Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	File No.: EB-TCD-12-00000376
	)	
Purple Communications, Inc.	)	NAL/Acct. No.: 201432170007
	)	
Apparent Liability for Forfeiture	)	FRN: 0015419872

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 1, 2014 **Released:** May 2, 2014

By the Commission:

I. INTRODUCTION

1. We continue to fight abuse of the Telecommunications Relay Services (TRS) Fund, which enables persons with speech and hearing disabilities to have access to telephone services. Purple Communications, Inc. (Purple or Company)[1] has received tens of millions of dollars from the TRS Fund for a variety of services it provides, but it apparently failed to use a reasonable process to verify the registration information of thousands of TRS users. As part of its legal obligation when registering TRS users, Purple is required to use a reasonable process to verify the names and addresses of users. Having apparently violated this basic requirement to prevent fraud, Purple requested and received almost $[redacted] in reimbursements from the TRS Fund for services associated with users whom it had not reasonably verified, many of whom provided Purple with obviously nonsensical names (such as "asdf jklp") and who should not have been registered as eligible TRS users. Through this Notice of Apparent Liability (NAL), we propose a penalty of $11,937,549 against Purple.

II. BACKGROUND

2. TRS allows individuals with speech and hearing disabilities to communicate with other people in a manner that is functionally equivalent to how hearing persons use voice telephone services.[2] The Commission is required to ensure that TRS is made available to the extent possible and in the most efficient manner.[3] The Commission has expanded the scope of TRS over time,[4] with the functional

[1] Purple is a Delaware corporation with its headquarters at 595 Menlo Drive, Rocklin, California, 95765. Purple is an Internet-based TRS provider certified by the Commission to provide Video Relay Service (VRS), IP Relay, and Internet Protocol Captioned Telephone Service (IP CTS).

[2] *See* 47 U.S.C. § 225(a)(3).

[3] 47 U.S.C. § 225(b). Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the creation of a nationwide TRS program to allow persons with hearing and speech disabilities access to the nation's telephone network. Pub. L. No. 101-336, 104 Stat. 327.

[4] *See* 47 C.F.R. § 64.604; *see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 22 FCC Rcd 379, 379–81, paras. 1–6 (2007).

equivalency standard serving as a benchmark for determining which services and features TRS providers must offer to consumers in order to receive compensation from the TRS Fund.[5]

3. In particular, the Commission has approved a number of TRS forms, including IP Relay. TRS providers that offer IP Relay, as well as other approved forms of TRS, are compensated from the TRS Fund for their reasonable costs of providing TRS to eligible users.[6] In order to be compensated by the TRS Fund, a provider must provide TRS in accordance with the Rules and the *iTRS Numbering Orders*.[7] Providers seeking compensation from the TRS Fund are required to submit "true and adequate data" to enable the TRS Fund administrator, and ultimately the Commission, to determine TRS Fund revenue requirements and payments to providers.[8] Users of TRS do not pay for the service.

4. The TRS Fund has historically been exploited by providers and users alike, causing the Commission to take numerous steps to reduce the waste, fraud, and abuse associated with the TRS Fund.[9] These measures include strengthening the requirements for iTRS providers to obtain a certification (to

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[5] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11601–02, para. 22 (2008) (*First Internet-Based TRS Order*) (stating that assignment of a ten digit number furthers the goal of functional equivalency); *see also* 47 U.S.C. § 225(a)(3) (requiring functional equivalency in TRS); 47 C.F.R. § 64.604 (TRS mandatory minimum standards).

[6] *See* 47 C.F.R. § 64.604(c)(5)(iii)(E) (explaining the TRS cost recovery system).

[7] *See, e.g.*, *First Internet-Based TRS Order*, 23 FCC Rcd at 11626, para. 96 (observing that "[s]ection 225 creates a cost recovery regime whereby TRS providers are compensated for their reasonable costs of providing service in compliance with the TRS regulations"); *Structure and Practices of Video Relay Service Program*, Declaratory Ruling, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 6012, 6021, 6041, para. 16 & App'x. B (2010) (given the Commission's "expectation that providers seeking compensation from the Fund are doing so in compliance with our rules" and "to make providers more accountable" in that regard, adopting an interim rule requiring TRS providers' senior executives to certify under penalty of perjury "that the minutes were handled in compliance with section 225 and the Commission's rules and orders"); *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, 5585–87, paras. 88-91 (2011) (noting that all providers, including Purple, supported provider certification and adopting the interim certification requirement as a permanent rule with specific certification language) (*2011 VRS Report and Order*). *See also, e.g.*, *Federal Communications Commission Clarifies That Certain Telecommunications Relay Services (TRS) Marketing and Call Handling Practices Are Improper and Reminds That Video Relay Service (VRS) May Not Be Used As A Video Remote Interpreting Service*, Public Notice, 20 FCC Rcd 1471, 1473 (CGB 2005) (stating that "[t]o the extent providers offer TRS services in violation of our rules, they will be ineligible for compensation from the Interstate TRS Fund") (*TRS Marketing Public Notice*).

[8] 47 C.F.R. § 64.604(c)(5)(iii)(D)(*1*). Officers of iTRS providers are also required to certify, under penalty of perjury, that the calls for which compensation is sought were handled in compliance with Section 225, the Rules, and the Commission's orders, and are not the result of impermissible financial incentives or payments to generate calls. 47 C.F.R. § 64.604(c)(5)(iii)(D)(*5*). In addition, the TRS Fund administrator and the Commission have the authority to examine and verify TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments. 47 C.F.R. § 64.604(c)(5)(iii)(D)(*6*).

[9] *See, e.g.*, *Structure 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, 28 FCC Rcd 8618 (2013); *Structure and Practices of the Video Relay Service Program*, Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51, 03-123, 26 FCC Rcd 17367 (2011); *Structure and Practices of the Video Relay Service Program*, Second Report and Order and Order, 26 FCC Rcd 10898 (2011); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Relay Service and Video Relay Service*, Further Notice of Proposed Rulemaking, 21 FCC Rcd 547 (2006); *TRS Marketing Public Notice*, 20 FCC Rcd 1471.

provide VRS and IP Relay) from the Commission and tightening other requirements to ensure that TRS is used only by eligible users for its intended purpose.

5. In the *First Internet-Based TRS Order*, the Commission adopted a numbering system for assigning users of iTRS[10] ten-digit telephone numbers linked to the North American Numbering Plan (NANP) and required the system to be implemented no later than December 31, 2008.[11] The numbering system furthers the functional equivalency of iTRS by ensuring that iTRS users can be called in the same manner that voice telephone users are called and that emergency calls placed by such iTRS users will be routed directly and automatically to the appropriate emergency services authority or public-safety answering point (PSAP) by iTRS providers.[12] To ensure a successful transition to the numbering system, the Commission adopted measures to address, among other things, user registration, verification of user information, and eligibility for and assignment of ten-digit numbers.[13]

6. In addition to furthering the goal of providing functional equivalency, the Commission noted that the measures would help to reduce misuse of iTRS, particularly IP Relay, by eliminating anonymous use of the service. The Commission had anecdotal evidence that anonymous persons without disabilities had misused IP Relay to defraud merchants by making purchases over the telephone using stolen or fake credit cards—often by persons outside the United States who ordered goods to be shipped to a foreign location.[14]

7. To facilitate a seamless transition to the new numbering system for all users, the Commission established distinct registration schedules for new and existing users, set a time limit by which all users must have had a ten-digit number in order to make and receive calls, and required every iTRS provider to provide users with the ability to register with that provider.[15] As of December 31, 2008, providers were required to: (i) register every new user of iTRS before providing the user service, (ii) assign each new user a ten-digit number, (iii) obtain the physical location where the user was to first use the service (Registered Location[16]), and (iv) fulfill all other requirements set forth in the *First Internet-Based TRS Order* that pertain to registered iTRS users.[17] The iTRS provider with which the user

[10] For purposes of the numbering system, iTRS is limited to VRS and IP Relay. *See supra* note 2.

[11] *First Internet-Based TRS Order*, 23 FCC Rcd at 11601-02, paras. 20-24. The NANP is the basic numbering scheme that permits interoperable telecommunications service with the United States, Canada, Bermuda, and most of the Caribbean. *See Administration of the North American Numbering Plan*, Report and Order, 11 FCC Rcd 2588, 2590, para. 3 (1995).

[12] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 792, para. 1 (2008) (*Second Internet-Based TRS Order*) (collectively, with the *First Internet-Based TRS Order*, the *iTRS Numbering Orders*).

[13] *Id.* at 792–93, para. 1-2.

