

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

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

REPORT AND ORDER

Adopted: January 30, 2020

Released: January 31, 2020

By the Commission: Chairman Pai and Commissioners O’Rielly, Carr, and Starks issuing separate statements.

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I. INTRODUCTION

1. In this Report and Order, we authorize Telecommunications Relay Services (TRS) Fund compensation of video relay service (VRS) providers for calls handled by communications assistants (CAs) from home workstations, converting the existing pilot at-home call-handling program to a permanent one. Allowing VRS CAs to work off-site—with safeguards for service quality, call confidentiality, and prevention of waste, fraud, and abuse—will expand the pool of qualified sign-language interpreters who can work as VRS CAs, facilitating further improvement of this vital service.

II. BACKGROUND

2. VRS enables people with hearing or speech disabilities who use American Sign Language (ASL) to employ video equipment to communicate with voice telephone users.<sup>1</sup> A video link

<sup>1</sup> See 47 CFR § 64.601(a)(47) (defining VRS). Under section 225 of the Communications Act of 1934, as amended (the Act), the Federal Communications Commission (Commission) must ensure the provision of telecommunications relay services so that persons who are deaf, hard of hearing, deaf-blind, or have speech disabilities can communicate by telephone in a manner that is functionally equivalent to voice communication

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allows a CA and the VRS user on the video side of the call to view and sign with each other, and the CA is also connected to a user on the voice side of the call via telephone. The CA interprets and relays the conversation back and forth between the two parties.<sup>2</sup>

3. In 2011, the Commission amended its rules to prohibit VRS CAs from working at home. The Commission found that, due to the lack of direct oversight and other limitations of the home environment, the use of at-home CAs impermissibly increased the risk of VRS fraud and compromised the protection of confidentiality, service reliability, and service quality.<sup>3</sup>

4. Six years later, recognizing that anti-fraud safeguards and advances in network technology may have reduced these risks, the Commission authorized a pilot program whereby participating VRS providers could permit some CAs to work at home.<sup>4</sup> The pilot program, which commenced November 1, 2017, allows participating VRS providers to be compensated for calls handled by CAs working at home for up to 30% of a provider's monthly minutes,<sup>5</sup> so long as the provider complies with the Commission's mandatory minimum standards and with specified personnel, technical, and environmental safeguards, as well as with monitoring, oversight and reporting requirements.<sup>6</sup> Each provider seeking to participate in the pilot program was required to submit a detailed compliance plan for Commission approval.<sup>7</sup>

5. Initially, the Commission authorized two VRS providers operating under common ownership—CSDVRS, LLC, d/b/a ZVRS (ZVRS) and Purple Communications, Inc. (Purple)—to participate in the pilot program.<sup>8</sup> On October 31, 2018, the Consumer and Governmental Affairs Bureau (CGB) of the Commission granted them limited, temporary waivers to extend their participation in the program through April 30, 2019.<sup>9</sup> Subsequently, CGB granted additional waivers authorizing Sorenson Communications, LLC (Sorenson), ASL Services Holdings, LLC dba GlobalVRS (GlobalVRS), and

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services utilized by persons without such disabilities. 47 U.S.C. § 225(a)(3), (b)(1). To achieve functional equivalency, the Commission's TRS rules contain operational, technical, and functional minimum standards. See 47 CFR § 64.604 *et seq.*

<sup>2</sup> See 47 CFR § 64.601(a)(47).

<sup>3</sup> *Structure and Practices of the Video Relay Service Program*, CG Docket No 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545, 5556-59, paras. 16-20 (2011 VRS Call Practices Order) (adopting 47 CFR § 64.604(b)(4)(iii)).

<sup>4</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order, 32 FCC Rcd 2436, 2455-57, paras. 46-49 (2017) (2017 VRS Improvements Order).

