

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: December 30, 2021

Released: December 30, 2021

By the Chief, Consumer and Governmental Affairs Bureau:

1. Due to the ongoing COVID-19 emergency,1 the Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (Commission), on its own motion, extends through March 31, 2022, certain temporary waivers of rules governing telecommunication relay services (TRS).2

2. Background. At the beginning of the COVID-19 outbreak, as states responded with emergency regulations, TRS traffic levels increased sharply and TRS providers' ability to staff call centers was sharply reduced, severely challenging providers' ability to answer and process TRS calls.3 The Commission temporarily waived certain rules governing TRS to ensure the uninterrupted availability of TRS during these extraordinary circumstances.4 By granting temporary waivers of certain provisions

1 See Executive Office of the President, Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic, 86 FR 11599 (Feb. 26, 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. 18, 2020); see also Executive Office of the President, Statement by President Joe Biden on the Omicron COVID-19 Variant (Nov. 26, 2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/26/statement-by-president-joe-biden-on-the-omicron-covid-19-variant/.

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).

3 See 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 (CGB 2020) (March 2020 Order).

4 See id.; 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 3018 (CGB 2020) (April 2020 Order); 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 2020 Order); 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 14634 (CGB 2020) (December 2020 Order) (collectively TRS Waiver Orders).

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 providers greater flexibility to provide service during this difficult period.⁵ These emergency waivers have been extended on several occasions, and the most recent extensions expire December 31, 2021.⁶ The Commission has directed the Bureau to monitor the situation and consider, if necessary, additional extension of these waivers.⁷

3. *Waiver Standard.* A Commission rule may be waived for good cause shown.⁸ In particular, waiver of a rule is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.⁹ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁰ Waiver of a rule is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest and will not undermine the policy underlying the rule.¹¹

4. Although many state-imposed restrictions, including social distancing measures, mask mandates, and mandatory quarantines, have been loosened or lifted,¹² uncertainty continues regarding the current trend of the disease, due to a surge in cases with the Omicron variant¹³ and a lag in vaccination

⁵ See *March 2020 Order*, 35 FCC Rcd at 2715-16, para. 2; *April 2020 Order*, 35 FCC Rcd at 3018, para. 2; *May 2020 Order*, 35 FCC Rcd at 4894-95, paras. 2-3.

⁶ See *May 2020 Order*, 35 FCC Rcd 4894 (extending waivers through June 30, 2020); *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 6432 (CGB 2020) (extending waivers through August 31, 2020); *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 9783 (CGB 2020) (extending waivers through November 30, 2020); *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, 10892-93, para. 54 (2020) (*October 2020 Commission Order*) (extending waivers through February 28, 2021); *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, 36 FCC Rcd 4264 (CGB 2021) (*February 2021 Order*) (extending waivers through August 31, 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, DA 21-1064 (CGB 2021) (*August 2021 Order*) (extending waivers through December 31, 2021).

⁷ *October 2020 Commission Order*, 35 FCC Rcd at 10893-94, para. 56.

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

⁹ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *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.

¹¹ *Northeast Cellular*, 897 F.2d at 1166; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-128 (D.C. Cir. 2008).

¹² See, e.g., Muriel Bowser, Mayor, District of Columbia, "Mayor Bowser to Lift Indoor Mask Mandate on Monday, November 22," News Release (Nov. 16, 2021), <https://mayor.dc.gov/release/mayor-bowser-lift-indoor-mask-mandate-monday-november-22>; Alison Durkee, "Some Mask Mandates Lifted where COVID-19 Cases are Falling," *Forbes* (Oct. 20, 2021), <https://www.forbes.com/sites/alisondurkee/2021/10/20/some-mask-mandates-lifted-where-covid-19-cases-are-falling/?sh=7bc36b62395f>.

