) on September 1, 2011, we find good cause to grant a waiver of that provision until September 9, 2011. See ¶ 17, *infra*.

<sup>44</sup> See *VRS Practices R&O*, 26 FCC Rcd at 5575, para. 62.

<sup>45</sup> See ¶ 5, *supra*. We make this determination without prejudice to the merits of the certification application that Convo files once all of the rules adopted in the *iTRS Certification Order* become effective.

<sup>46</sup> See generally Convo Waiver Supplement. As demonstrated therein, Convo also took a number of steps to list Snap first on webpages and utilize the Snap logo.

<sup>47</sup> No VRS call actually can be routed directly from this home page. Instead, it contains links to reach a website specific to each VRS product, with each such website bearing the Subcontractor Logo. See Convo Waiver Supplement at 1-3. Moreover, as discussed below, except for calls from its “Anywhere” product, none of the Convo products utilizes a URL in order to connect to a CA for purposes of placing a VRS call.

<sup>48</sup> See Convo Waiver Supplement at 3.

<sup>49</sup> See, *e.g.*, *id.* at 5.

<sup>50</sup> See, *e.g.*, *id.* at 11.

<http://convoanywhere.snapvrs.com>, where “snapvrs” is the parent domain and “convoanywhere” is the subdomain.<sup>51</sup>

14. In the *VRS Practices R&O*, the Commission required, as codified in section 64.604(c)(5)(iii)(N)(I)(i), that only eligible entities under the Commission’s rules will be eligible to provide VRS and hold themselves out as providers of VRS to the general public.<sup>52</sup> The Commission explained that, “[t]o ensure that this is achieved, we further require that VRS service be offered under the name by which the provider became certified and in a manner that clearly identifies that provider of the service.”<sup>53</sup> In other words, compliance with the branding requirements of section 64.604(c)(5)(iii)(N)(I)(ii) may help to establish compliance with section 64.604(c)(5)(iii)(N)(I)(i). Based on the record, we conclude that Convo modified its branding and messaging to users, on its web pages and in correspondence to users, in a manner that clearly demonstrates that it is currently a subcontractor to Snap, an eligible provider. We find that the myriad changes made by Convo to its service structure and branding by September 1, 2011 constitute timely and substantial compliance with section 64.604(c)(5)(iii)(N)(I)(i) and the branding requirements of section 64.604(c)(5)(iii)(N)(I)(ii) for purposes of continuing to provide subcontracted VRS for the duration of the stay of effectiveness of section 64.604(c)(5)(iii)(N)(I)(iii), during which the subcontracting of core VRS functions is still permitted.

15. We also find that waiving section 64.604(c)(5)(iii)(N)(I)(i) and the branding requirements of section 64.604(c)(5)(iii)(N)(I)(ii) will not undermine the purposes of the rules adopted in the *VRS Practices R&O*. Convo asserts in its waiver request that it does not offer VRS under any name, brand, or sub-brand other than “Convo.”<sup>54</sup> As previously noted, in the *VRS Practices R&O*, the Commission adopted section 64.604(c)(5)(iii)(N)(I)(i-ii) in order to reduce fraud, establish better oversight of the VRS program, and address unauthorized revenue sharing arrangements.<sup>55</sup> The adoption of such rules was due in substantial part to illicit activities by individuals associated with or employed by VRS providers not eligible for compensation from the Fund, and the difficulties experienced by the Commission and other investigatory authorities in “identifying who these entities are or what services they provide.”<sup>56</sup> Because Convo’s branding and messaging to users clearly identifies it as a subcontractor to Snap, and because Convo offers its subcontracted service only under one brand name, we find that Convo’s service structure and branding, for the duration of the stay of effectiveness of section 64.604(c)(5)(iii)(N)(I)(iii), do not present many of the oversight and provider identification issues that the rules adopted in the *VRS Practices R&O* are designed to address, and thus, do not undermine the purposes of those rules.

16. We also conclude that, subject to an additional limited waiver, as discussed below, Convo timely came into compliance with the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii). As discussed above, there is only one product – Anywhere -- through which a user of Convo subcontracted VRS may make a VRS call using a URL.<sup>57</sup> Previously, third-party videophone users also accessed Convo’s subcontracted VRS through a second URL, convorelay.tv. However, the record shows that as of

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<sup>51</sup> See *id.* at 5.

