

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

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

ORDER

Adopted: March 16, 2020

Released: March 16, 2020

By the Chief, Consumer and Governmental Affairs Bureau:

1. In consideration of the recent substantial increase in COVID-19 (coronavirus) cases across the United States, the resulting widespread public concern, various state and local public health measures taken in response, and the President’s declaration of a national emergency, the Consumer and Governmental Affairs Bureau (Bureau) finds good cause to grant, on our own motion, temporary waivers of certain requirements under sections 64.604 and 64.606 of the Commission’s rules, in order to ensure the uninterrupted availability of telecommunications relay services (TRS) in the United States during this public health emergency. Except as otherwise specifically indicated, the waivers granted herein are retroactive to March 13, 2020 (the date of the President’s declaration of a National Emergency), and will continue until May 15, 2020 (60 days from adoption of this Order, consistent with Centers for Disease Control and Prevention (CDC) guidance).

2. The Bureau has been advised that, due to widespread public concern about the spread of the coronavirus, as well as school closings and other measures recently taken by various state and local authorities, TRS providers are experiencing a sharp increase in traffic levels and, simultaneously, a sharp reduction in the number of communications assistants (CAs) able to work at TRS call centers. Because of this, in recent days, some TRS providers report they have missed daily speed-of-answer requirements. To ensure that service is not interrupted due to these extraordinary developments, which severely challenge

1 Executive Office of the President, Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (Mar. 13, 2020), https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

2 47 CFR §§ 64.604, 64.606.

3 See 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown). Good cause may be found if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); NetworkIP, LLC v. FCC, 548 F.3d 116, 125-128 (D.C. Cir. 2008); see also WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

4 CDC, Get Your Mass Gatherings or Large Community Events Ready: Interim Guidance for Coronavirus Disease 2019 (COVID-19) (Mar. 15, 2020), https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html.

their ability to answer and process all TRS calls, certain TRS providers are making immediate arrangements for a large number of their CAs who currently work at call centers to handle TRS calls at their homes instead. In addition, due to the unpredictability of the geographic spread of the coronavirus, TRS providers anticipate there may be a need to make operational changes on an expedited basis.

3. *Waivers applicable to VRS.* Because different rules apply to different forms of TRS, these circumstances are affecting VRS providers differently than other TRS providers. Due to the pressing need to connect many new at-home workstations, it may be temporarily infeasible for VRS providers to comply with certain requirements applicable to at-home call handling by VRS CAs.⁵ Based on these circumstances, the Bureau finds good cause to waive from March 13, 2020, through May 15, 2020, subject to the conditions set forth below, the following provisions of the at-home pilot program and permanent rules:

- The cap on the percentage of a VRS provider's conversation minutes that may be handled by at-home CAs.⁶
- The requirement that at-home CAs have at least three years of experience as a call center CA (under the pilot program rules) or as an interpreter (under the permanent program rules).⁷
- The requirement that virtual teaming be available to at-home CAs for any VRS call.⁸
- The requirement that access to the location of a CA's home workstation be restricted solely to the CA.⁹ This waiver is conditional on such access being restricted solely to the CA and other provider personnel (including other CAs) during their working hours.

⁵ At-home VRS call handling was authorized in 2017 as a pilot program. Pending the effectiveness of permanent rules, the expiration date of the pilot program has been extended to April 30, 2020, or the effective date of such rules, whichever occurs first. *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Order, 34 FCC Rcd 9880, 9880, para. 1 (CGB 2019). The Commission recently authorized at-home VRS call handling on a permanent basis; however, the permanent rules will not become effective until approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act. *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order, FCC 20-7, at 12-13, para. 33 (Jan. 31, 2020) (*Permanent At-Home Order*) (permanent rules). This order waives specified provisions of the pilot program rules and of the permanent rules, as applicable. See generally 47 CFR § 64.604(b)(8) (pilot program rules); *Permanent At-Home Order* at 15-17, Appx. B (permanent rules).

⁶ This cap is set at 30% under the pilot program and 50% under the permanent rules. See 47 CFR § 64.604(b)(8)(iii); *Permanent At-Home Order* at 15, Appx. B (amending 47 CFR § 64.604(b)(8)(i)).

⁷ See 47 CFR § 64.604(b)(iv)(A); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iii)). We do not waive the requirement that CAs have the experience, skills, and knowledge necessary to effectively interpret from home workstations, including a thorough understanding of the TRS mandatory minimum standards. 47 CFR § 64.604(b)(iv)(A); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR §§ 64.604(b)(8)(iii)).

⁸ See 47 CFR § 64.604(b)(iv)(C), (v)(B); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iii)). Waiver of these provisions is limited to the requirement to support virtual teaming.

⁹ See 47 CFR § 64.604(b)(v)(A); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iii)).

- The requirements that the VRS provider (1) inspect and approve each at-home workstation before activating it for use by the CA, and (2) conduct random and unannounced inspections of at least five percent (5%) of activated at-home workstations during each 12-month period.¹⁰ The waiver of the workstation inspection requirement is conditional on such inspections being made upon the expiration of the waiver period for all at-home workstations that remain in use.
- The requirement to equip at-home workstations with monitoring technology.¹¹
- The requirement that if a CA's home or other worksite is simultaneously used by multiple CAs, it must be identified and reported as a call center (provided that such worksites comply with all non-waived at-home rules).¹²

