

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: February 18, 2021

Released: February 18, 2021

By the Chief, Consumer and Governmental Affairs Bureau:

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

2. Background. As a result of the COVID-19 pandemic and states' responsive emergency regulations, TRS traffic levels have increased, and TRS providers' ability to staff call centers has been sharply reduced, severely challenging providers' ability to answer and process TRS calls. Therefore, the Commission has 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, 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, 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/; Executive Office of the President, Executive Order on Ensuring an Equitable Pandemic Response and Recovery (Jan. 21, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/executive-order-ensuring-an-equitable-pandemic-response-and-recovery/.

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 (continued....)

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, and emergency call handling, the Bureau has allowed TRS service providers greater flexibility to provide service during this difficult period.⁵ Each of these waivers was previously extended through February 28, 2021.⁶ The Commission has directed the Bureau to monitor the situation and consider, if necessary, additional extension of these waivers.⁷ The Commission also granted Hamilton and Sprint partial waivers through February 28, 2021, related to the early termination of TRS calls.⁸

3. The COVID-19 national emergency continues. Many state-imposed restrictions, including social distancing measures, mask mandates, and mandatory quarantines, remain in effect with uncertain removal timetables.⁹ Because many issues remain unsettled regarding the reopening and safe operation of schools, businesses, and other facilities, with associated potential to affect both the

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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 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 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 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 Sprint Communications L.P. (Sprint) partial TRS waivers relating to call handling). 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.

⁶ See *October 2 TRS Waiver Order*, 35 FCC Rcd at 10892-94, paras. 54-56.

⁷ See *id.* at 10893-94, para. 56.

⁸ *December 18 TRS Waiver Order*, 35 FCC Rcd at 14636-38, para. 6 (partially waiving section 64.604(a)(3)(i) of the Commission's rules). The *December 18 TRS Waiver Order* imposed a condition that Hamilton and Sprint must each submit a report 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. *Id.* at 14638, para. 7. In granting these waivers and specifying their conditions, the Bureau noted that it would "continue to monitor the emergency situation and . . . take additional actions as warranted." *Id.* at 14638, para. 8.

⁹ See, e.g., USA Today, *COVID-19 Restrictions*, <https://www.usatoday.com/storytelling/coronavirus-reopening-america-map/> (last visited Feb. 17, 2021) (showing the COVID-19 case trends, restrictions and mobility by state); see also The New York Times, *See Coronavirus Restrictions and Mask Mandates for All 50 States*, <https://www.nytimes.com/interactive/2020/us/states-reopen-map-coronavirus.html?auth=login-email&login=email> (last visited Feb. 17, 2021).

availability of communications assistants (CAs) and TRS traffic levels,¹⁰ there continue to be multiple challenges and uncertainties regarding TRS providers' ability to fully staff their operations. Further, the Bureau is not aware of any significant increase in consumer complaints regarding TRS as a result of the grant of these waivers. Given the absence of material change in the circumstances justifying the grant of these waivers,¹¹ the absence of any evidence of abuse, and the vital importance of providing robust, reliable TRS for 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 August 31, 2021. Although the previously granted extensions were of shorter duration, we conclude that a six-month extension is appropriate.¹² Evidence indicates that circumstances TRS providers face at this time will likely be ongoing for at least the next several months.¹³ Specifically, it does not appear that the social distancing and stay-at-home mandates stemming from COVID-19, which have led to increased TRS traffic levels and unpredictable changes in TRS workforce availability, will be withdrawn within the next few months.¹⁴ Similarly, providers' heavy reliance on at-home TRS call handling is likely to continue through

¹⁰ See, e.g., Lauren Camera, *Biden's Bid to Reopen Schools Plagued by Setbacks*, U.S. News & World Report (Jan. 26, 2021), <https://www.usnews.com/news/education-news/articles/2021-01-26/bidens-bid-to-reopen-schools-plagued-by-setbacks>; see also Aria Bendix, *CDC Officials Recommend Opening Schools with Masks—but Closing Indoor Dining and Gyms*, Business Insider (Jan. 26, 2021), <https://www.businessinsider.com/cdc-officials-recommend-opening-schools-closing-indoor-dining-gyms-2021-1>.