<sup>5</sup> This monthly maximum is calculated as the greater of (1) 30% of the provider's total compensated minutes for that month, or (2) 30% of the provider's average monthly minutes for the 12 months ending October 31, 2017. 47 CFR § 64.604(b)(8)(iii); 2017 VRS Improvements Order, 32 FCC Rcd at 2455-56, para. 46.

<sup>6</sup> 47 CFR § 64.604(b)(8); 2017 VRS Improvements Order, 32 FCC Rcd at 2457-61, paras. 51-54.

<sup>7</sup> 2017 VRS Improvements Order, 32 FCC Rcd at 2455-56, 2463, paras. 46, 59.

<sup>8</sup> *Authorizations Granted to CSDVRS, LLC, and Purple Communications, Inc., to Participate in the VRS At-Home Call Handling Pilot Program*, CG Docket Nos. 10-51 and 03-123, Public Notice, 32 FCC Rcd 9245 (CGB 2017).

<sup>9</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Order, 33 FCC Rcd 10998 (CGB 2018) (Pilot Program Extension Order).

Convo Communications, LLC (Convo) to participate in the pilot program and further extended the expiration date for all participants.<sup>10</sup>

6. On May 9, 2019, in response to a petition for rulemaking,<sup>11</sup> the Commission proposed to convert the VRS at-home call-handling pilot program into a permanent program, subject to safeguards comparable to those of the pilot program.<sup>12</sup> The Commission sought comment on the benefits and costs of at-home call handling, the efficacy of the pilot program safeguards, and the extent to which each safeguard should be retained, modified, eliminated, or supplemented if the at-home program is made permanent.<sup>13</sup> The Commission received four comments from the following parties: Convo; GlobalVRS; ZVRS and Purple; and Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Association of Late-Deafened Adults, Inc., Cerebral Palsy and Deaf Organization, and American Association of the DeafBlind (Consumer Groups). Reply comments were received from the Consumer Groups, Convo, Sorenson, and ZVRS and Purple. Four of the five parties commenting on this matter support the Commission's proposal, and the fifth does not oppose it.<sup>14</sup>

### III. REPORT AND ORDER

7. We adopt permanent rules permitting authorized VRS providers to let CAs handle calls at home workstations, subject to safeguards designed to maintain service quality, protect call confidentiality, and prevent fraud, waste, and abuse. As two years of experience under the pilot program have demonstrated, allowing VRS CAs to work at home under appropriate regulation can improve the efficiency and effectiveness of VRS, without causing discernible harm to service quality or user confidentiality.<sup>15</sup> Adding this flexibility enables VRS providers to attract and retain qualified CAs for whom working at the companies' call centers is not a practical option,<sup>16</sup> and there is evidence that working at home can reduce CA stress and improve productivity and performance.<sup>17</sup> Participating VRS

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<sup>10</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Order, 34 FCC Rcd 2824 (CGB 2019) (*Second Pilot Program Extension Order*); *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Order, 34 FCC Rcd 9880 (CGB 2019) (*Third Pilot Program Extension Order*).

<sup>11</sup> Petition of CSDVRS, LLC dba ZVRS and Purple Communications, Inc. for Rulemaking to Permanently Authorize At-Home Video Relay Service Call Handling, CG Docket Nos. 10-51 and 03-123, at 3, Exh. A, & Exh. B (filed Aug. 29, 2018), [https://ecfsapi.fcc.gov/file/10829567229310/REDACTED%20-%20ZVRS%20and%20Purple%20Petition%20to%20Permanently%20Authorize%20At-Home%20Call%20Handling%20\(FINAL\).pdf](https://ecfsapi.fcc.gov/file/10829567229310/REDACTED%20-%20ZVRS%20and%20Purple%20Petition%20to%20Permanently%20Authorize%20At-Home%20Call%20Handling%20(FINAL).pdf) (ZVRS and Purple Petition).

<sup>12</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 3396, 3417-22, paras. 39-54 (2019) (*2019 VRS Improvements FNPRM*).