¹³ See Centers for Disease Control, "CDC Statement on B.1.1.529 (Omicron variant)" (Nov. 26, 2021), <https://www.cdc.gov/media/releases/2021/s1126-B11-529-omicron.html>; Scott Nueman, "The World Health

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rates.¹⁴ Indeed, the Centers for Disease Control (CDC) has recommended that individuals, including those who are fully vaccinated, wear masks indoors in those areas with substantial or high community transmission.¹⁵ In some jurisdictions, restrictions are continuing to be imposed or are being reinstated.¹⁶ Therefore, many issues remain unsettled regarding the safe operation of schools, businesses, and other facilities, with associated potential to affect both the availability of communications assistants (CAs) and TRS traffic levels.¹⁷ As a consequence, TRS providers report, they continue to face challenges and uncertainties in their ability to staff their operations and meet call demand.¹⁸ In addition, international travel restrictions, of varying durations, continue to be applied by various nations, and their likely future application cannot be confidently predicted.¹⁹

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Organization Warns of Very High Risk Posed by the Omicron Variant,” National Public Radio (Nov. 29, 2021), <https://www.npr.org/sections/coronavirus-live-updates/2021/11/29/1059723751/omicron-variant-latest-high-risk-world-health-organization>; Bryan Pietsch, et al., “Biden says Omicron Variant is concerning but ‘not a cause for panic’; CDC urges all adults to get boosters,” The Washington Post (Nov. 29, 2021), <https://www.washingtonpost.com/nation/2021/11/29/covid-omicron-variant-live-updates/>.

¹⁴ See, e.g., Alyssa Lukpat, “The U.S. Is Falling to the Lowest Vaccination Rates of the World’s Wealthiest Democracies,” The New York Times (updated Oct. 28, 2021), <https://www.nytimes.com/2021/09/11/world/asia/us-vaccination-rate-low.html>; Sara Berg, “How Lagging Vaccination Rates have Fueled Boom in COVID-19 Cases,” American Medical Association (Aug. 27, 2021), <https://www.ama-assn.org/delivering-care/public-health/how-lagging-vaccination-rates-have-fueled-boom-covid-19-cases>.

¹⁵ See Centers for Disease Control, “Interim Public Health Recommendations for Fully-Vaccinated People” (updated Nov. 19, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html>; see also Julia Marsh, et al., “Mayor de Blasio Reinstates Mask Advisory as NYC Braces for Omicron,” The New York Post (Nov. 29, 2021), <https://nypost.com/2021/11/29/de-blasio-reinstates-mask-advisory-as-nyc-braces-for-omicron/>.

¹⁶ See, e.g., Kaia Hubbard, “These States have COVID-19 Mask Mandates,” U.S. News (Oct. 27, 2021), <https://www.usnews.com/news/best-states/articles/these-are-the-states-with-mask-mandates>.

¹⁷ See, e.g., Emma Goldbert, “The End of a Return-to-Office Date: More and more companies are saying: We’ll get back to you,” The New York Times (Dec. 11, 2021), <https://www.nytimes.com/2021/12/11/business/return-to-office-2022.html>; Meghan McCarty Carino, “More Workers are Returning to Offices, but Downtown? Not so much,” Marketplace (Nov. 16, 2021), <https://www.marketplace.org/2021/11/16/more-workers-are-returning-to-offices-but-downtown-not-so-much/>.

¹⁸ Letter from Andrew O. Isar, Consultant to ASL Services Holdings, LLC dba GlobalVRS, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 1-2 (filed Nov. 12, 2021) (explaining that “there remains a reticence for interpreters to return to call centers, primarily due to concerns over the potential for COVID-19 exposure”); Letter from Gregory Hlibok, ZP Better Together, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 1-3 (filed Nov. 18, 2021) (stating that CAs are concerned with the health risks associated with returning to call centers “[a]lthough cases of COVID-19 have been slowing in many areas of the country, it remains unclear whether that will remain the case as the weather turns colder in the winter months”); Letter from Amanda Montgomery, Convo Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 2-3 (filed Nov. 18, 2021) (“VRS providers continue to have significant difficulty finding, training, and retaining new employees, and this challenge is much greater for VRS providers than other employers due to the specialized skills required of CAs,” and has been compounded by COVID-19); Letter from David A. O’Connor, Counsel for Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 1-2 (filed Nov. 30, 2021) (Hamilton Nov. 30 Letter) (stating that there has been a “25% increase in nationwide case numbers over the two weeks prior to Thanksgiving”); Letter from Scott R. Freiermuth, T-Mobile USA, Inc., on behalf of Sprint Communications Company L.P. (T-Mobile), to Marlene H. Dortch, Secretary, FCC, at 2 (filed Dec. 1, 2021) (T-Mobile Dec. 1 Letter) (urging the Commission to extend speed-of-answer waiver due to the uncertainty associated with call center closures and increased call volumes and pointing out that T-Mobile has had to temporarily close two call centers since mid-November).