[14] *See First Internet-Based TRS Order*, 23 FCC Rcd at 11624–11626, paras. 92–95 (detailing how anonymity allowed entities to use IP Relay to commit fraud against domestic merchants); *see also Second Internet-Based TRS Order*, 24 FCC Rcd at 809–10, para. 38 (highlighting that verification should reduce misuse by persons who previously took advantage of anonymity without overly burdening legitimate users).

[15] *First Internet-Based TRS Order*, 23 FCC Rcd at 11610, para. 44. In addition, where an iTRS provider was "unable to discern whether someone . . . [was] an existing user," that provider was to treat the individual as a new user. *Second Internet-Based TRS Order*, 24 FCC Rcd at 803, para. 24.

[16] *First Internet-Based TRS Order*, 23 FCC Rcd at 11620, paras. 79–80 (stating that all iTRS providers must "obtain from each of their Registered Internet-based TRS Users . . . the physical location at which the service will first be utilized.").

[17] *See id.* at 11610, para. 44–45.

registered became the user's default provider.[18] The Commission allowed existing iTRS users to continue to place calls without a ten-digit number for an extended period, but as of November 13, 2009, required all iTRS users to have a ten-digit number to make and receive calls.[19]

8. As a part of the transition to the new numbering system the Commission further required iTRS providers to institute a process to verify the accuracy of registration information, including the name and mailing address of the user.[20] The Commission required iTRS providers to: (i) obtain a self-certification from registrants (verifying that they have a medically recognized hearing or speech disability that necessitates the use of TRS), and (ii) implement a reasonable process that was not overly burdensome to consumers to verify registration information.[21] To ensure that eligible individuals would continue to have access to Internet-based TRS services during the transition, the Commission adopted a "guest access policy" that required TRS providers to register new users and allow them to make and receive calls immediately (to the extent technically feasible), even if the provider had not yet completed verification of registration information.[22] But the Commission clarified that providers still had "to verify the accuracy of registration information, including the consumer's name and mailing address, *before issuing the consumer a ten-digit telephone number*."[23] Other than these requirements, which went into effect on May 28, 2010, the Commission did not mandate a one-size-fits-all rule, and instead allowed providers flexibility in designing their verification processes.[24]

9. Purple is an iTRS provider certified by the Commission to provide three forms of TRS: VRS, IP Relay, and IP CTS.[25] In 2011, the Telecommunications Consumers Division (TCD) of the

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[18] *Id.* at 11609, para. 43.

[19] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 24 FCC Rcd 8000 (2009) (extending the initial June 30, 2009, deadline for transitioning existing iTRS users to November 12, 2009; this period is considered the "permissive dialing period.").

[20] *Second Internet-Based TRS Order*, 24 FCC Rcd at 809, para. 37.

[21] *Id.* at 809, para. 38.

[22] *Id.* at 803, para 25; *see also Consumer & Governmental Affairs Bureau Reminds Video Relay Service (VRS) and Internet Protocol (IP) Relay Service Providers of Their Outreach Obligations and Clarifies Their Call Handling Obligations for Unregistered Users After November 12, 2009, Ten-Digit Numbering Registration Deadline*, Public Notice, 24 FCC Rcd 12877 (CG Bur. 2009) (reminding iTRS providers that they must handle calls to or from registered users even if the iTRS provider has not finished verifying the registered user).

[23] 23 FCC Rcd at 809, para. 37 (emphasis added). In the *First-Internet Based TRS Order*, the Commission adopted Section 64.611(a) our rules, which establishes certain requirements for IP Relay providers. The language quoted above from the *Second-Internet Based TRS Order* clarifies when a permanent ten-digit number may be assigned.

[24] *Id.* at 809–10, paras. 37–38. In addition to verifying registration information for persons newly seeking to register for and use IP Relay, providers were "required to verify the accuracy of any registration information that was obtained prior to the effective date, as well as obtain self-certifications from users who acquired ten-digit numbers, in compliance with these requirements." *Id.* at 810 n.156, para. 38 n.156.

[25] *See Notice of Conditional Grant of Application of Purple Communications, Inc., for Recertification as a Provider of Video Relay Service and Internet Protocol Relay Service Eligible for Compensation from the Interstate Telecommunications Relay Service (TRS) Fund*, Public Notice, 27 FCC Rcd 112 (CG Bur. 2012); *Notice of Certification of GoAmerica, Inc., as a Provider of Internet Protocol Captioning Telephone Service (IP CTS) Eligible for Compensation from the Interstate Telecommunications Relay Service (TRS) Fund*, Public Notice, 23 FCC Rcd 17055 (2008) (certifying Purple as a provider of IP CTS for five years, until Nov. 13, 2013) (The company name changed from GoAmerica, Inc. to Purple Communications, Inc. on January 10, 2008, as part of the merger arrangement.); *Notice of Temporary Extension of Certification of Purple Communications, Inc. as a Provider of Internet Protocol Captioned Telephone Relay Service*, Public Notice, DA 13-2176 (Nov. 13, 2013) (extending Purple's IP CTS certification until Feb. 11, 2014); *Notice of Temporary Extension of Certification of Purple*

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Enforcement Bureau (Bureau) initiated an investigation of Purple's compliance with, among other things, the obligations established in the *iTRS Numbering Orders*. Purple provided information in connection with the investigation, both through filings and in meetings with TCD.[26] Over the period covered by this investigation, Purple was reimbursed more than $[redacted], of which $[redacted] was for IP Relay.

III. DISCUSSION

10. We find that Purple apparently willfully and repeatedly violated the *Second Internet-Based TRS Order*,[27] and Section 64.604(c)(5)(iii)(D) of the Commission's rules.[28] Specifically, we find that Purple failed to implement a reasonable process to verify the registration information provided by each IP Relay user registering with Purple between [redacted] and [redacted] and issued ten-digit numbers to at least 40,000 users with "names" that appeared to be gibberish, random keystrokes, vulgarities, or otherwise self-evidently false names (collectively, False Names) before verifying each such user's name and mailing address. As a consequence, False Name users generated call minutes through Purple and potentially other IP Relay providers. Additionally, we find that Purple apparently violated Section 64.604(c)(5)(iii)(D) of the Rules by submitting minutes generated by these users to the TRS Fund administrator for reimbursement. As a result, from [redacted] through [redacted], Purple made 22 submissions to the TRS Fund administrator that included call minutes generated by these users, and thus received almost $[redacted] in reimbursements from the TRS Fund to which it was not entitled.

A. Purple Apparently Violated the *Second Internet-Based TRS Order* by Failing to Implement a Reasonable Verification Process

11. As discussed more fully above, the Commission requires iTRS providers to use a reasonable process to verify the information (specifically including the name and mailing address)[29] provided by each user during registration.[30] By instituting these verification requirements, the Commission sought to further certain policy objectives, including "reduc[ing] the misuse of Internet-based TRS by those who may take advantage of the anonymity currently afforded users, particularly IP Relay users . . . ."[31] If a provider does not register a user or does not verify users' registration information using reasonable procedures, the iTRS provider has failed to meet the Commission's requirements for seeking compensation from the TRS Fund.

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Communications, Inc. as a Provider of Internet Protocol Captioned Telephone Relay Service, CG Docket Nos. 03-123 & 10-51, Public Notice, DA 14-176 (Feb. 11, 2014) (extending Purple's IP CTS certification until May 12, 2014).

[26] *See* Appendix A.

[27] *Second Internet-Based TRS Order*, 24 FCC Rcd 791.

[28] 47 C.F.R. § 64.604(c)(5)(iii)(D).

[29] *Second Internet-Based TRS Order*, 24 FCC Rcd at 809, para. 37.

[30] The *iTRS Numbering Orders* established the requirement for iTRS providers to register users and assign such users a ten-digit number. *See First Internet-Based TRS Order*, 23 FCC Rcd at 11609–10, paras. 42–45; *Second Internet-Based TRS Order*, 24 FCC Rcd at 801–03, paras. 21-24; 47 C.F.R. § 64.611. The Commission rejected Purple's (f/k/a GoAmerica) challenges to the registration process as a violation of "functional equivalency" and explained that "[f]or traditional voice communications services, users 'register' when they sign up for service by providing *their name and address* . . . ." *Second Internet-Based TRS Order*, 24 FCC Rcd at 801, para.21 (emphasis added).

[31] *Second Internet-Based TRS Order*, 24 FCC Rcd at 809–10, para. 38. *See First Internet-Based TRS Order,* 23 FCC Rcd at 11625, para. 94.