<sup>13</sup> *Id.*

<sup>14</sup> See GlobalVRS Comments at 1-2; Consumer Groups Comments at 1-2; ZVRS and Purple Comments at 1-3; Sorenson Reply Comments 9-10 (all supporting the Commission's proposal); see also Convo Comments at 2-4 (raising various concerns but noting that it requested authorization to participate in the pilot program).

<sup>15</sup> See ZVRS and Purple Comments at 1, 6; *Third Pilot Program Extension Order*, 34 FCC Rcd at 9882, para. 6 (describing evidence that many of the expected benefits have been realized under the pilot program).

<sup>16</sup> ZVRS and Purple Petition at 6-7 (stating that "several interpreters who cannot travel to one of the Companies' traditional call centers due to a lack of proximity or inadequate public transportation options are now successfully handling VRS calls at their at-home workstations").

<sup>17</sup> *Id.* at 8, 13-14 (CAs working at home report reduced stress).

providers have consistently reported that the average at-home CA handles more calls daily<sup>18</sup> and has a comparable or lower ratio of complaints to answered calls than the average call center CA.<sup>19</sup> Further, at-home call handling can improve network reliability and redundancy, helping providers to maintain CA staffing levels when unforeseen circumstances, such as inclement weather or civic emergencies, impede CAs from reaching a call center.<sup>20</sup> Finally, there is potential for cost savings and a reduction in unnecessary TRS Fund expenditures from reducing the need for facilities and related overhead costs.<sup>21</sup>

8. By largely retaining the safeguards established in the *2017 VRS Improvements Order*, we can permit at-home VRS call handling without increasing the risk of waste, fraud, and abuse or endangering the confidentiality, reliability, and quality of VRS.<sup>22</sup> Regarding VRS quality, according to the Consumer Groups, anecdotal evidence suggests that VRS users generally are unable to determine whether the CAs handling their calls are working at home or at a call center.<sup>23</sup> Further, as ZVRS and Purple point out, the reports submitted during the pilot program indicate that calls handled by home workstations are “indistinguishable” from those handled at call centers in terms of service quality and compliance with minimum TRS standards.<sup>24</sup> In adopting these safeguards as minimum TRS standards,

<sup>18</sup> Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 44 (Dec. 3, 2018) (Purple Dec. 3, 2018 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 13 (Mar. 1, 2019) (Purple Mar. 1, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 12 (June 3, 2019) (Purple June 3, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch at 20 (Sept. 3, 2019) (Purple Sept. 3, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 16 (Dec. 2, 2019) (Purple Dec. 2, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 41 (Dec. 3, 2018) (ZVRS Dec. 3, 2018 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 10 (Mar. 1, 2019) (ZVRS Mar. 1, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 11 (June 3, 2019) (ZVRS June 3, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 13 (Sept. 3, 2019) (ZVRS Sept. 3, 2019 Report); Letter from Gregory Hlibok, ZVRS and Purple, to Marlene H. Dortch, FCC, at 12 (Dec. 2, 2019) (ZVRS Dec. 2, 2019 Report); Letter from Randall W. Sifers, Sorenson, to Diane B. Burstein, FCC at Exh. 9 (Dec. 2, 2019) (Sorenson Dec. 2, 2019 Report). Much of the information in these reports was submitted with a request for confidential treatment. The confidential versions of the reports are available for review by parties in accordance with the Third Protective Order in this proceeding. *Misuse of Internet Protocol (IP) Captioned Telephone Service; Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24, 10-51, and 03-123, Order and Third Protective Order, 33 FCC Rcd 6802 (CGB 2018).