<sup>52</sup> See *VRS Practices R&O*, 26 FCC Rcd at 5574, para. 57; see also 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(i).

<sup>53</sup> See *VRS Practices R&O*, 26 FCC Rcd at 5574, para. 57; see also 47 C.F.R. § 64.604(c)(5)(iii)(N)(I)(ii).

<sup>54</sup> See Convo Waiver Request at 15.

<sup>55</sup> See *VRS Practices R&O*, 26 FCC Rcd at 5574, para. 57.

<sup>56</sup> *Id.* at 5573, para. 55.

<sup>57</sup> See ¶ 13, *supra*.

September 9, 2011, convorelay.tv was no longer in service; users could only access a CA via a ten-digit number.<sup>58</sup> In the Second Convo Waiver Amendment, Convo stated that, for the first ten days after convorelay.tv was migrated to the Snap ACD, when a user called convorelay.tv, the user was forwarded to a screen directing the user to call the ten-digit number to place a VRS call, and was then connected directly to a CA after receiving that message.<sup>59</sup>

17. We find good cause to grant Convo a waiver of the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii) from June 1, 2011 until September 9, 2011. Though Convo modified its service structure by September 1, Convo did not complete that process until immediately before that date.<sup>60</sup> We find that the ten day transition period, during which former convorelay.tv users were connected to a CA after being notified that, going forward, they would need to utilize a ten-digit number in order to place a Convo subcontracted VRS call using a third-party videophone, was reasonable to avoid user confusion and to avert potential disruption of service, and was of minimal duration. Under such circumstances, we find that waiver of this rule until September 9, 2011 does not undermine the purposes of the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii).<sup>61</sup> The Commission adopted that rule because “[c]onsumers have been hindered in making informed choices when selecting their VRS companies because of the complex branding and commercial relationships that have existed between [ineligible providers] and eligible providers.”<sup>62</sup> In this case, the brief transition period, during which convorelay.tv, a second URL, was still active, was designed to prevent consumer confusion, and associated messaging to users already identified Snap as the eligible provider.

18. To the extent Convo also requests waiver of section 64.604(c)(5)(iii)(N)(I)(iii) of the Commission’s rules, which the Commission has stayed until November 15, 2011,<sup>63</sup> we dismiss its request as moot. Finally, we grant Convo’s withdrawal request, and thus will not consider the portion of the Convo Waiver Request pertaining to section 64.604(a)(7).<sup>64</sup>

#### IV. ORDERING CLAUSES

19. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 1, 2, 4 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154 and 225, and section 1.3 of the Commission’s rules, 47 C.F.R. § 1.3, and pursuant to authority delegated in sections 0.141 and 0.361 of the Commission’s rules, 47 C.F.R. §§ 0.141 and 0.361, the request for temporary waiver filed by Convo Communications, LLC of section 64.604(c)(5)(iii)(N)(I)(i-ii) of the Commission’s rules IS GRANTED to the extent discussed above.

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<sup>58</sup> See Convo Waiver Supplement at 26.

<sup>59</sup> See Second Convo Waiver Amendment, Attach. at 20.

<sup>60</sup> See Second Convo Waiver Amendment at 2.

<sup>61</sup> Because we grant Convo’s waiver until September 9, 2011, we need not address Convo’s arguments that the use of different URLs for the Anywhere and videophone products are compliant with the URL provisions of section 64.604(c)(5)(iii)(N)(I)(ii). See Convo Second Waiver Amendment at 2-4.

<sup>62</sup> *VRS Practices R&O*, 26 FCC Rcd at 5574, para. 57.

<sup>63</sup> See note 2, *supra*.

<sup>64</sup> See ¶ 9, *supra*.

20. IT IS FURTHER ORDERED that the request for waiver of section 64.604(c)(5)(iii)(N)(1)(iii) IS DISMISSED AS MOOT.

21. IT IS FURTHER ORDERED that the request of Convo Communications, LLC to withdraw its request for waiver of section 64.604(a)(7) of the Commission's rules IS GRANTED.

22. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Joel Gurin  
Chief, Consumer and Governmental Affairs Bureau