

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

ORDER

Adopted: February 28, 2018

Released: February 28, 2018

By the Acting Chief, Consumer and Governmental Affairs Bureau, and the Managing Director:

I. INTRODUCTION

1. By this Order, the Consumer and Governmental Affairs Bureau and the Office of the Managing Director of the Federal Communications Commission (FCC or Commission) take two measures to address recently raised concerns about implementation of the telecommunications relay services (TRS) User Registration Database (TRS-URD). First, we clarify the meaning of “verification check” for purposes of determining when video relay service (VRS) providers may seek compensation for calls placed by users whose verification process has not been completed. Second, we extend for 31 days, through March 31, 2018, the deadline for VRS providers to submit registration data for their registered users to the TRS-URD.

II. BACKGROUND

2. In 2013, to help prevent waste, fraud, and abuse in the VRS program and determine the actual number of individuals using VRS, the Commission adopted the *2013 VRS Reform Order*,¹ directing the establishment of the TRS-URD, and requiring VRS providers to take three steps: (1) submit registration data to the TRS-URD for each of their registered VRS users;² (2) have each VRS user’s identity verified through the TRS-URD;³ and (3) before completing a VRS call, query the TRS-URD to confirm that the party on the video side of the call is a registered VRS user.⁴

¹ *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, 28 FCC Rcd 8618, 8647-56, paras. 62-86 (2013) (*2013 VRS Reform Order*).

² 47 CFR § 64.611(a)(4). The registration data that must be submitted to the TRS-URD consists of the user’s full name, full residential address, VRS telephone number, date of birth, last four digits of the user’s Social Security number or Tribal identification number, registered location, VRS provider name and dates of service initiation and termination, self-certification of VRS eligibility (and the date it was obtained), the date on which the user’s identification was verified, and (for existing users only) the date on which the user last placed a point-to-point or relay call. *Id.*

³ *Id.* § 64.615(a)(5).

⁴ *Id.* § 64.615(a)(1).

3. Construction of the TRS-URD was completed in 2017, and on December 29, 2017, the Commission issued a public notice announcing that the database was ready to accept user registration data submitted by VRS providers.⁵ This announcement triggered a 60-day period, within which VRS providers must complete the submission of registration data for all currently registered users. According to the TRS rules, “calls from or to existing registered users that have not had their information populated in the [TRS-URD] within the 60 days . . . shall not be compensable.”⁶ The *60-Day Notice* also triggered the second step in the TRS-URD process—verification of VRS user identities. The TRS rules provide that “VRS providers shall not seek compensation for calls placed by individuals that do not pass the identification verification check conducted through the [TRS-URD].”⁷

4. The third step, requiring VRS providers to query the database to validate a user’s registered status before each call, otherwise known as the “all call query” (ACQ) function of the database, has not yet been activated. Therefore, VRS providers are not required to send such queries, pending further notice from the Commission.⁸

5. *Waiver Petitions.* From early to mid-February 2018, three of the five VRS providers filed requests for temporary relief from the Commission’s time limits for submission of VRS user registrations to the TRS-URD and verification of such data by the TRS-URD.⁹ Convo seeks (1) a 30-day extension of the February 28 deadline for submitting user data to the TRS-URD and (2) a 90-day extension of time for providers to continue receiving compensation for calls by users whose identity has not been verified.¹⁰ ZVRS and Purple ask the Commission to suspend the February 28 submission deadline “until the All Call Query (“ACQ”) feature of the TRS-URD is fully functioning, and the customer confusion and unresolved technical issues affecting submissions to the database are addressed.”¹¹

6. Among other reasons, petitioners contend that relief is needed to: (1) ease the burden on provider resources due to the extended, four-year start-up period for the TRS-URD¹² and the use of a data

⁵ *Video Relay Service Providers May Begin Submitting Data to the TRS User Registration Database*, CG Docket Nos. 10-51, 03-123, Public Notice, 32 FCC Rcd 10467 (OMD/CGB 2017) (*TRS-URD Public Notice*).

⁶ 47 CFR § 64.611(a)(4)(ii). Thus, after February 28, 2018, an existing user whose data hasn’t been submitted must register as a new user. For new users, VRS providers must submit registration information to the TRS-URD “upon initiation of service.” *Id.* § 64.611(a)(4)(iii).

⁷ *Id.* § 64.615(a)(5)(iii).

