

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

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

ORDER

Adopted: August 27, 2021

Released: August 27, 2021

By the Chief, Consumer and Governmental Affairs Bureau:

1. Due to the ongoing COVID-19 pandemic, the Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (Commission), on its own motion, extends through December 31, 2021, the temporary waivers of certain rules governing telecommunications relay services (TRS).

2. Background. At the start of the COVID-19 pandemic, as states responded with emergency regulations, TRS traffic levels increased, and TRS providers' ability to staff call centers was sharply reduced, severely challenging providers' ability to answer and process TRS calls. Therefore, the Commission temporarily waived certain rules governing TRS to ensure the uninterrupted availability of TRS during the extraordinary circumstances presented by the COVID-19 pandemic. By granting

1 See Executive Office of the President, Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19 Pandemic), 86 FR 11599 (Feb. 24, 2021) ("national emergency declared on March 13, 2020, and beginning March 1, 2020, must continue in effect beyond March 1, 2021"); Executive Office of the President, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (Mar. 13, 2020); see also Executive Office of the President, Remarks by President Biden on the Fight to Contain the COVID-19 Pandemic (Jan. 26, 2021), https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/01/26/remarks-by-president-biden-on-the-fight-to-contain-the-covid-19-pandemic/.

2 See 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, on the Commission's own motion or pursuant to a petition, 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); see also WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

3 Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 2715, 2715-76, para. 2 (CGB 2020) (March 16 TRS Waiver Order); Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program, CG Docket Nos. 13-24, 03-123, and 10-51, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866, 10892, para. 54 (2020) (October 2 TRS Waiver Order).

4 March 16 TRS Waiver Order (temporarily waiving multiple TRS rules to ensure continued services at increased demand levels during the COVID-19 emergency); Telecommunications Relay Services and Speech-to-Speech

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temporary emergency waivers of certain provisions of the Commission's rules on speed of answer, video relay service (VRS) at-home call handling, VRS call-center status notifications, international VRS calling, VRS subcontracting, emergency call handling, and early termination of calls, the Bureau allowed TRS service providers greater flexibility to provide service during this difficult period.⁵ Each of these waivers was previously extended through August 31, 2021.⁶ The Commission has directed the Bureau to monitor the situation and consider, if necessary, additional extension of these waivers.⁷

3. Although many state-imposed restrictions, including social distancing measures, mask mandates, and mandatory quarantines, were loosened or lifted during the second quarter of 2021,⁸ uncertainty has arisen recently regarding the current trend of the pandemic, due to a surge in cases with the Delta variant⁹ and plateauing of vaccination rates.¹⁰ Indeed, the Centers for Disease Control (CDC)

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Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of Video Relay Service Program, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 3018 (CGB 2020) (*April 3 TRS Waiver Order*) (temporarily waiving rule restricting VRS providers from contracting for interpretation services with non-VRS certified entities); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 4894 (CGB 2020) (*May 14 TRS Waiver Order*) (extending previous COVID-19 waivers, temporarily waiving provisions of the emergency call handling rule for IP Relay communications assistants (CAs) working from home, and modifying *March 16 TRS Waiver Order* with respect to international VRS calls); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 6432 (CGB 2020) (*June 22 TRS Waiver Order*) (extending all previous COVID-19 waivers); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 9783 (CGB 2020) (*August 26 TRS Waiver Order*) (extending all previous COVID-19 waivers); *October 2 TRS Waiver Order*, 35 FCC Rcd at 10892-94, paras. 54-56 (extending all previously granted COVID-19 waivers through Feb. 28, 2021); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 14634 (CGB 2020) (*December 18 TRS Waiver Order*) (granting Hamilton Relay, Inc. (Hamilton), and T-Mobile USA, Inc. (T-Mobile), partial waivers permitting early termination of certain TRS calls); *Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, 36 FCC Rcd 4264 (CGB 2021) (*February 18 TRS Waiver Order*) (extending all previous COVID-19 waivers). These orders are collectively referred to herein as the "COVID-19 Waiver Orders."

⁵ See *March 16 TRS Waiver Order*, 35 FCC Rcd at 2715-76, para. 2; *April 3 TRS Waiver Order*, 35 FCC Rcd at 3018, para. 2; *May 14 TRS Waiver Order*, 35 FCC Rcd at 4894-95, paras. 4-5; *December 18 TRS Waiver Order*, 35 FCC Rcd at 14636-38, para. 6.

⁶ See *February 18 TRS Waiver Order*, 36 FCC Rcd at 4265-67, para. 3.

⁷ See *October 2 TRS Waiver Order*, 35 FCC Rcd at 10893-94, para. 56. The Commission's direction predated the *December 18 TRS Waiver Order*, which granted Hamilton and T-Mobile partial waivers of section 64.604(a)(3)(i) of the Commission's rules. However, the circumstances which justified granting the December 18 waiver were the same as those justifying the prior waiver orders.