4. We also grant conforming waivers of sections 64.604(b)(4)(iii) (prohibiting at-home call handling except in accordance with the pilot program rules)¹³ and 64.604(b)(8)(v) (requiring that the home environment and workstations used for at-home VRS call handling enable confidential and uninterrupted service, in compliance with minimum TRS standards, to the same extent as the provider's call centers, including being equipped with effective means to prevent eavesdropping and interruptions),¹⁴ to the extent necessary to conform to the specific waivers granted above. We also note that the Commission has previously clarified that neither the pilot program rules nor the permanent at-home rules require installation of a separate broadband access line dedicated solely to handling VRS calls from an at-home workstation to a VRS provider's network.¹⁵

5. In addition, to ensure that VRS providers have operational flexibility, we find good cause to waive, from March 13, 2020, through May 15, 2020: (1) the prohibition on international VRS calls placed by VRS users who have pre-registered to make such calls while on travel outside the United States and whose travel exceeds the time limit set by such pre-registration; and (2) the requirements that VRS providers notify the Commission and the TRS Fund administrator of the opening, closing, or relocation of any call center at least 30 days prior to such change and update pending applications for certification regarding such changes¹⁶ (such waivers being conditional on the VRS provider providing such notifications and updates upon expiration of the waiver period).

6. *Waivers applicable to non-VRS forms of TRS.*¹⁷ Due to the recent sharp increase in TRS traffic and the continuing challenge of maintaining CA staffing during this national emergency, it may be temporarily infeasible for TRS providers to comply fully with the daily speed-of-answer standard applicable to all forms of TRS other than VRS.¹⁸ Based on these circumstances, the Bureau finds good

¹⁰ See 47 CFR § 64.604(b)(vi)(A), (E); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iv)).

¹¹ See 47 CFR § 64.604(b)(8)(vi)(C); *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iv)(C)).

¹² See *Permanent At-Home Order* at 8, para. 20.

¹³ 47 CFR § 64.604(b)(4)(iii).

¹⁴ 47 CFR § 64.604(b)(4)(v), (v)(C), (D); see also *Permanent At-Home Order* at 16, Appx. B (amending 47 CFR § 64.604(b)(8)(iii)).

¹⁵ *Permanent At-Home Order* at 8, para. 19.

¹⁶ 47 CFR §§ 64.604(c)(5)(iii)(N)(2)(iii), 64.606(a)(2)(ii)(A).

¹⁷ The non-VRS forms of TRS are traditional (TTY-based) TRS, speech-to-speech relay service, captioned telephone service, Internet Protocol Captioned Telephone Service, and Internet Protocol Relay Service. See 47 CFR §§ 64.601(a)(19), (20), (37), (39), (40).

¹⁸ See 47 CFR § 64.604(b)(2)(ii) (requiring TRS providers, on each day of service, to answer 85% of all calls within 10 seconds). The speed-of-answer standard for VRS allows much more flexibility, requiring VRS providers, on a

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cause to waive, from March 1, 2020,¹⁹ through May 15, 2020, the requirement that non-VRS TRS providers answer 85% of calls within 10 seconds, measured on a daily basis, conditional on the TRS provider ensuring that 85% of calls are answered within 120 seconds, measured on a *monthly* basis. We grant a conforming waiver of the rule requiring adequate TRS facility staffing to provide callers with efficient access under projected calling volumes,²⁰ to the extent necessary to conform to the specific speed-of-answer waiver granted above.

7. Although non-VRS TRS providers that choose to allow CAs to work at home are not subject to the specific call-handling regulations applicable to VRS providers, such at-home TRS call handling must comply with non-waived minimum TRS standards. However, we clarify that, during the waiver period, we will not interpret the TRS confidentiality rule as prohibiting incidental disclosure of relay communications to CAs or other TRS provider personnel who may incidentally overhear portions of a TRS conversation, e.g., while working at an adjacent at-home workstation, provided that the TRS provider maintains confidentiality safeguards to prevent further disclosure of such conversation content.²¹ We also clarify that, in submitting compensation requests for calls handled by an at-home CA, a non-VRS TRS provider complies with the requirement to submit a call center identification number for each call²² if the provider submits the identification number for a call center that the provider has designated to be associated with the at-home CA for administrative purposes.

8. All other TRS rules remain in effect at this time; however, the Bureau will continue to monitor this emergency situation and will consider and take additional actions as warranted. Further, in the event that the circumstances described in this Order appear likely to persist beyond the expiration of the current waiver period, we will address in a further order any necessary extension of any of the waivers granted in this Order. Finally, while we remain committed to the integrity of the TRS program, to guarding against waste, fraud, and abuse, and to ensuring that funds disbursed through the TRS program are used for appropriate purposes, we find that the overwhelming public interest in ensuring the continued availability of TRS services during this national emergency justifies grant of the temporary waivers described above.

9. *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, 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).

10. *Additional Information.* For further information regarding this item, please contact Michael Scott, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-1264 or by e-mail to Michael.Scott@fcc.gov.

11. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(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 provisions of sections 64.604 and 64.606 of the Commission's rules are WAIVED to the extent described herein.

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monthly basis, to answer 80% of all VRS calls within 120 seconds. 47 CFR § 64.604(b)(2)(iii). We do not grant a waiver of the VRS speed-of-answer standard at this time.

¹⁹ Making this waiver retroactive to March 1st ensures that speed-of-answer performance for the month of March can be calculated on a monthly basis, as the terms of the waiver provide.

²⁰ 47 CFR §§ 64.604(b)(2)(i).

²¹ 47 CFR §§ 64.604(a)(2) ("Except as authorized by section 705 of the Communications Act, 47 U.S.C. 605, CAs are prohibited from disclosing the content of any relayed conversation . . .").

²² See 47 CFR § 64.604(c)(5)(iii)(D)(2)(ix).

12. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre, Chief
Consumer and Governmental Affairs Bureau