12. While not requiring any specific verification procedure, the Commission has described three types of procedures that it considers reasonable for purposes of verification.[32] These procedures share several key factors. Each verifies the name and mailing address provided at registration, and each affords timely verification, thus producing a reasonable period between a user's registration and the determination as to whether the user is eligible or not to make TRS calls. Any reasonable verification process would have included these key factors and ensured that providers did not profit from allowing unverifiable users into the TRS system and allowing them to make calls over an extended period of time.

13. Prior to 2008, Purple was aware that IP Relay had been misused by persons to defraud domestic merchants and that one of the Commission's goals in implementing the new requirements was to eliminate user anonymity and IP Relay fraud.[33] Nevertheless, Purple designed and implemented a flawed verification process that allowed users to continue to maintain and use IP Relay with the very anonymity that the verification requirement was meant to eliminate. Due to the shortcomings in Purple's procedures, the evidence shows that Purple did not, in fact, verify the name and/or mailing address of at least 40,000[34] False Name registrants, yet nevertheless assigned these users ten-digit telephone numbers, and then submitted reimbursement requests that included minutes generated by such users. As described below, we find that Purple failed to institute a reasonable process to verify user registrations as required by the *Second Internet-Based TRS Order*.

14. From [redacted] until [redacted], Purple's process made no attempt to verify registrants' names and mailing addresses.[35] As explained in more detail below, the Company used a [redacted] process, confirming that: [redacted].[36] In [redacted],

[32] *Second Internet-based TRS Order,* 24 FCC Rcd at 809, para. 38 (describing methods the Commission considers reasonable means for verifying registration information without being unduly burdensome). In its filings, Purple has argued that its processes were [redacted]. Purple has failed to acknowledge, however, [redacted]. *Id.*

[33] *See* Comments of Purple (f/k/a GoAmerica, Inc.), Further Notice of Proposed Rulemaking, CG Docket No. 03-123, WC Docket No. 05-196, 20 & n.8 (filed Aug. 8, 2008); *First Internet-Based TRS Order*, 23 FCC Rcd at 11624–11625, paras. 92–94; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Relay Service And Video Relay Service*, Further Notice of Proposed Rulemaking, 21 FCC Rcd 5478 (2006).

[34] *See* Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, Attachment A (Feb. 23, 2012) (on file in EB-11-TC-028) (February 23, 2012 LOI Response); Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau Supplemental Attachment B, Supplemental Attachment C1, Supplemental Attachment C2 (Aug. 28, 2013) (on file in EB-TCD-12-00000376) (August 28, 2013 LOI Response).

[35] Purple began using Verity [redacted] in [redacted] 2011 as a component of its process for [redacted] the registration information provided by users; Verity [redacted]. Purple did not [redacted] apply this [redacted] registrants until September 2011. August 28, 2013 LOI Response at 21 & n.44. As a threshold matter, even such an augmented process as implemented by Purple was not reasonable, for the reasons discussed below. *See infra* paras. 17–18.

[36] *See* February 23, 2012 LOI Response at 13; Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 8 (July 20, 2012) (on file in EB-11-TC-028) (July 20, 2012 Supplemental LOI Response); Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division,

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Purple added an e-mail component to its process; [redacted]. This e-mail component did not, however, involve any effort by Purple to verify the accuracy of the information provided by the user. The fundamental point is that Purple's [redacted] process and e-mail component *never even attempted to verify the accuracy of the user's name or mailing address* as required by the *Second Internet-Based TRS Order*.

15. As a threshold matter, although "name" is not defined in the *iTRS Numbering Orders*, those orders plainly intended "name" to equate with a registrant's actual name (not, for example, a user name or login name). In the *Second Internet-Based TRS Order*, the Commission required iTRS providers "to verify the accuracy of registration information, including the consumer's name and mailing address. . . ."[37] Consistent with the stated goals of the verification requirement, verification of the actual name of the registrant was necessary to remove the possibility of anonymity that facilitated fraud. With regard to the verification of a name, the Commission has never stated that providers may verify anything other than the actual or real name of a registrant as part of its reasonable verification procedures.[38] However, from [redacted] until [redacted], Purple's procedures did not even attempt to verify the actual or real names for all registrants. We reject Purple's argument that, in the context of the verification requirements, "[redacted]" somehow has a "[redacted]"[39] In fact, Purple's own registration process required "[redacted]," and thus recognizes [redacted].[40]

16. During this time period, Purple also did not verify that the submitted addresses were the users' *mailing* addresses.[41] As discussed above in paragraph 14, Purple's process included confirming

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FCC Enforcement Bureau), Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief, at 7 (May 15, 2013) (on file in EB-11-TC-028) (May 15, 2013 Supplemental Response).

[37] *Second Internet-Based TRS Order*, 24 FCC Rcd at 809, para. 37.

[38] In fact, when the Commission has contemplated a system in which something other than an actual or real name could be used, the Commission has explicitly so stated. *See, e.g.*, *First Internet-Based TRS Order*, 23 FCC Rcd at 11613, para. 50 (The central database can be provisioned "with URIs that contain domain names and user names — such as an instant-message service and screen-name. . . .").

[39] [redacted].

[40] August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 6. In light of the Commission's stated policy objective to eliminate user anonymity, we also reject Purple's argument that [redacted]. We find similarly unpersuasive and irrelevant Purple's [redacted] Most of the arguments discussed in this NAL were made by Purple to TCD in the course of the TCD's investigation, and were largely repeated in the [redacted] For purposes of this NAL, we generally cite to the record developed during TCD's investigation.

[41] We also note that Purple is not clear regarding what information it was attempting to collect through the registration process in this regard. In its filings, the Company stated that it [redacted] without clarifying whether [redacted].

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that the address provided by the user [redacted]. However, Purple's reliance on a [redacted] was inadequate because it confirmed only that a registrant's address [redacted]. The [redacted] confirmed neither that the provided address was an existing mailing address, nor that it was a particular registrant's actual mailing address. For example, if a registrant had given an empty parking lot as his or her address, the [redacted] would have verified the address as long as the parking lot were [redacted], even if no habitable structures existed at that address. In one instance during its investigation, the Bureau examined an address that Purple had provided that was associated with 299 different registrations; each registration had listed "201 Alice St., Alger, OH 45812" as the registrant's address.[42] No such mailing address existed. Bureau staff contacted the post office in Alger, Ohio (a town with a population of less than 1,000) and confirmed that the mailing address did not exist.[43] Given the forgoing facts, we conclude that the procedure Purple implemented during this time period did not, by design, attempt to verify registrants' actual mailing addresses, and thus was not "reasonable," in apparent violation of the *Second Internet-Based TRS Order*.

17. In September 2011, Purple augmented its process by using Verity [redacted].[44] Purple states that [redacted] and that Verity assigned each registrant a "reliability score" [redacted], with Purple considering a score of [redacted].[45] However, when registrants received a Verity score of [redacted].[46] Registrants who received a Verity score of [redacted].[47] Purple states that by [redacted]

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See, e.g., August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 6.

[42] July 20, 2012 Supplemental LOI Response, Supplemental Attachment A; August 28, 2013 LOI Response at 14.

[43] Staff also confirmed that the U.S. Postal Service website has no record of "201 Alice St., Alger OH 45812". *See also* U.S. DEP'T OF COMMERCE, UNITED STATES CENSUS BUREAU, AMERICAN FACTFINDER, 2010 U.S. Census data for Alger village, Ohio, *available at* http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml (last visited Mar. 5, 2014).

[44] *See* July 20, 2012 Supplemental LOI Response at 14 ("[W]e discussed that Purple first utilized Verity for new registrations in September 2011."); August 28, 2013 LOI Response, Attached IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 21 n.44 ("[redacted]").

[45] May 15, 2013 Supplemental LOI Response, Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief at 9.

[46] Although the Company also [redacted]. For example, the record shows that [redacted]. *See* August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 13. Thus, even beyond the overarching issues with Purple's process discussed in this NAL, its process during this time period was also unreasonable. Purple had evidence that, even in its own view, [redacted]. *See Misuse of Internet Protocol (IP) Relay Service*, First Order and Report, 27 FCC Rcd 7866, 7871, para. 11 n.42 (2012) ("Providers that have processed calls by unverified users with suspicious names, addresses or questionable calling practices over extended periods of time may be in violation of the Commission's mandate to take reasonable efforts to verify registration and eligibility information.").

