

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

In the Matter of)
Structure and Practices of the Video Relay Service) CG Docket No. 10-51
Program)
Telecommunications Relay Services and Speech-) CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)
and Speech Disabilities)

ORDER

Adopted: April 26, 2018

Released: April 26, 2018

By the Deputy Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer and Government Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) suspends for one year the April 27, 2018 deadline for video relay service (VRS) provider compliance with the Interoperability Profile for Relay User Equipment (RUE Profile).1 The RUE Profile, a technical standard that has been incorporated by reference in the Commission’s telecommunications relay service (TRS) rules, defines a standard interface between VRS provider services and end user devices equipped with the open-source user software known as the VRS access technology reference platform (VATRP).2

II. BACKGROUND

2. In the 2013 VRS Reform Order, the Commission amended its rules to codify and clarify the requirements for VRS interoperability and user device portability. These rules are intended to enable VRS users: (1) to make and receive VRS calls through any VRS provider, and to choose a different default provider, without changing the VRS device or software used to complete their calls; and (2) to make point-to-point video calls to all other VRS users, irrespective of the default provider of the calling and called party.3 To implement these requirements, the Commission delegated authority to CGB to adopt technical standards for interoperability and portability, as well as other standards that CGB finds will advance the functional equivalency mandate or improve the availability of TRS in the most efficient

1 See Structures 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, 32 FCC Rcd 687 (CGB 2017) (Bureau Interoperability Order or 2017 Bureau Interoperability FNPRM) (establishing this implementation date).

2 See 47 CFR § 64.601(a)(47) (defining the VATRP); 47 CFR § 64.621(a)(3) (incorporating the RUE Profile). The VATRP is also known as the Accessible Communications for Everyone (ACE) Application, or ACE App.

3 Structure and Practices of the Video Relay Service Program et al., Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8639, 8640, paras. 40, 42 (2013) (2013 VRS Reform Order); see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Declaratory Ruling and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5442 (2006).

manner.⁴ The Commission also directed the Managing Director to oversee the Commission's procurement of an interoperability testing tool, the VATRP, defined as "[a] software product procured by or on behalf of the Commission that provides VRS functionality, including the ability to make and receive VRS and point-to-point calls, dial-around functionality, and the ability to update user registration location, and against which providers may test their own VRS access technology and platforms for compliance with the Commission's interoperability and portability rules."⁵

3. To achieve interoperability across VRS providers and devices, CGB amended the Commission's rules on January 17, 2017, to incorporate by reference a number of technical standards for VRS, including (1) the VRS Provider Interoperability Profile, which provides technical specifications for the interfaces between two VRS providers and between a VRS provider and the TRS numbering directory, and (2) the xCard format for contact lists and speed dial lists.⁶ Further, to enable a provider's compliance with these standards to be tested using the VATRP software tool, the Bureau added section 64.621(a)(3), which requires all VRS providers, by April 27, 2018, to ensure that their video communication service platforms and provider-distributed user devices are interoperable with the VATRP, including for point-to-point calls, in accordance with the RUE Profile.⁷

4. *Sorenson Petition.* On May 30, 2017, Sorenson filed a petition seeking reconsideration of the Bureau's decision to mandate compliance with the RUE Profile, on a number of asserted grounds.⁸ In the alternative, Sorenson requests that the RUE Profile compliance deadline be suspended, asserting that a final version of the RUE Profile has not been released, that important details remain undefined, and that a version of the VATRP testing tool that is suitable for interoperability testing has not yet been completed.⁹ On July 7, 2017, CGB released a Public Notice seeking comment on the Sorenson Petition.¹⁰

⁴ *2013 VRS Reform Order*, 28 FCC Rcd at 8642-44, paras. 47-52. The Commission tasked the Chief Technology Officer and the Chief of the Office of Engineering and Technology with coordinating Commission support for and participation in the development of such standards. *Id.* at 8642, para. 48.

⁵ 47 CFR § 64.601(a)(47); *2013 VRS Reform Order*, 28 FCC Rcd at 8644-47, paras. 53-61. The term "VRS access technology" means "[a]ny equipment, software, or other technology issued, leased, or provided by an Internet-based TRS provider that can be used to make and receive a VRS call." 47 CFR § 64.601(a)(46). For clarity, in this Order, we use the term "provider-distributed user device," rather than "access technology," to refer to equipment, software, or other technology issued, leased, or provided to users by a VRS provider.

⁶ *See Bureau Interoperability Order*, 32 FCC Rcd at 689-90, 692-93, paras. 7-8, 15-16; 47 CFR § 64.621(b).

⁷ 47 CFR § 64.621(a)(3); *Bureau Interoperability Order*, 32 FCC Rcd at 691-92, paras. 11-14. Responding to VRS providers' concerns, the Bureau did not make the RUE Profile applicable to the interface between a VRS provider's video communication service platform and provider-distributed user devices, deferring that issue to the pending *2017 Bureau Interoperability FNPRM*. *Id.*; *2017 Bureau Interoperability FNPRM*, 32 FCC Rcd at 694-95, paras. 22-25.