<sup>19</sup> Purple Dec. 3, 2018 Report at 7; Purple Mar. 1, 2019 Report at 7; Purple June 3, 2019 Report at 7, 9; Purple Sept. 3, 2019 Report at 14, 16; Purple Dec. 2, 2019 Report at 9-10, 12; ZVRS Dec. 3, 2018 Report at 6; ZVRS Mar. 1, 2019 Report at 6; ZVRS June 3, 2019 Report at 6-7; ZVRS Sept. 3, 2019 Report at 8, 10; ZVRS Dec. 2, 2019 Report at 7-8; Sorenson Dec. 2, 2019 Report at 6, Exh. 8.

<sup>20</sup> See Convo Comments at 2 (citing CA safety during inclement weather or other adverse conditions as an advantage of home CA workstations).

<sup>21</sup> See ZVRS and Purple Comments at 2 (noting that permanent authorization of at-home call handling would “allow VRS providers to further increase efficiencies and realize cost savings that will benefit providers and the Fund”); see also ZVRS and Purple Petition at 7, Exh. A at 38, Exh. B at 40 (providing confidential estimates of costs incurred for the first six months of the pilot program).

<sup>22</sup> See *2019 VRS Improvements FNPRM*, 34 FCC Rcd at 3418-19, para. 42 (discussing the effectiveness of the safeguards during the pilot program); Consumer Groups Comments at 1-2 (noting their support of the at-home call-handling program due to the “apparent compliance with the standards and safeguards of the Pilot Program” and finding no negative impact of the pilot program on reliability or response times or breaches in confidentiality); ZVRS and Purple Comments at 2 (stating that monitoring, supervision, and support requirements are “important”).

<sup>23</sup> Consumer Groups Comments at 1.

<sup>24</sup> ZVRS and Purple Reply Comments at 3; *supra* note 19 (citing provider reports indicating that the average at-home CA receives a comparable or lower ratio of complaints to answered calls than CAs at traditional call centers);

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we also simplify the organization and wording of the rules to provide a clearer and more concise statement of provider obligations.

9. Further, VRS providers' economic incentives will help ensure that the costs of at-home call handling, which is not required of any provider, do not exceed benefits.<sup>25</sup> To the extent that the provision of at-home call handling does *not* result in cost savings or revenue-enhancing benefits such as increased customer loyalty, it is less likely that VRS providers will choose to continue or expand this practice.<sup>26</sup> Accordingly, we conclude that the benefits of allowing at-home call handling outweigh the associated costs.<sup>27</sup>

10. *Maximum percentage of at-home minutes.* To allow VRS providers additional flexibility to make the most efficient use of at-home call handling, we raise the percentage cap on a provider's at-home call-handling to 50% of the provider's monthly VRS minutes.<sup>28</sup> For the pilot program, the Commission set the cap at 30% to ensure that "VRS providers will process at least twice as many minutes at call centers rather than at home, while leaving significant flexibility for at-home call handling throughout the night."<sup>29</sup> The record does not provide specific guidance as to the optimum level of this cap. In light of the pilot program's record of improved CA productivity and the lack of any evidence that service quality has been harmed by allowing the use of at-home CAs up to the 30% level, we believe that extending these productivity benefits with a modest increase of the cap to 50% outweighs what (based on the pilot program) appears to be a minimal risk of harm from any increased reliance on at-home CAs.

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ZVRS June 4, 2019 Report at 3, 8; Purple June 3, 2019 Report at 3, 9-10; ZVRS Sept. 3, 2019 Report at 3, 10-11; Purple Sept. 3, 2019 Report at 3, 17-18 (indicating that the home workstations are in compliance with the mandatory minimum standards, are successfully supervised, maintain call confidentiality, and are seamlessly integrated into call routing distribution and tracking systems).

<sup>25</sup> See *2017 VRS Improvements Order*, 32 FCC Rcd at 2463, para. 59 (noting that because participation in the pilot program is voluntary, providers will be able to determine for themselves if the benefits of participation outweigh potential costs).