[47] May 15, 2013 Supplemental LOI Response, Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief at 9. It is unclear from the record whether Purple

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[redacted].[48] Then in [redacted], the Company modified its approach further [redacted].[49]

18. We find that Purple's augmentations to its procedure after September 2011 were insufficient to render it a reasonable verification process. Although those procedures involved at least some evaluation of users' names and addresses, Purple's explanation of the nature and extent of that evaluation, and of the basis for the particular thresholds chosen to determine when a [redacted] is opaque.[50] Purple's description of the Verity procedures thus provides no basis for concluding that its overall verification process was reasonable, particularly when considered in conjunction with the results of its procedures. In particular, notwithstanding these modifications, Purple *continued* [redacted]. Even when Purple [redacted], the record shows that Purple allowed some of [redacted].[51] Based on the foregoing and the record in this case, we find that Purple's [redacted] verification process, e-mail component, and augmented process using Verity [redacted] failed, by design, to verify the accuracy of the registrant's "name" and mailing address as required by the *Second Internet-Based TRS Order* and, thus, its overall verification process was unreasonable.

19. The unreasonableness of Purple's verification procedures is highlighted by the registrants whom Purple evaluated and to whom it assigned a ten-digit number under those procedures. In particular, the False Name users Purple evaluated and to whom it assigned ten-digit numbers included apparently random keyboard strokes (such as "sdfsdf" for the first name and "cicwcicw" for the last name) and vulgar "names" (such as "F*** Y**") as the names of purportedly real individuals who were eligible to register for and use IP Relay services. The chart below is a mere sampling of the tens of thousands of such False Name users:[52]

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[redacted]. *See* August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 13.

[48] May 15, 2013 Supplemental LOI Response, Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief at 9-10. Analysis of Purple's data over the *entire period* at issue does not support the conclusion that its processes [redacted]. For deactivated users who registered prior to May 28, 2010, those accounts subject to Verity were deactivated, on average, [redacted], while those accounts subject to the [redacted] process during the same time period were deactivated, on average, [redacted] after May 28, 2010, when the verification requirements went into effect. For deactivated users who registered after May 28, 2010, those accounts subject to Verity were deactivated, on average, [redacted], while those accounts subject to the [redacted] process were deactivated, on average, [redacted]. Only in the final months at issue here [redacted].

[49] May 15, 2013 Supplemental LOI Response, Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief at 9.

[50] We have endeavored to describe all of the salient features of the Verity procedure provided by Purple during the investigation. Purple stated that multiple databases were used by Verity. However, in identifying only the [redacted] database, the Company did not provide sufficient details on the information Verity used in assigning reliability scores [redacted].

[51] *See* August 28, 2013 LOI Response, Supplemental Attachment A, Supplemental Attachment C.

[52] *See* Appendix B for a random sampling of "names" the Company claims to have verified and to whom it assigned ten-digit telephone numbers.

First Name	Last Name
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

20. Indeed, Purple knew or should have known that the False Names were so patently defective that they could not possibly have been the actual names of eligible users. However, instead of rejecting the False Names (based on their nonsensical nature) or attempting to confirm that they belonged to eligible users, Purple chose to disregard the verification requirements by accepting these names without reasonable further inquiry regarding users' actual names and mailing addresses.[53]

21. Purple argues, however, that its processes were reasonable because it also conducted anti-fraud measures that ultimately led the Company to [redacted].[54] Purple characterizes these [redacted] fraud detection measures [redacted]. We reject this contention. As we discussed below, these measures do not even bear on the verification requirement because Purple's fraud detection measures never verified a user's name or mailing address; instead, [redacted] measures only sought out [redacted].

22. Purple instituted its [redacted] fraud detection measures [redacted], and it [redacted]. These measures included: (i) use of "phrase blocking [redacted]; (ii) a "Merchant Warning Script" [redacted]; (iii) "Flag and Block [redacted] "Blacklist" [redacted]; and (iv) [redacted] AIM Blocking" [redacted] "Blacklist" [redacted].[55] Purple also claims that, as part of these measures, [redacted]

[53] Self-certification is a component of the required verification process. *See Second Internet-Based TRS Order*, 24 FCC Rcd at 809, para. 37 (explaining that self-certification requires "consumers to verify that they have a medically recognized hearing or speech disability necessitating their use of TRS."). We find that Purple cannot reasonably rely on the self-certifications from users with False Names in seeking to justify its entitlement to compensation because any certification from such users is inherently suspect.

[54] *See, e.g.*, February 23, 2012 LOI Response at 13–14.

[55] August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 6–7.

[redacted][56]

23. Purple asserts that its anti-fraud measures should be considered in determining whether its verification process was reasonable and compliant with the *iTRS Numbering Orders*.[57] The Company asserts that [redacted] using these [redacted] fraud detection methods.[58] However, the [redacted] procedures that [redacted] did not address the simple question of whether the users' names were plausible in the first instance when Purple evaluated the user's registration information with its [redacted] verification process, e-mail component, and augmented process using Verity. Even the [redacted] information by [redacted] took place only after Purple had already evaluated the user's information using its augmented process.[59] Thus, Purple assigned users with False Names ten-digit numbers, began processing their calls, and began charging the TRS Fund for calls made by users whose registration information Purple had not verified using a reasonable process.[60]

24. We find these [redacted] fraud detection measures insufficient to render Purple's verification process reasonable, as contemplated by the *Second Internet-Based TRS Order*. First, that Order is clear that a reasonable verification process requires providers to verify registration information, including the registrant's name and mailing address.[61] Despite this requirement, from May 28, 2010, through September 2011, Purple's verification process did *nothing* to analyze registrants' names, and even from September 2011 ([redacted]) through [redacted], Purple's verification process remained unreasonable, continuing to create new accounts, maintain active accounts, and assign ten-digit numbers to registrants who gave False Names. Even if the Commission considered the [redacted] measures as part of Purple's process insofar as they eventually deactivated [redacted], those measures did not do so by verifying users' names and addresses, and thus are insufficient to bring an otherwise unreasonable verification procedures into compliance with the verification requirement in the *Second Internet-Based TRS Order*. Second, the fact that Purple was subsequently able to [redacted] using its [redacted] fraud detection methods does not negate the fact that such registrants would never have received a permanent ten-digit number but for Purple's non-compliant process. To support its position, Purple states: [redacted][62] Far from exonerating Purple, however, the fact that it had to [redacted] after applying its [redacted] processes forcefully demonstrates the patent unreasonableness of its purported [redacted] verification.

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[56] August 28, 2013 LOI Response, IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 7. *See* July 20, 2012 LOI Response, Exhibit 1, Report of Steven E. Turner at 42 (explaining how [redacted]).

[57] *See, e.g.*, August 28, 2013 LOI Response, Attached IP Relay Registration and Verification Processes and Procedures and Supplemental LOI Responses Brief at 6–7; July 20, 2012 Supplemental LOI Response at 9–10.

[58] May 15, 2013 Supplemental LOI Response, Attached Purple Communications, Inc.'s Submission Re: IP Relay Registration and Verification Process and Procedures Brief at 6. *See also supra* note 48.

[59] *See supra* paras. 17–18.

[60] *See* February 23, 2012 LOI Response at 18.

[61] *Second Internet-Based TRS Order*, 24 FCC Rcd at 809, para. 37.

[62] August 28, 2013 LOI Response at 10.

25. Purple's arguments in reliance on the Commission's "guest user or access policy,"[63] which required providers to process calls by registrants prior to completing the verification process, also are unavailing.[64] Purple's own initial statements during the Bureau's investigation demonstrate that the Company itself viewed its verification process as having been [redacted] it assigned ten-digit numbers to False Name users. In February 2012, Purple explained how its process worked during the relevant time:

[redacted]

* * *

[redacted][65]

In July 2012, Purple further explained:

[redacted][66]

These statements highlight that the Company claims to have already [redacted], and belies its reliance on the guest user policy. Indeed, its initial statements distinguishing between its self-described [redacted], on the one hand, and its [redacted], on the other hand, appear consistent with the fact that the evaluations performed as part of the [redacted] procedures are fundamentally different from what the Commission required as part of the verification requirement adopted in the *Second Internet-Based TRS Order*, as discussed above.

26. Moreover, Purple's argument about its [redacted] processes falls under its own weight because it provides no reasonable end point. According to the Company's logic, Purple's [redacted] efforts could have continued indefinitely, and as long they were ongoing, Purple would be entitled to reimbursements from the TRS Fund pursuant to the Commission's "guest user or access policy." However, even if the guest user policy were applicable here, its timing cannot be open-ended. In other

[63] The guest user or access policy required TRS providers to register new users and allow them to make and receive calls immediately (to the extent technically feasible), even if the provider had not yet completed verification of registration information, assignment of the ten-digit telephone number, or entry of the user's information into the iTRS database. *Id.* at 803, para 25. *See Consumer & Governmental Affairs Bureau Reminds Video Relay Service (VRS) and Internet Protocol (IP) Relay Service Providers of Their Outreach Obligations and Clarifies Their Call Handling Obligations for Unregistered Users After November 12, 2009, Ten-Digit Numbering Registration Deadline*, Public Notice, 24 FCC Rcd 12877 (CG Bur. 2009) (reminding iTRS providers that they must handle calls to or from registered users even if the iTRS provider has not finished verifying the registered user).