⁸ *TRS-URD Public Notice*, 32 FCC Rcd at 10468-69.

⁹ See Letter from Jeff Rosen, General Counsel, Convo Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (filed Feb. 13, 2018) (Convo Letter); CSDVRS, LLC d/b/a ZVRS (ZVRS) and Purple Communications, Inc. (Purple), Petition for Limited Waiver and Extension of the TRS-URD Implementation Deadline, CG Docket Nos. 03-123 and 10-51 (filed Feb. 15, 2018) (ZVRS/Purple Petition); see also Letter from Gregory Hlibok, Chief Legal Officer, ZVRS Holding Company, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (filed Feb. 7, 2018) (ZVRS/Purple February 7 Letter).

¹⁰ Convo Letter at 2.

¹¹ ZVRS/Purple Petition at 1. ZVRS and Purple subsequently filed an ex parte letter requesting a minimum 90-day extension of the submission deadline. Letter from Gregory Hlibok, Chief Legal Officer, ZVRS Holding Company, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (filed Feb. 22, 2018) (ZVRS/Purple February 22 *Ex Parte*).

¹² ZVRS/Purple Petition at 3. According to ZVRS and Purple, the extended start-up period required them to repeatedly expend resources to collect information from existing users—some of which became out of date by the time the 60-day window for uploading this data actually opened. *Id.* at 7, 11, 21-22.

verification process that petitioners claim is unnecessarily strict, complicated, and labor-intensive;¹³ (2) allow additional time to alleviate consumer confusion about the need to consent to the submission of sensitive personal information to multiple providers;¹⁴ and (3) prevent competitive harm to smaller providers, who claim to be disproportionately burdened by the tight deadline for completing the submission and verification of existing users,¹⁵ and some of whom claim to have encountered significant technical problems.¹⁶

III. DISCUSSION

A. Clarification of the meaning of “verification check”

7. We clarify section 64.615(a)(5)(iii) of the rules—the prohibition on seeking compensation for calls placed by users who “do not pass the verification check.”¹⁷ Under the TRS-URD verification process, as currently administered by the TRS-URD Administrator, Rolka Loube LLC, several steps may be required before a VRS user ultimately passes or fails verification. This process begins when the provider submits the user’s data to the database, and an automated query is launched, using LexisNexis’s “FlexID” service, to verify this data. Based on results reported to date, while failure rates for this initial, automated verification step have varied from provider to provider, sometimes they have exceeded 20 percent.¹⁸ After the provider corrects formatting errors, if this initial automated check does not establish a user’s identity, the TRS-URD Administrator allows the provider to submit additional information, including, at times, supplemental documentation provided by the user¹⁹ or the results of the provider’s own identity verification check on that user. These supplemental submissions are subject to automated processing by the TRS-URD, which often results in successful verification of the user. If not, a provider may submit up to two “appeals” to the TRS-URD Administrator, requesting individual review of the user’s data and documentation. If such Administrator appeals are unsuccessful, any further appeal must be filed with the Commission.

8. We clarify that, for purposes of the section 64.615(a)(5)(iii) prohibition on seeking compensation for calls involving users who “do not pass the verification check,” a verification check is completed only after a user’s data has been processed both through the initial automated step, any additional automated processing that is necessary after a provider corrects formatting errors or submits additional information (such as the results of a provider’s own verification process or supplemental

¹³ Convo Letter at 1-2; ZVRS/Purple Petition at 3, 8, 9-10. ZVRS and Purple also complain that there were insufficient opportunities for full “end-to-end” advance testing of the TRS-URD verification system, including the manual follow-up process, and that promised opportunities for hourly submission of verification queries have been repeatedly postponed. ZVRS/Purple Petition at 3, 20-21, 24-25.

¹⁴ Convo Letter at 1; ZVRS/Purple Petition at 2, 3, 8, 13. Petitioners claim to have been diligent in explaining TRS-URD requirements and seeking consent from their users. Convo Letter at 2; ZVRS/Purple Petition at 6, 9, 13-14, Exh. A.

¹⁵ Convo Letter at 2; ZVRS/Purple Petition at 15.

¹⁶ Convo Letter at 1-2; ZVRS/Purple Petition at 18, 20-21, 23-24; ZVRS/Purple 2/22 Ex Parte at 1-2 (including redacted confidential information).

¹⁷ 47 CFR § 64.615(a)(5)(iii).