<sup>26</sup> The record indicates that, to date, this has not occurred. The quarterly reports by participating VRS providers show continuous growth in the number of at-home CAs since April 2018. Purple Dec. 3, 2018 Report at 4; Purple Mar. 1, 2019 Report at 3; Purple June 3, 2019 Report at 3; Purple Sept. 3, 2019 Report at 3; Purple Dec. 2, 2019 Report at 3; ZVRS Dec. 3, 2018 Report at 4; ZVRS Mar. 1, 2019 Report at 3; ZVRS June 3, 2019 Report at 3; ZVRS Sept. 3, 2019 Report at 3; ZVRS Dec. 2, 2019 Report at 3.

<sup>27</sup> The VRS providers participating in the at-home call handling pilot program submitted detailed cost data for the program. See Purple June 1, 2018 Report at 7, Exh. 6; Purple Dec. 3, 2018 Report at 11, Exh. 7; Purple Mar. 1, 2019 Report at 11, Exh. 2; Purple June 3, 2019 Report at 10, Exh. 2; Purple Sept. 3, 2019 Report at 18, Exh. 2; Purple Dec. 2, 2019 Report at 14, Exh. 2; ZVRS June 1, 2018 Report at 7, Exh. 6; ZVRS Dec. 3, 2018 Report at 10-11, Exh. 6; ZVRS Mar. 1, 2019 Report at 8, Exh. 2; ZVRS June 3, 2019 Report at 9, Exh. 2; ZVRS Sept. 3, 2019 Report at 11, Exh. 2; ZVRS Dec. 2, 2019 Report at 10, Exh. 2; Sorenson Dec. 2, 2019 Report at 8, Exh. 10; see also, ZVRS and Purple Comments at 4,10 (discussing burdens of at-home call center inspections and reporting obligations); *Pilot Program Extension Order*, 33 FCC Rcd at 11000, para. 8 (noting the start-up costs associated with permitting at-home call handling, including costs to train CAs, procure, install, and configure the necessary facilities, and provide management and administrative support).

<sup>28</sup> See 47 CFR § 64.604(b)(8)(iii). In the rule adopted by this Report and Order, we define the maximum monthly percentage of minutes that may be handled by at-home CAs as the greater of: (A) Fifty percent (50%) of a VRS provider's total minutes for which compensation is paid in that month; or (B) Fifty percent (50%) of the provider's average projected monthly conversation minutes for the calendar year, according to the projections most recently filed with the TRS Fund administrator. See 47 CFR § 64.604(c)(5)(iii)(D)(I) (requiring TRS providers to file projected demand data). A majority of commenters support the retention of a cap on minutes.

<sup>29</sup> *2017 VRS Improvements Order*, 32 FCC Rcd at 2455, para. 46 n.130.

And in light of our experience with the pilot program, our prior concerns that led to a requirement of predominant use of call centers appear to have been unwarranted.

11. We disagree with commenters that oppose raising the cap, as they do not identify a specific rationale supporting retention of the 30% maximum, or any evidence that our safeguards are insufficient to protect VRS consumers if the cap is incrementally raised.<sup>30</sup>

12. We also decline to remove the cap completely at this time.<sup>31</sup> Absent a more fulsome record of experience with at-home VRS call handling, we believe an incremental approach to easing existing restrictions is best. Therefore, we continue the pilot-program approach whereby at-home workstations for VRS CAs complement rather than replace the functions performed at call centers.<sup>32</sup>

13. *Personnel safeguards.* Under the pilot program rules, at-home CAs must have a minimum of three years of VRS call center experience, as well as sufficient experience, skills, and knowledge to effectively interpret from home workstations. The VRS provider also must (1) provide additional training on the provider's protocols for at-home call handling; (2) establish, and provide to the CA in writing, the grounds and process for dismissal from the at-home program if the CA fails to adhere to the TRS rules; and (3) obtain a written certification from each CA that the CA understands and will comply with the TRS rules, and understands the grounds and process for dismissal from the at-home program. Finally, the VRS provider must provide to at-home CAs support equivalent to that provided CAs in call centers, including, where appropriate, the opportunity to team interpret, and must ensure that supervisors are readily available to resolve problems that may arise during a relay call.<sup>33</sup>