[64] *See* July 20, 2012 Supplemental LOI Response at 8–9.

[65] February 23, 2012 LOI Response at 13 (emphasis added).

[66] July 20, 2012 Supplemental LOI Response at 8–9 (emphasis added).

words, Purple cannot restart the guest user window simply by "supplementing" its verification process with additional anti-fraud measures.

27. Despite Purple's repeated description of its own verification process as having taken place [redacted], the Company has nevertheless suggested that it should have [redacted] because it purportedly did not [redacted]. Purple's actions, however, are inconsistent with this suggestion. The Company gave users [redacted], but as the Commission explained in the *Second Internet-Based TRS Order*, [redacted] numbers should not have been assigned until the user's registration information had been verified:

> To verify the accuracy of initial registration information and to help ensure that VRS and IP Relay are used only for their intended purpose, we conclude that Internet-based TRS providers must institute procedures to verify the accuracy of registration information, including the consumer's name and mailing address, *before issuing the consumer a ten-digit telephone number*.[67]

Alternatively, even if Purple's purported verification process could properly be viewed as ongoing during the time at issue here, the Company should not have given users permanent ten-digit numbers during that ongoing process; because it did, however, Purple should not be permitted to take advantage of the guest user policy for services provided to such users. In any event, the fundamental flaw in Purple's process is that whether or not its [redacted] efforts are considered part of its purported verification process, it simply employed an unreasonable one that "verified" False Names. In these circumstances, the guest user policy cannot be invoked to do an end run around the basic requirement to reasonably verify names and mailing addresses.

28. Accordingly, we find that Purple failed to implement a reasonable verification process during the time periods discussed above. The Commission sought to eliminate the waste, fraud, and abuse of IP Relay and misuse of the TRS Fund (exacerbated by the anonymous nature of IP Relay use) by requiring TRS Providers to implement reasonable verification processes. Purple knew it was required to institute a reasonable procedure to verify the information registrants entered as part of the registration process, specifically including the registrant's name and mailing address.[68] Nonetheless, it put in place a process whose very design allowed registrants to retain the anonymity which the Commission sought to eliminate. The Company failed to reject False Name users because its verification process did not include adequate steps to ensure the accuracy of the registration information.

B. Purple Apparently Violated Section 64.604(c)(5)(iii)(D) of the Commission's Rules by Submitting Inaccurate Data to the TRS Fund Administrator and for Seeking Reimbursement for Calls That Were Not Compensable

29. As a result of Purple's failure to implement a reasonable verification process, we find that the Company apparently violated Section 64.604(c)(5)(iii)(D) of the Rules.[69] That rule ensures that the TRS Fund administrator, and ultimately the Commission, has the necessary information to determine TRS Fund revenue requirements and payments to providers. Subclause (D)(*1*) of the rule requires "TRS providers seeking compensation from the TRS Fund [to] provide the [TRS Fund] administrator with true and adequate data . . . to determine the TRS Fund revenue requirements and payments."[70] The

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[67] 23 FCC Rcd at 809, para. 37 (emphasis added).

[68] *See, e.g.*, *Second Internet-Based Numbering Order*, 24 FCCR at 801, para. 21.

[69] 47 C.F.R. § 64.604(c)(5)(iii)(D).

[70] 47 C.F.R. § 64.604(c)(5)(iii)(D)(*1*). The TRS Fund can be used only to compensate TRS minutes. In order to qualify as compensable TRS minutes, the service associated with the minutes must allow a person with hearing (continued....)

Commission previously has recognized that, to be entitled to compensation, TRS must be provided in accordance with the Act and Commission requirements, and subclause (D)(*5*) of the rule reinforces that, by requiring that when a provider requests compensation from the TRS Fund, a senior executive must provide a sworn statement that the "TRS calls for which compensation is sought were handled in compliance with Section 225 of the Communications Act and the Commission's rules and orders."[71] We conclude that, during the time at issue here, Purple failed to comply with the Commission's Rules and *iTRS Numbering Orders* by providing service to users with False Names whom Purple failed to verify using a reasonable verification process, issuing such users a ten-digit number before verifying the user's name and mailing address, and allowing such users to generate minutes that the Company then submitted to the TRS Fund Administrator for reimbursement. Therefore, Purple apparently violated subclause (D) of Section 64.604(c)(5)(iii) of the Rules by seeking compensation from the TRS Fund while failing to provide "true and adequate data" or to handle calls consistent with the *iTRS Numbering Orders*. A total of twenty-two apparent violations are at issue; nineteen involve requests for reimbursement filed monthly, and three involve representations of past performance filed annually.

IV. PROPOSED FORFEITURE

30. Section 503(b) of the Act states that any person who "willfully or repeatedly fail[s] to comply with any of the provisions of [the Communications Act] or of any rule, regulation, or order issued by the Commission," shall be liable to the United States for a forfeiture penalty.[72] Section 503(b)(2)(B)[73] of the Act empowers the Commission to assess a forfeiture against Purple of up to $150,000 for each willful or repeated violation or each day of a continuing violation, up to a statutory maximum of $1,500,000 for a single act or failure to act.[74] In exercising our forfeiture authority, we are required to

(Continued from previous page)
and/or speech disabilities or a deaf-blind person to communicate "in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services. . . ." *See* 47 C.F.R. § 64.601(a)(32).

[71] 47 C.F.R. § 64.604(c)(5)(iii)(D)(*5*). The evaluation of whether the data are true and adequate, including whether the data are associated with calls provided in compliance with Section 225 of the Act, the Rules, and the Commission's orders, also can be made in the context of the TRS Fund administrator's or the Commission's examination and verification of TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments under subclause (D)(*6*). *See* 47 C.F.R. § 64.604(c)(5)(iii)(D)(*6*). During the time at issue in this NAL, the Commission amended Subsection (iii)(D) by modifying the audit requirements (effective June 2011) and adding the officer certification requirement (effective July 2010). These changes strengthened the Commission's and TRS Fund administrator's ability to identify and address abuse of the TRS Fund.

[72] 47 U.S.C. § 503(b)(1)(B).

[73] During the time at issue in this NAL, Purple held a Certificate of Public Convenience and Necessity (CPCN) from the state of Tennessee. The CPCN required that Purple be a carrier, and Purple maintained its status as a carrier until May 22, 2012, when the Tennessee Regulatory Authority granted Purple's request to cancel its CPCN. *See Application of GoAmerica Relay Servs. Corp.*, Order Granting Cancellation of Authority to Provide Telecommunications Services, Docket No. 07-00205 (Tenn. Regulatory Authority, May 22, 2012), *available at* http://www.tn.gov/tra/orders/2007/0700205n.pdf. Thus, in the present case the Commission can subject Purple to penalties as a carrier.

[74] *See* 47 U.S.C. § 503(b)(2)(B) (2008); *see also* 47 C.F.R. § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) of the Act ($100,000 per violation or per day of a continuing violation and $1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890 (codified as amended in scattered sections of 5, 26, 28, 31, and 42 U.S.C. § 2461 note), as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (codified as amended at 28 U.S.C. § 2461 note) (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. *See* 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2008 and 2013. *See Amendment of Section 1.80(b) of the*
(continued....)

"take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."[75] The Commission may also consider deterrence as a factor in determining the appropriate forfeiture amount.[76] In addition, the Commission has established forfeiture guidelines that set forth base penalties for certain violations and identify criteria that we consider in exercising our discretion in determining the penalties to apply in any given case.[77] Under the guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.[78]

31. The categories of apparent violations in the instant case involve: (i) failure to implement a reasonable process to verify IP Relay users' registration information, and assignment of ten-digit numbers to users before verifying such users' names and mailing addresses; and (ii) submissions to the TRS Fund administrator that contained inaccurate data or call minutes. Purple was compensated $[redacted] for calls for False Name users associated with these apparent violations, and [redacted].[79] As of the release date of this NAL, Purple has neither made corrective filings with the TRS Fund administrator nor repaid the TRS Fund.