⁸ See, e.g., Melanie Grayce West, "States Lift Mask Mandates After CDC Guidance," *The Wall Street Journal* (May 14, 2021), <https://www.wsj.com/articles/some-states-lift-mask-mandates-after-cdc-guidance-11621019469>; Jiachuan Wu, et al., "Mask Mandates Are Being Lifted Across the Country. See If There's a Mandate in Your State," *NBC News* (Mar. 10, 2021), <https://www.nbcnews.com/news/us-news/mask-mandates-are-being-lifted-across-country-see-if-there-n1259448>.

⁹ See, e.g., Paul LeBlanc, et al., "CDC Document Warns Delta Variant Appears to Spread as Easily as Chickenpox and Cause More Severe Infection," *CNN* (July 30, 2021), <https://www.cnn.com/2021/07/29/politics/cdc-masks-covid-19-infections/index.html>; Lindsey Bever et al., "What You Need to Know about the Highly Contagious Delta Variant," *The Washington Post* (July 28, 2021), <https://www.washingtonpost.com/health/2021/07/07/delta-variant->

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has recommended that individuals, including those who are fully vaccinated, wear masks indoors in those areas with high-transmission COVID rates.¹¹ In some jurisdictions, restrictions already have been reimposed.¹² Therefore, many issues remain unsettled regarding the safe operation of schools, businesses, and other facilities, with associated potential to affect both the availability of CAs and TRS traffic levels.¹³ As a consequence, TRS providers report, they continue to face challenges and uncertainties in their ability to staff their operations and meet call demand.¹⁴

4. Public assessments of the status of the pandemic indicate that these uncertainties may continue for several months.¹⁵ For example, providers' heavy reliance on at-home TRS call handling is

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[covid/](#); *see also* Letter from Jeff Rosen, Convo Communications LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 3-4 (filed July 26, 2021) (Convo Letter) (noting impact of Delta variant spread on staffing call centers).

¹⁰ *See, e.g.*, Zoya Wazir, "How the U.S. Can Increase Lagging Vaccination Rates," U.S. News & World Report (July 23, 2021), <https://www.usnews.com/news/health-news/articles/2021-07-23/public-health-leaders-sound-the-alarm-over-lagging-covid-19-vaccination-rates>; National Public Radio, "U.S. Surgeon General Is Confident U.S. Will Move Past Vaccination Plateau" (July 22, 2021), <https://www.npr.org/2021/07/22/1019130153/u-s-surgeon-general-is-confident-the-u-s-will-move-past-vaccination-plateau>.

¹¹ *See* Centers for Disease Control, "Interim Public Health Recommendations for Fully-Vaccinated People" (updated July 28, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>; *see also* Kaitlan Collins, et al., "CDC Changes Mask Guidance in Response to Threat of Delta Variant of COVID-19," CNN (July 27, 2021), <https://www.cnn.com/2021/07/27/politics/cdc-mask-guidance/index.html>.

¹² *See, e.g.*, Julie Zauzmer and Karina Elwood, "DC Reinstates Indoor Mask Mandate as Coronavirus Cases Rise," The Washington Post (July 28, 2021), https://www.washingtonpost.com/local/dc-mask-mandate-covid/2021/07/29/7699c8e0-efe6-11eb-81d2-ffae0f931b8f_story.html; Luke Money, et al., "L.A. County Will Require Masks Indoors Amid Alarming Rise in Coronavirus Cases," Los Angeles Times (July 15, 2021), <https://www.latimes.com/california/story/2021-07-15/l-a-county-will-require-masks-indoors-amid-covid-19-surge>.

¹³ *See, e.g.*, Steven Nelson, et al., "CDC Recommends New Indoor Mask Mandates, Including in Schools," New York Post (July 27, 2021), <https://nypost.com/2021/07/27/cdc-to-recommend-some-vaccinated-people-wear-masks-indoors/>; Dr. Max Gomez, "Rise of Delta Variant Generating Confusion about Covid Vaccine, Boosters, and More," CBS News New York (July 12, 2021), <https://newyork.cbslocal.com/2021/07/12/covid-delta-variant/>; Jack Nicas and Mike Isaac, "Apple Delays Its Return to Office as the Delta Variant Surges," The New York Times (July 20, 2021), <https://www.nytimes.com/2021/07/20/technology/apple-return-to-office-delay.html>.

¹⁴ *See* Letter from Scott R. Freiermuth, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 2-3 (filed Aug. 2, 2021), <https://ecfsapi.fcc.gov/file/1080280965946/Call%20Takeover%20Report%20July%202021%20FINALp.pdf> (T-Mobile Aug. 2 Report) (recommending extension of COVID-related TRS waivers due to recent changes in pandemic); Letter from David A. O'Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123 (filed July 30, 2021) (Hamilton Letter) (recommending extension of the speed-of-answer waiver); Letter from John T. Nakahata, Counsel to Sorenson Communications LLC, and CaptionCall LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123, 10-51, and 13-24, at 1 (filed July 30, 2021) (corrected) (Sorenson Letter) (recommending extension of COVID-related waivers due to surging Delta variant cases); Letter from Andrew O. Isar, Consultant to ASL Services Holdings, LLC d/b/a GlobalVRS, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 2 (filed July 26, 2021) (GlobalVRS Letter) (recommending extension of waivers given uncertainty of the COVID-19 trajectory).