⁸ *Sorenson Communications, LLC, Petition for Partial Reconsideration, or in the Alternative, Suspension of the RUE Implementation Deadline*, CG Docket Nos. 10-51 and 03-123 (filed May 30, 2017) (*Sorenson Petition*). Sorenson questions whether the VATRP is still needed, challenges the Bureau's authority to incorporate the RUE Profile into the Commission's rules, claims the Bureau did not sufficiently evaluate VRS providers' costs to implement this standard, and alleges that Sorenson's intellectual property is implicated by the RUE Profile and VATRP. *Id.* at 4-13, 18-20. This Order is not a decision on Sorenson's request for reconsideration, which will be addressed at a later time.

⁹ *Sorenson Petition* at 13-17.

¹⁰ *Consumer and Governmental Affairs Bureau Seeks Comment on Sorenson Communications, LLC Petition for Partial Reconsideration of Video Relay Service Interoperability Order*, Public Notice, 32 FCC Rcd 5502 (CGB 2017); *Consumer and Governmental Affairs Bureau Announces Comment Dates for Sorenson's Petition for Partial Reconsideration of the 2017 VRS Interoperability Order*, Public Notice, 32 FCC Rcd 5778 (CGB 2017).

All VRS providers support suspension of the RUE Profile compliance deadline.¹¹ Consumer Groups support “a brief and finite delay in compliance” if necessary to address implementation issues, subject to sufficient Commission oversight to ensure continued progress toward interoperability.¹²

III. DISCUSSION

5. Compliance deadlines may be suspended, amended, or waived, for “good cause shown.”¹³ Good cause exists when particular facts would make strict compliance inconsistent with the public interest.¹⁴ The Commission may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁵

6. We find good cause to suspend the deadline for VRS provider compliance with the RUE Profile. Although the Bureau set the April 27, 2018 compliance deadline based on the expectation that the VATRP would be available to support interoperability testing well before this date,¹⁶ this has not occurred. We conclude that some additional steps are needed to make the VATRP an effective tool for this purpose.¹⁷ Accordingly, we find that it serves the public interest to suspend the RUE Profile compliance deadline for one year, or until April 29, 2019. We expect that this time period will be sufficient to enable completion of the VATRP, as well as to provide a reasonable opportunity for VRS providers to prepare for compliance with the RUE specifications.¹⁸

IV. PROCEDURAL MATTERS

7. 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), (844) 432-2275 (videophone), or (202) 418-0432 (TTY).

¹¹ ASL Services Holdings, LLC d/b/a GlobalVRS Comments at 1 (filed Aug. 7, 2017); Convo Reply Comments at 3 (filed Aug. 17, 2017); ZVRS Holding Company, CSDVRS, LLC d/b/a ZVRS, and Purple Communications, Inc. (collectively, ZVRS) Reply Comments at 2 (filed Aug. 17, 2017).

¹² Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Deaf and Hard of Hearing Consumer Advocacy Network, Association of Late-Deafened Adults, Inc., Cerebral Palsy and Deaf Organization, and Deaf Seniors of America (collectively, Consumer Groups) Reply Comments at 7 (filed Aug. 17, 2017).

¹³ 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown).

¹⁴ *Northeast Cellular Tel. Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C.Cir.1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C.Cir.1969)). While this line of cases concerns the Commission’s authority to waive its rules, the same good cause basis and corresponding standard equally apply to a determination to suspend the Commission rules or any part thereof. *See, e.g., Closed Captioning of Video Programming, Order Suspending Effective Date*, 24 FCC Rcd 14777 (2009) (finding good cause to suspend a provision of the Commission’s closed captioning rules in order to permit resolution of an apparent conflict with certain statutory provisions).

¹⁵ *See WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

¹⁶ *See Bureau Interoperability Order*, 32 FCC Rcd at 692, para. 14.

¹⁷ *See Convo Reply Comments at 3 & n.9.*

¹⁸ We are not persuaded that the record supports deferring the deadline until one year *after* completion of the VATRP, Sorenson Petition at 13-14, 18, especially in light of the extended opportunity that VRS providers have had to participate in developing the RUE Profile and to familiarize themselves with the core functions of the VATRP. Pending completion of the VATRP, we expect that VRS providers will continue to focus on ensuring effective implementation of the VRS Provider Interoperability Profile and the xCard standard. *See ZVRS Comments at 3-4* (filed Aug. 7, 2017) (noting progress in implementing these standards).

V. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, the compliance deadline in section 64.621(a)(3) of the Commission's rules, 47 CFR § 64.621(a)(3), as adopted in the *Bureau Interoperability Order*, 32 FCC Rcd 687 (2017), IS SUSPENDED until April 29, 2019.

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

FEDERAL COMMUNICATIONS COMMISSION

Karen Peltz Strauss
Deputy Chief
Consumer and Governmental Affairs Bureau