32. The Commission has not established a base forfeiture for violations of the Commission's *iTRS Numbering Orders* governing user verification or for violations of Section 64.604(c)(5)(iii)(D) of our Rules. However, the fact that no base forfeiture has been established for a type of violation does "not signal that the Commission considers [those violations] as nonexistent or unimportant."[80] Moreover, the Commission retains the discretion to issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act.[81]

33. In fashioning an appropriate penalty for the violations at issue, we therefore consider the

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Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation, 28 FCC Rcd 10785 (Enf. Bur. 2013); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Forfeiture Maxima to Reflect Inflation*, 23 FCC Rcd 9845 (Enf. Bur. 2008); *see also Inflation Adjustment of Monetary Penalties*, 78 Fed. Reg. 49,370-01 (Aug. 14, 2013) (setting Sept. 13, 2013, as the effective date for the increases). However, because the DCIA specifies that any inflationary adjustment "shall apply only to violations that occur after the date the increase takes effect," we apply the forfeiture penalties in effect at the time the apparent violation took place. 28 U.S.C. § 2461 note (6).

[75] 47 U.S.C. § 503(b)(2)(E). *See also Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, Report and Order, 12 FCC Rcd 17087, 17100–01, para. 27 (1997) (*Forfeiture Policy Statement*), recons. denied, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

[76] *See, e.g., Forfeiture Policy Statement*, 12 FCC Rcd at 17097–100, paras. 20, 24 (recognizing the relevance of creating the appropriate deterrent in choosing a forfeiture).

[77] 47 C.F.R. § 1.80(b)(8), Note.

[78] *Id.*

[79] [redacted]

[80] *See Forfeiture Policy Statement*, 12 FCC Rcd at 17099, para. 22.

[81] *See* 47 U.S.C. § 503.

factors enumerated in Section 503(b)(2)(E) of the Act and Section 1.80 of our Rules.[82] In the words of the statute, the "extent" and "gravity" of Purple's violations are significant[83]—on nineteen occasions it improperly sought reimbursement from the TRS Fund for calls made by at least 40,000 False Name users for which it was not entitled to compensation. These violations caused "substantial harm" to the TRS Fund and brought "substantial economic gain" to Purple, which improperly received almost $[redacted] from the TRS Fund.[84] Purple's three annual submissions also adversely affected the TRS Fund by supplying erroneous information used to project the necessary size of the TRS Fund and the calculation that determines how much carriers would need to contribute. The Act also requires us to consider "justice" when determining the amount of a forfeiture and, therefore, clearly mandates that we impose a significant penalty, especially given the Commission's pronouncement that "fraudulent diversion" of TRS funds "cannot be tolerated in a program that is designed to deliver essential telecommunications services to persons who are deaf and hard of hearing."[85] In sum, despite the Commission's repeated efforts to eliminate anonymous and fraudulent use of TRS and Purple's specific knowledge of such fraud, the evidence here demonstrates that the Company willfully and repeatedly engaged in egregious conduct that enabled misuse of IP Relay and abuse of the TRS Fund.[86]

34. We conclude that an appropriate penalty is [redacted] times the amount that Purple improperly received from the TRS Fund as a result of the violations at issue in this NAL: $11,937,549 ([redacted] times $[redacted]).[87] This approach is directly linked to the magnitude of Purple's economic gain and the harm it caused to the TRS Fund, and properly reflects the extent and gravity of the Company's violations.[88] Appropriately, it is also analogous to the approach in the [redacted]

[82] *See* 47 U.S.C. § 503(b)(2)(E); 47 C.F.R. § 1.80.

[83] 47 U.S.C. § 503(b)(2)(E).

[84] 47 C.F.R. § 1.80(b)(8), Note.

[85] *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, 5551, para. 5 (2011).

[86] Purple had previously entered into a consent decree with the Commission and reimbursed the TRS Fund to resolve other alleged misconduct regarding TRS. *Hands On Video Relay Service, Inc., Go America, Inc., and Purple Communications, Inc.*, Consent Decree, 25 FCC Rcd 13090, 13093, para. 8 (2010) ("[T]he Bureau or Commission may consider the facts in this proceeding in any future proceeding involving violations by Purple of the same Rules and orders at issue in this proceeding or involving misrepresentation by Purple in its dealings with the Commission.").

[87] This forfeiture is based on Purple's failure to implement a reasonable verification process and its twenty-two submissions to the TRS Fund administrator in connection with seeking reimbursement from the Fund. As a general matter, Section 503(b)(6) of the Act prohibits the Commission from assessing a forfeiture against a carrier for conduct that occurred more than one year before the Commission issues an NAL for that conduct. *See* 47 U.S.C. § 503(b)(6)(A)(i). As indicated above, however, the Bureau and Purple agreed to toll the statute of limitations, empowering the Commission to pursue apparent violations that occurred on or after July 12, 2011, to the present. Purple used the verification processes at issue in this NAL, and submitted eight of the twenty-two submissions at issue in this NAL, during this period of time. The Commission retains the power to pursue the fourteen earlier submissions, however, because Purple has not amended any of the submissions to make them accurate, and thus each submission is a continuing apparent violation and remains actionable. *See, e.g., VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940 para. 20 (2007).

[88] This forfeiture is less than the statutory maximum, which is $34,500,000 (i.e., 22 continuing filing violations and one continuing verification process violation, each with a statutory maximum of $1,500,000).

[redacted].[89]

35. Other iTRS providers are on notice that the kind of practices described in this NAL, as well as other practices that harm the TRS Fund, may merit increasingly significant forfeitures in the future, within the range of our statutory authority, to deter such unlawful conduct. If this enforcement approach proves to be an inadequate deterrent to waste, fraud, and abuse of the TRS Fund, the Commission will not hesitate to revisit its forfeiture calculation approach.

V. CONCLUSION

36. Based on the facts and record before us, we have determined that Purple has apparently willfully and repeatedly violated Section 64.604 of the Commission's rules and the *Second Internet-Based TRS Order* by failing to implement a reasonable process to verify the accuracy of users' registration information[90] and failing to submit true and adequate data to the TRS Fund administrator.

VI. ORDERING CLAUSES

37. Accordingly, **IT IS ORDERED**, pursuant to Sections 503(b) and 225 of the Communications Act of 1934, as amended,[91] and Section 1.80 of the Commission's rules,[92] that Purple Communications, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR FORFEITURE** in the amount of eleven million nine hundred thirty-seven thousand five hundred forty-nine dollars ($11,937,549) for willful and repeated violations of Section 64.604 of the Commission's rules,[93] and requirements set forth in *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and* Speech *Disabilities, E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (2008).

38. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Commission's rules,[94] within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, Purple Communications, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

39. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Purple Communications, Inc. shall send electronic notification of payment to Johnny Drake at johnny.drake@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.[95] When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Purple Communications, Inc. should follow based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal

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[89] [redacted]

[90] *Second Internet-Based TRS Order*, 24 FCC at 808–09, paras. 36–37.

[91] 47 U.S.C. §§ 503(b), 225.

[92] 47 C.F.R. § 1.80.

[93] 47 C.F.R. § 64.604.

[94] 47 C.F.R. § 1.80.

[95] An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

40. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.[96] If Purple Communications, Inc. has questions regarding payment procedures, the company should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

41. The response, if any, must be mailed both to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau—Telecommunications Consumers Division, and to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Acct. No. referenced in the caption.

42. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

[96] See 47 C.F.R. § 1.1914.

43. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail Return Receipt Requested and First Class Mail to John Goodman, Corporate Vice President and Chief Legal Officer, Purple Communications, Inc., 595 Menlo Drive, Rocklin, California, 95765-3708 and to John F. Cannon, Stradling Yocca Carlson & Rauth, P.C., 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660-6422.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