¹⁸ For some small batches that were submitted relatively early in the 60-day period, initial verification failures have exceeded 90%. Verification can be rejected in the automated process if, among other things, (1) there is a formatting error or (2) the confidence level for the user’s identity is insufficient under the acceptable risk level standard set by the Fund Administrator.

¹⁹ See, e.g., *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 4806 (CGB 2015) (allowing submission of alternative identity documentation for VRS users who do not have a social security number or Tribal identification number).

documentation from the user), and any subsequent appeals to the TRS-URD Administrator. Based on this clarification, all VRS providers will have a reasonable amount of additional time, beyond the deadline for the submission of user data,²⁰ to complete the verification process for user registrations that are submitted within that allowed time period.

9. Further, based on the TRS-URD Administrator's experience to date, we presume that a reasonable period for completing this process, from beginning to end, generally should not take longer than 60 days. We also recognize, however, that several providers have found the TRS-URD verification process to be technically challenging and labor-intensive and are only now beginning to develop efficient methods of addressing the various steps involved.²¹ Thus, we will allow providers to receive payment (if the call is otherwise compensable) for VRS calls placed after the March 31st data submission deadline by users whose data has been submitted on or before this deadline, so long as they are verified within 60 days after such deadline, i.e., by May 30, 2018.²² We believe that this will allow a reasonable opportunity to complete all allowed steps in the verification process, including the opportunity to submit additional data and request appeals by the TRS-URD Administrator. We further direct the TRS-URD Administrator to withhold compensation from a provider for calls to or from a provider's registered user, where the verification process has not been completed within 60 days after the end of the data submission period.²³ However, if it is ultimately determined that such user's identity is verified, the withheld compensation will be paid if the call is otherwise compensable.

10. We conclude that this approach will give providers a reasonable opportunity to complete the necessary follow-up verification steps, which can be time-consuming and labor-intensive (especially when additional data must be collected from users) during the initial phase of TRS-URD implementation, when thousands of previously registered users must be submitted to and verified by the TRS-URD. At the same time, it will ensure that providers are not compensated for calls made by users whose identities are unable to be verified.

11. We also remind VRS providers that after the third element of the TRS-URD—the ACQ per-call verification function—is activated, the Commission's rules will not permit VRS providers to complete a VRS call involving a video-side user whose telephone number has not been entered in the TRS-URD as a registered VRS user.²⁴ Such entry in the database will not occur until *after* the user's identity is verified.

B. Waiver of the February 28 Data Submission Deadline

12. A Commission rule may be waived for “good cause shown.”²⁵ In particular, a waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest.²⁶ In addition, we may take into account considerations of hardship, equity, or more effective implementation

²⁰ See *infra* section III.B (granting waivers to extend by 31 days the allowed time period for submitting existing-user registrations).

²¹ See, e.g., ZVRS/Purple 2/22 Ex Parte at 1-2 (including redacted confidential information)

²² This effectively grants Convo's request for a 90-day extension of the deadline for those users whose data has been uploaded to the TRS-URD, but who failed verification and whose status is pending additional information before they may be registered in the TRS-URD. See Convo Letter at 2.

²³ The TRS-URD Administrator shall implement any such withholdings consistent with our existing withholding rule for TRS. See 47 CFR § 64.604(c)(5)(iii)(L)(1)-(2).

²⁴ *Id.* § 64.615(a)(1).

²⁵ *Id.* § 1.3.

²⁶ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

of overall policy on an individual basis.²⁷ Such a waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest.²⁸

13. We find good cause to grant all VRS providers a temporary, 31-day waiver of the rule requiring the submission of registration data for all existing users within 60 days of the *TRS-URD Public Notice*.²⁹ First, we find reasonable petitioners' claims that the extended TRS-URD start-up period has imposed a significant burden on providers, especially smaller providers—for example, by requiring repeated efforts to collect information and consents from existing users in the belief that activation of the TRS-URD was imminent.³⁰ As a result, providers maintain that some of the registration information initially collected from users became out of date by the time the 60-day window for uploading this data actually opened.³¹ Similarly, the multi-step verification process has required providers to return to a sizeable number of users to collect additional information after initial failure of the automated verification check.³² Petitioners also point to internal technical and resource issues that they claim have prevented the timely submission of data.³³ A 31-day waiver is responsive to Convo's petition,³⁴ and will allow VRS providers additional time to address the resulting challenges.