¹⁹ See, e.g., Centers for Disease Control, “Travel Assessment: Find out if you can board a flight to the United States” (updated Dec. 2, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/travelers/international-travel/travel->

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5. Recent assessments by experts and government agencies of the foregoing COVID-related developments indicate that their effects are likely to remain uncertain for some period of time.²⁰ Further, the Bureau is not aware of any significant increase in consumer complaints regarding TRS as a result of the emergency waivers, and the TRS Fund administrator has not reported evidence of an increase in waste, fraud, or abuse due to these waivers.

6. 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 for three months, with one exception, as discussed in the next paragraph. Given the uncertainties described above, a further three-month extension will allow providers a reasonable window of certainty for planning purposes. 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 extended waiver period, will consider, if necessary, additional extensions.²¹

7. *Early Termination of TRS Calls.* For Hamilton only, we extend for three months, with modification, a partial waiver of the prohibition on early termination of TRS calls.²² These waivers, originally granted to Hamilton and T-Mobile, allow interruption of a TRS call in “exigent” circumstances, when such interruption is the only feasible means of replacing the CA handling the call.²³ According to the providers’ most recent reports, the technical limitations of their TRS platforms (which necessitated this waiver due to social distancing requirements precluding a substituting CA from using the equipment originally used to process the call) have been almost completely resolved.²⁴ T-Mobile reports that it no longer needs this waiver for any service,²⁵ and Hamilton requests a waiver only for web and wireless forms of Internet Protocol Captioned Telephone Service (IP CTS), to allow additional time to complete a modification of its platforms for those services.²⁶ Therefore, we extend this waiver for three months, through March 31, 2022, for Hamilton’s web and wireless IP CTS only, and allow it to expire December 31, 2021, for all other previously covered services. As a condition of this waiver, we require Hamilton to submit to the Bureau, no later than February 28, 2022, a report detailing its progress in completing the technical improvements needed to fully comply with the prohibition of early termination of calls.

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[assessment/index.html](#); Kayak, “International Travel Restrictions by Country” (updated Dec. 15, 2021), <https://www.kayak.com/travel-restrictions>; CBC, “Ottawa to Toughen International Travel Restrictions as Omicron Concerns Escalate” (Dec. 14, 2021), <https://www.cbc.ca/news/politics/canada-travel-restrictions-1.6285823>.

²⁰ See, e.g., Meg Tirrell, “CDC Director Says the Covid Pandemic’s End Date Depends on Human Behavior,” CNBC (Oct. 8, 2021), <https://www.cnbc.com/2021/10/08/cdc-director-says-when-the-covid-pandemic-ends-depends-on-human-behavior.html>; George Citroner, “Will the Pandemic Really End Next Year? What Experts Think,” Healthline: Health News (Sept. 30, 2021), <https://www.healthline.com/health-news/will-the-pandemic-really-end-next-year-what-experts-think>.

²¹ See *October 2020 Commission Order*, 35 FCC Rcd at 10893-94, para. 56.

²² See *December 2020 Order*, 35 FCC Rcd at 14636-38, para. 6 (partially waiving 47 CFR § 64.604(a)(3)(i)).

²³ *Id.*

²⁴ As a condition of these waivers and their subsequent extensions, 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 2021 Order*, 36 FCC Rcd at 4267, para. 4; *August 2021 Order*, para. 6.

²⁵ See T-Mobile Dec. 1 Letter at 2.

²⁶ Hamilton Nov. 30 Letter at 3; see also Hamilton, Report, CG Docket Nos. 03-123 and 10-51 (filed Nov. 30, 2021), <https://ecfsapi.fcc.gov/file/1130439211031/Hamilton%20Report%20on%20call%20takeover%20procedures%20November%202021.pdf>.

8. *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.

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

10. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 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, this Order IS ADOPTED.

11. IT IS FURTHER ORDERED that, pursuant to sections 1, 2, and 225 of the 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, and except as provided in paragraph 12 of this Order, the effectiveness of those waivers of TRS rules granted in the *TRS Waiver Orders*, as described herein, is extended through March 31, 2022, subject to the reporting condition with respect to Hamilton Relay, Inc., set forth in paragraph 7 of this Order.

12. IT IS FURTHER ORDERED that, for the reasons set forth in paragraph 7 of this Order, the waiver of the prohibition on early termination of TRS calls set forth in 47 CFR § 64.604(a)(3)(i) is extended only for Hamilton Relay, Inc., and only with respect to its web and wireless IP CTS.

13. 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