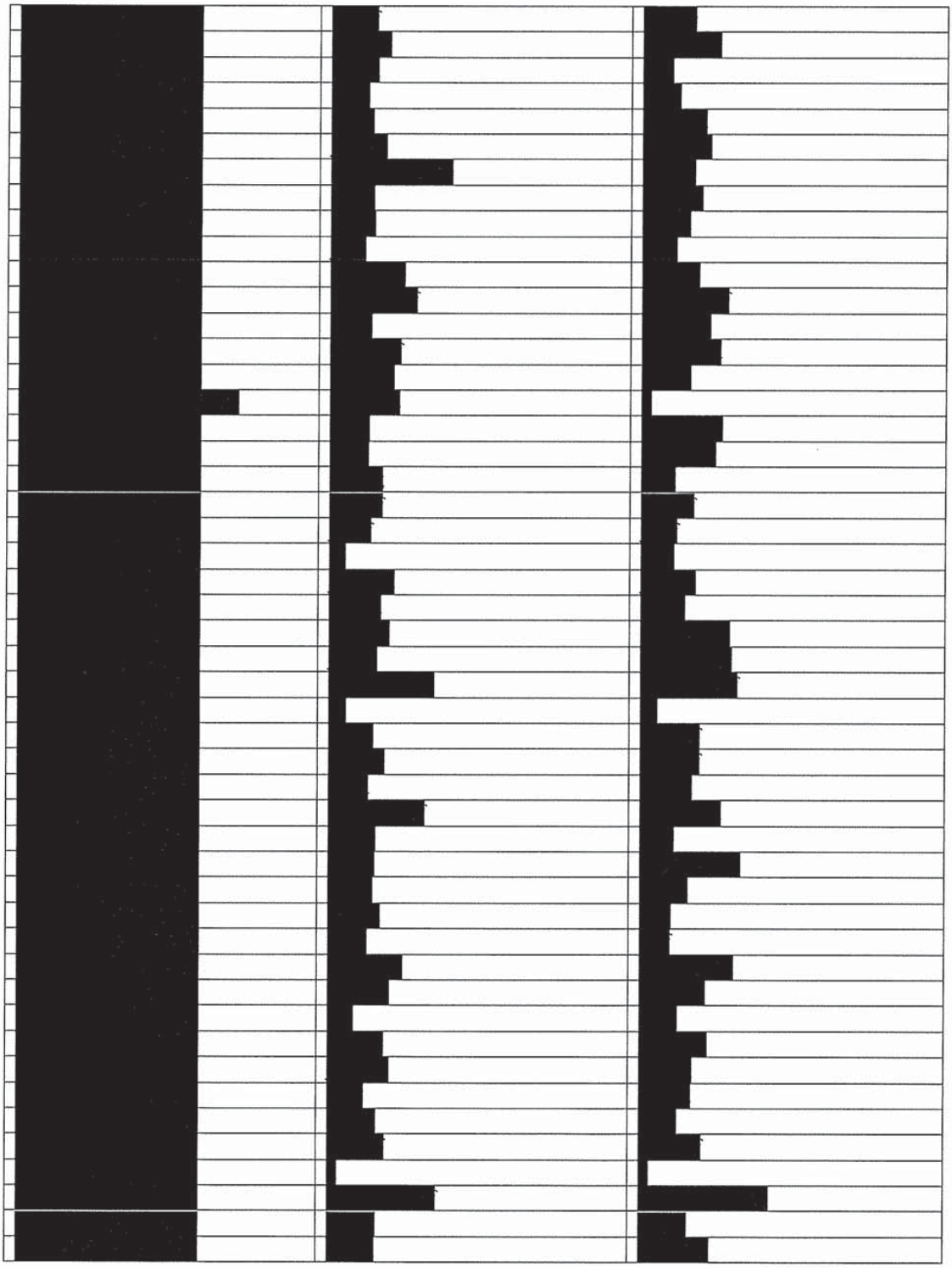
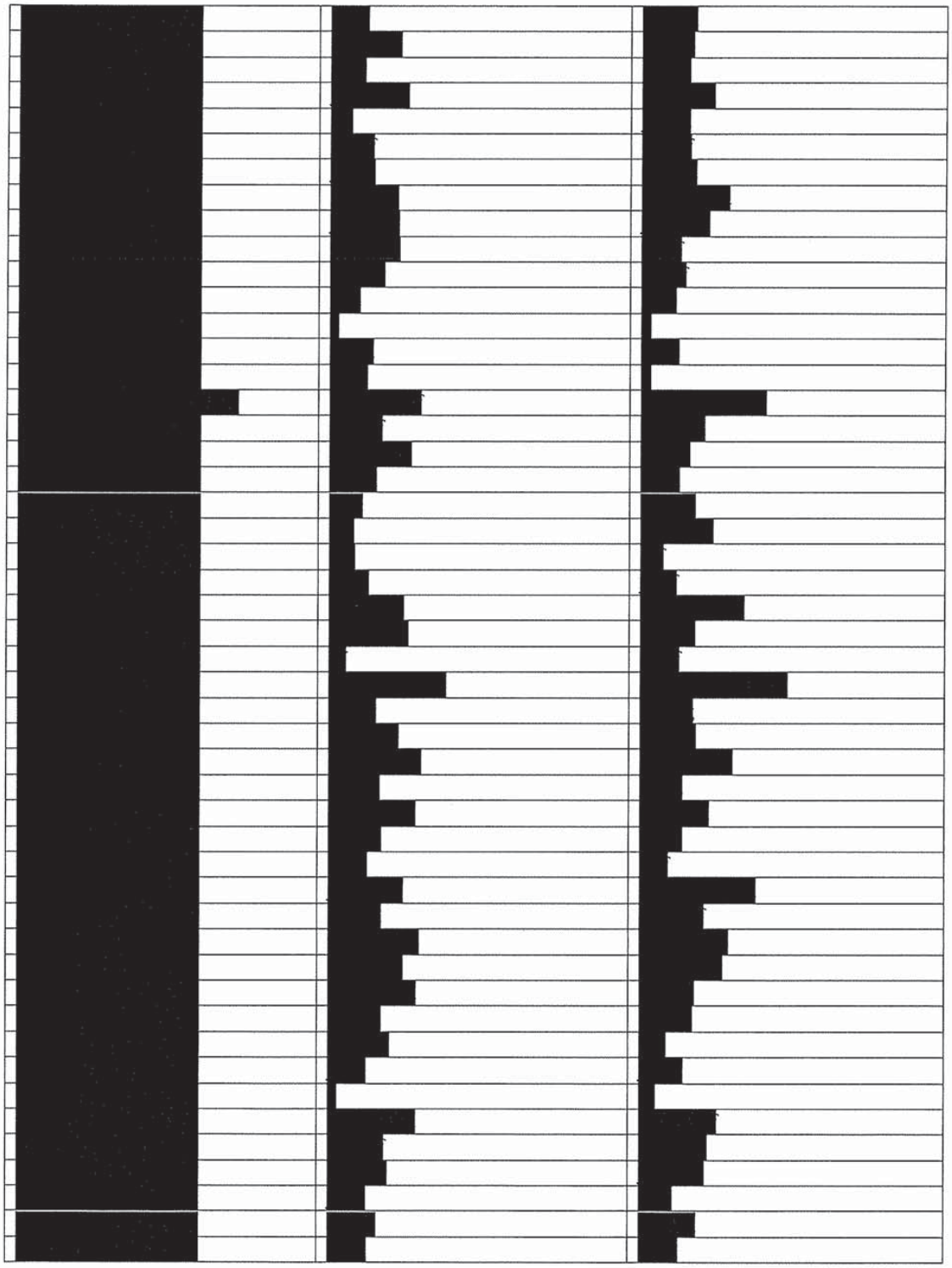
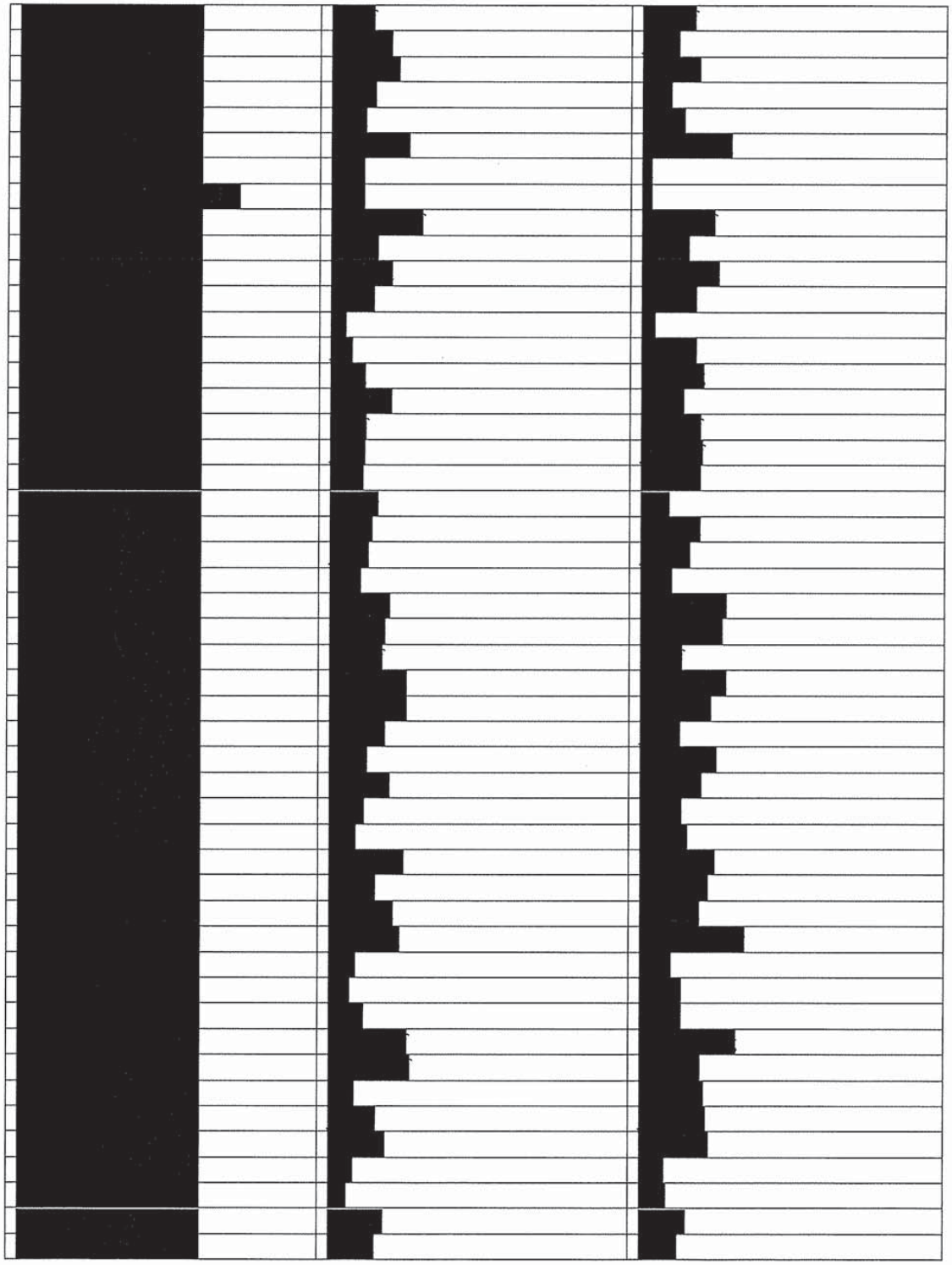
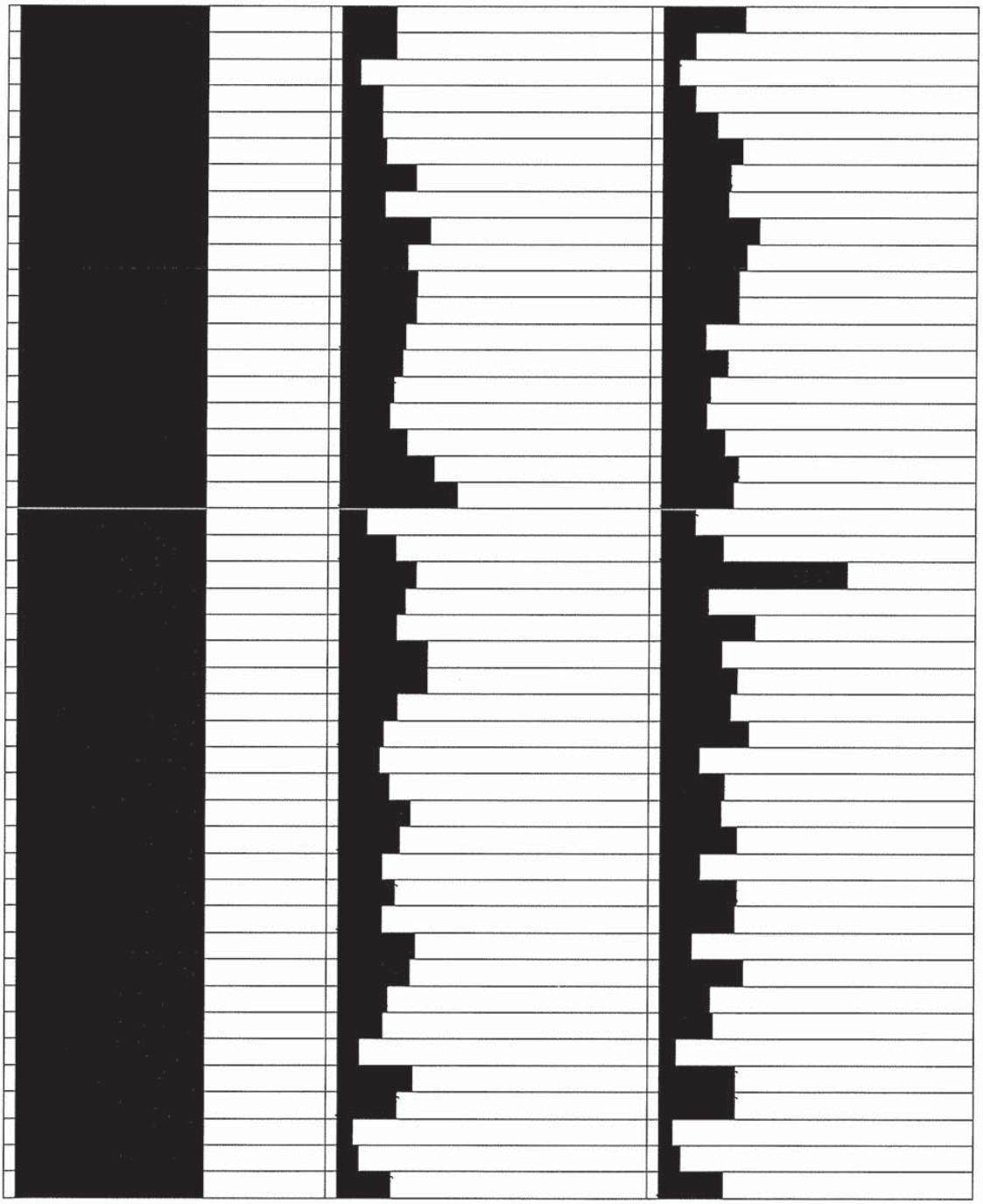
APPENDIX A