14. In addition, we find reasonable providers' claims that consumers, including those who have accounts with multiple VRS providers,³⁵ have been confused about whether they have to provide consent for data submissions, as well as sensitive data such as SSNs, to only one or each of their providers.³⁶ According to petitioners, there are still thousands of VRS users from whom consent has not yet been obtained or for whom pre-submission "quality checks on the formatting of the data" have yet to be completed, and whose data, consequently, has not yet been submitted to the TRS-URD.³⁷ We are concerned that VRS users could be seriously affected and in some cases denied telephone access in the event of an emergency if their service is cut off until they can resubmit their data and have it verified. A 31-day waiver will allow additional time to ensure that all consumers have a fair opportunity to provide, and consent to the submission of, their registration data. This will also avoid an unnecessary cutoff of service to some previously registered VRS users and will more effectively implement the statutory

²⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

²⁸ *Northeast Cellular*, 897 F.2d at 1166.

²⁹ 47 CFR § 64.611(a)(4)(ii), (iii).

³⁰ *See, e.g.*, ZVRS/Purple Petition at 7, 11, 21-22.

³¹ *See, e.g., Id.* at 7, 11, 22.

³² *See* Convo Letter at 2; ZVRS/Purple Petition at 18-21; *see also* Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 4-5 (filed Jan. 22, 2018) (Sorenson January 22 *Ex Parte*).

³³ Convo Letter at 1-2; ZVRS/Purple Petition at 18, 20-21, 23-24; ZVRS/Purple February 22 *Ex Parte* at 1-2 (including redacted confidential information). We note that hourly verification processing of user data, the unavailability of which was cited by the petitioners (*see* ZVRS/Purple Petition at 3, 20-21, 24-25), is now available, as of 4:00 pm on February 23.

³⁴ Convo Letter at 2.

³⁵ Many individuals have VRS phone numbers from multiple providers. According to the TRS-URD Administrator, as of February 27, in the aggregate for all providers, 272,015 active-user telephone numbers have passed the identity verification check, but these telephone numbers belong to a total of only 97,683 distinct individuals.

³⁶ ZVRS/Purple Petition at 13.

³⁷ Convo Letter at 1; ZVRS/Purple Petition at 8, 10; Letter from Gregory Hlibok to Karen Peltz Strauss (emailed Feb. 23, 2018) (ZVRS/Purple February 23 Letter).

requirement that the Commission make TRS available to all eligible users.³⁸

15. *Granting a 31-day industry-wide waiver will serve the public interest.* Although we have received petitions from only three of the five VRS providers, it appears that other providers have experienced significant burdens in collecting and verifying the necessary data on registered users, and that all providers could productively use additional time to confirm that their registered users are aware of the need for data submission and to collect the necessary consents and information.³⁹ Further, it does not appear that granting a modest, 31-day extension of the data submission will risk a significant increase in fraud and abuse or otherwise adversely affect the public interest, especially given that it is not expected that the ACQ (per-call validation queries), which appears to be integral to the effective use of the TRS-URD to prevent fraud and abuse, will be activated during this extended period. Additionally, an industry-wide waiver promotes administrative efficiency, as it would be difficult to apply certain deadlines to some providers and other deadlines to others.

16. Accordingly, pursuant to sections 0.11, 0.141, 0.231, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.11, 0.141, 0.231, 0.361, 1.3, and paragraphs 123-24 of the *2013 VRS Reform Order*, 28 FCC Rcd at 8666, para. 123-24, IT IS ORDERED THAT section 64.611(a)(4)(ii) and (iii) of the Commission's rules, 47 CFR § 64.611(a)(4)(ii), (iii), is waived to the extent and subject to the conditions described herein, for a period of 31 days, or through March 31, 2018;

17. And it is FURTHER ORDERED that this Order is effective upon release.

Patrick Webre
Acting Chief
Consumer and Governmental Affairs Bureau

Mark Stephens
Managing Director

³⁸ See 47 U.S.C. § 225(b)(1).

³⁹ See, e.g., Letter from Mark D. Davis, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51 (filed Feb. 23, 2018) (arguing that it “would not be fair” to grant a waiver to only those providers who requested a waiver, because Sorenson also has some users that it has not yet been able to validate through the TRS-URD verification process); see also Sorenson January 22 *Ex Parte* at 4-5.