¹¹ Regarding the call termination waivers granted in the *December 18 TRS Waiver Order*, Hamilton and Sprint each have filed the required report regarding their progress in developing technical solutions to enable mid-call replacement of a CA without service interruption. See Hamilton, Report, CG Docket Nos. 03-123 and 10-51 (filed Jan. 29, 2021), <https://ecfsapi.fcc.gov/file/101290363115775/Hamilton%20Report%20on%20call%20takeover%20procedures%2C%20January%202021.pdf> (Hamilton Report); see also Letter from Scott R. Freiermuth, T-Mobile USA, Inc., to Marlene H. Dortch, Federal Communications Commission, CG Docket Nos. 03-123 and 10-51, at 1 (Feb. 1, 2021), <https://ecfsapi.fcc.gov/file/10202204580684/Call%20Takeover%20FCC%20Report%20Jan%202021.pdf> (Sprint Report). Hamilton and Sprint both report that they are working with their vendor on technology solutions to resolve the CA substitution issue for several of the affected services. Hamilton Report at 3-5; Sprint Report at 2. They anticipate rolling out such solutions for one-line and two-line CTS later this year, but have not yet established a timeline for web and wireless IP CTS. Hamilton Report at 3-5; Sprint Report at 2. Hamilton has been able to mitigate but does not expect to have a technical solution for the CA substitution problem in traditional TRS. Hamilton Report at 4. Sprint reports no new updates to the partial solutions it previously implemented for traditional TRS and IP Relay. Sprint Report at 2. Both providers further state that the social distancing requirements that led to the need for waivers continue to be necessary. Hamilton Report at 5; Sprint Report at 3. In summary, the providers' progress reports show that technical solutions are still unavailable for all services for which they were unavailable when the waivers were granted. Based on those reports and the considerations discussed in the text above, we conclude that the call termination waivers, like the waivers granted in the earlier orders, should be extended for six months.

¹² Due to the ongoing COVID-19 pandemic, the Wireline Competition Bureau recently extended waivers of the gift rules applicable to the Rural Health Care (RHC) and E-rate programs for a six-month period, from December 31, 2020, through June 30, 2021, to assist rural health care providers, schools, and libraries affected by the COVID-19 pandemic. See *Rural Health Care Universal Service Support Mechanism; Schools and Libraries Universal Service Support Mechanism*, WC Docket No. 02-60, CC Docket No. 02-6, Order, 35 FCC Rcd 14544 (WCB 2020).

¹³ See, e.g., Centers for Disease Control and Prevention, *About COVID-19 Variants*, <https://www.cdc.gov/coronavirus/2019-ncov/transmission/variant.html> (last visited Feb. 2, 2021) (showing new variants of COVID-19 that "seem to spread more easily and quickly than other variants").

¹⁴ See, e.g., Cheyenne Haslett, *White House Warns Against Loosening COVID Restrictions as States Do Just That*, ABC News (Feb. 9, 2021), <https://abcnews.go.com/Health/white-house-warns-loosening-covid-restrictions-states/story?id=75760261> (showing the Biden administrations warnings of the unpredictably of reopening as previous attempts to loosen restrictions led to "another spike"); see also Kathryn Watson, *When will anyone who wants a vaccine be able to get one? Here's what experts have to say*, CBS News (Jan. 30, 2021), <https://www.cbsnews.com/news/covid-vaccine-anyone-get/>; New York Times, *As Fauci Returns to Spotlight*,

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the summer, due to uncertainty as to when providers' staff will receive the COVID-19 vaccines and return to the office.¹⁵ Additionally, a six-month extension allows providers a longer window of certainty for planning purposes, while ensuring that the waiver will be terminated within a reasonable time when no longer justified by the underlying circumstances.

4. 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 the extended waiver period, will consider, if necessary, additional extension of the temporary waivers extended by this action. To assist the Bureau in determining whether to extend the service interruption waivers granted to Hamilton and Sprint in the *December 18 TRS Waiver Order*, we condition the extension of those waivers for each provider on the provider's submission of a further report, no later than July 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.¹⁶

5. *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.

6. *Additional Information.* For further information regarding this item, please contact Halie Peacher, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-0514 or by email to Halie.Peacher@fcc.gov.

7. Accordingly, IT IS 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, the effectiveness of all waivers of TRS rules granted in the COVID-19 Waiver Orders is extended through August 31, 2021, subject to the conditions herein.

8. 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

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Reassurances, but Warnings, Too (Jan. 22, 2021), <https://www.nytimes.com/live/2021/01/21/world/covid-19-coronavirus> (quoting Dr. Anthony Fauci that "by the time that we get to the fall, we will be approaching a degree of normality"); Sigal Samuel, *Once You and Your Friends are Vaccinated, Can You Quit Social Distancing?*, Vox (Jan. 12, 2021), <https://www.vox.com/future-perfect/22219362/end-of-covid-19-pandemic-social-distancing-masking>.

¹⁵ Although the U.S. Food and Drug Administration (FDA) approved two vaccines in December 2020, due to supply limitations the Centers for Disease Control has recommended a phased roll-out of the vaccines, and it appears unlikely that vaccination will be available to all before the second half of 2021. See Centers for Disease Control and Prevention, *CDC's COVID-19 Vaccine Rollout Recommendations*, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations.html> (last visited Feb. 17, 2021).

¹⁶ See *December 18 TRS Waiver Order*, 35 FCC Rcd at 14638, para. 7.