Chronological List of Letters of Inquiry (LOIs), Productions, and Agreements (Including LOI Responses & LOI Supplemental Responses)

Document Type	Communication	Date	Abbreviation (if applicable)
LOI	Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Michael Pendergast, General Counsel Purple Communications, Inc. (Mar. 11, 2011) (on file in EB-11-TC-028)	3/11/11	
LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 11, 2011) (on file in EB-11-TC-028)	4/11/11	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 16, 2011) (on file in EB-11-TC-028)	4/16/11	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 21, 2011) (on file in EB-11-TC-028)	4/21/11	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 25, 2011) (on file in EB-11-TC-028)	4/25/11	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (May 2, 2011) (on file in EB-11-TC-028)	5/2/11	
LOI	Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Michael Pendergast, General Counsel, Purple Communications, Inc., and Attach. Subpoena (Jan. 23, 2012) (on file in EB-11-TC-028)	1/23/12	
LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 23, 2012) (on file in EB-11-TC-028)	2/23/12	February 23, 2012 LOI Response

Document Type	Communication	Date	Abbreviation (if applicable)
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (July 3, 2012) (on file in EB-11-TC-028)	7/3/12	
Tolling Agreement	Tolling Agreement, executed by and between Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, and John F. Cannon, Counsel for Purple Communications, Inc. (July 12, 2012)	7/12/12	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (July 20, 2012) (on file in EB-11-TC-028)	7/20/12	July 20, 2012 Supplemental LOI Response
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 1, 2013) (on file in EB-11-TC-028)	4/1/13	
Supplemental LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (May 15, 2013) (on file in EB-11-TC-028)	5/15/13	May 15, 2013 Supplemental LOI Response
Tolling Agreement	Second Extended Tolling Agreement, executed by and between Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, and John F. Cannon, Counsel for Purple Communications, Inc. (June 6, 2013)	6/6/13	
LOI	Letter from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to John F. Cannon, Esq., Counsel, Purple Communications, Inc. (July 29, 2013 (on file in EB-TCD-12-00000376)	7/29/13	
LOI Response	Letter from John F. Cannon, Counsel, Purple Communications, Inc., to Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Aug. 28, 2013) (on file in EB-TCD-12-00000376)	8/28/13	August 28, 2013 LOI Response
Tolling Agreement	Third Extended Tolling Agreement, executed by and between Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, and John F. Cannon, Counsel for Purple Communications, Inc. (Nov. 15, 2013)	11/15/13	

APPENDIX B

This appendix contains a random sample of 233 False Name users or approximately [redacted] of the [redacted] False Name users whose accounts were still active after [redacted]. Using Excel's "=RAND()" function on April 16, 2014, the following names were randomly selected from False Name registrant information provided to the Commission by Purple.

Date TDN was Assigned	Registrants First Name	Registrants Last Name
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]