¹⁵ *See, e.g.*, Rob Stein and Selena Simmons-Duffin, "The Delta Variant Will Drive a Steep Rise in U.S. COVID Deaths, a New Model Shows," National Public Radio (July 22, 2021) (reporting on study showing COVID deaths steadily increasing through summer and fall 2021, peaking in mid-October, due to Delta variant), <https://www.npr.org/sections/health-shots/2021/07/22/1019475669/delta-variant-will-drive-a-steep-rise-in-covid-deaths-model-shows>; Ken Terry, "What Experts Predict from COVID This Fall and Winter," WebMD (May 20, 2021) (describing differing opinions on future severity of pandemic), <https://www.webmd.com/lung/news/20210520/what-experts-predict-from-covid-this-fall-and-winter>; Convo Letter at 5-6 (Convo must continue to rely on at-home CAs and

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likely to continue, due to uncertainty as to CAs' ability or willingness to return to working in call centers.¹⁶ Further, some TRS providers have their primary call centers in those areas identified by the CDC as communities with high-transmission rates, making return to call centers difficult.¹⁷ In addition, reports filed by Hamilton and T-Mobile demonstrate a continuing need for the partial rule waivers granted in December 2020, which allow interruption of a TRS call in certain unusual circumstances.¹⁸ Moreover, the Bureau is not aware of any significant increase in consumer complaints regarding TRS as a result of the grant of the temporary pandemic-related waivers.

5. Accordingly, to ensure that robust, reliable TRS remains available to persons who are deaf, hard of hearing, deafblind, or have speech disabilities, we find good cause to extend all previously granted COVID-19 waivers through December 31, 2021. Given the uncertainties described above, a further four-month extension will allow providers a reasonable window of certainty for planning purposes.

6. The Bureau will continue to monitor the situation and, in the event that the circumstances described in this Order appear likely to persist or evolve beyond the expiration of this extension of the waiver period, will consider, if necessary, additional extension of the temporary waivers extended by this action. Our extension of the service interruption waivers granted to Hamilton and T-Mobile in the *December 18 TRS Waiver* is conditioned on the provider's submission of a further report, no later than November 30, 2021, describing the provider's progress in developing and deploying technical solutions to allow CA substitution without service interruption for each form of TRS included in the waiver.

7. *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 and Governmental Affairs Bureau at 202-418-0530.

8. *Additional Information.* For further information regarding this item, please contact William Wallace, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-2716 or by email to William.Wallace@fcc.gov.

9. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, and 225 of the

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contract CAs); Hamilton Letter at 2 (recommending extension of TRS waivers because of continued uncertainty when pandemic will subside).

¹⁶ See Hamilton Letter at 1 (Delta variant is disrupting return-to-work plans); GlobalVRS Letter, at 1 (many interpreters who transitioned to at-home work will not return to call centers for personal health reasons); Convo Letter at 5 (CAs with children at home, who cannot yet be vaccinated, may not be willing to return to call centers and risk exposure); T-Mobile Aug. 2 Report at 2-3 (call center closures and call traffic surges will continue to disrupt operations).

¹⁷ See Sorenson Letter at 1 (Sorenson's call centers are primarily located in western states where Delta variant cases are increasing); Convo Letter at 5 (Convo's largest call centers are in states with low vaccination rates). See also GlobalVRS Letter at 2 (noting that GlobalVRS has its primary call centers in Florida and Puerto Rico).

¹⁸ These waivers were granted to allow Hamilton and T-Mobile (which provides TRS through a subsidiary, Sprint Communications Company L.P.) some operating flexibility in "exigent" circumstances involving the occasional need to replace the CA handling an unusually long-duration TRS call. *December 18 TRS Waiver Order*, 35 FCC Rcd at 14635, para. 3. As a condition of these waivers and their subsequent extension, Hamilton and T-Mobile were required to report on their progress in developing technical solutions to enable mid-call replacement of a CA without service interruption. *Id.* at 14638, para. 7; *February 18 TRS Waiver Order*, 36 FCC Rcd at 4267, para. 4. According to their most recent reports, the providers have developed better technical solutions for some services, reducing the disruption that occurs when such hand-offs are necessary, but not to the extent of eliminating any interruption of service. See Hamilton, Report, CG Docket Nos. 03-123 and 10-51 (filed July 30, 2021), <https://ecfsapi.fcc.gov/file/1073055589742/Hamilton%20Report%20on%20call%20takeover%20procedures%20July%202021%20Report.pdf> (Hamilton July 30 Report); T-Mobile Aug. 2 Report.

Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, the effectiveness of all waivers of TRS rules granted in the COVID-19 Waiver Orders is extended through December 31, 2021, subject to the conditions herein.

10. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's 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