14. We adopt a few substantive changes to these safeguards. *First*, rather than requiring CAs working from home to have three years of VRS call center experience, we require three years of full-time or equivalent part-time experience in professional ASL interpreting, whether in a community, business, VRS, or other context.<sup>34</sup> We agree with ZVRS and Purple that requiring at-home CAs to have prior VRS call center experience runs counter to our goal of expanding the pool of potential VRS CAs to include interpreters who would not otherwise be able to work in VRS.<sup>35</sup> We expect that a CA with three years of professional ASL interpreting experience will have become skilled in providing interpretive services

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<sup>30</sup> See Convo Comments at 3 (contending that the Commission should retain the 30% limitation pending further assessment of risks to privacy, security, and safety); Sorenson Reply Comments at 9 (stating that remaining unknowns call for the retention of the 30% cap); Consumer Groups Reply Comments at 2 (stating that "concerns" are raised by some suggested changes, including "eliminating the 30% limit"); *but see* GlobalVRS Comments at 9-10 (urging the Commission to "reduce at-home call center limitations on a gradual basis in accordance with the benefit of further experience and data"); ZVRS and Purple Comments at 8 (urging complete removal of the minutes cap). Convo also raises a general concern that at-home interpreting could reduce the availability of interpreters for community interpreting. Convo Comments at 3-4. The record does not contain specific data demonstrating such an impact nor an explanation of how at-home VRS interpreting poses a greater threat to community interpreting than in-office VRS interpreting.

<sup>31</sup> Cf. ZVRS and Purple Comments at 8 (arguing that, absent evidence of waste, fraud, and abuse, market forces and the availability of qualified CAs should be the only limitation on at-home minutes).

<sup>32</sup> 2017 VRS Improvements Order, 32 FCC Rcd at 2455, para. 46 n.130; *see also* Comments of ZVRS, CG Docket Nos. 10-51 and 03-123, at 3 (filed Jan. 4, 2016) (stating that "hybridized use of CAs both at call centers and at home, will provide a good balance between the stability of centralized call center operations and the scalability and redundancy of at-home operations").

<sup>33</sup> 47 CFR § 64.604(b)(8)(iv)(C).

<sup>34</sup> In addition, like all VRS CAs, an at-home CA must be a "qualified interpreter," i.e., an interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary. 47 CFR §§ 64.601(a)(32), 64.604(a)(1)(iv).

<sup>35</sup> See ZVRS and Purple Comments at 5-6; 2019 VRS Improvements FNPRM, 34 FCC Rcd at 3417-18, paras. 39-40.

without direct supervision. Combined with the training requirements, this rule provides sufficient assurance that at-home CAs can effectively handle and interpret VRS calls without in-person supervision.

15. *Second*, we retain the pilot program requirement for at-home CAs to receive training on compliance with at-home safeguards and the provider's specific protocols for handling calls at home.<sup>36</sup> Contrary to the unsupported claim of one commenter,<sup>37</sup> this requirement is necessary to ensure that at-home CAs working without in-person supervision are fully educated on the procedures necessary in the home environment to maintain service quality, protect consumer privacy, and prevent waste, fraud, and abuse. However, because our rules already require a detailed plan describing how the VRS provider will ensure compliance, we delete as redundant the specific requirement that VRS providers establish at-home protocols.

16. *Third*, while continuing to require that a CA be removed from at-home call handling if the CA violates the at-home safeguards or other Commission rules, we delete the specific requirements that VRS providers establish and provide to CAs in writing the specific grounds and process for terminating a CA's permission to work at home and to have at-home CAs sign written certifications as to their understanding of and commitment to comply with the Commission's rules.<sup>38</sup> VRS providers are required to effectively train and supervise at-home CAs and are responsible for their CAs' compliance with the minimum TRS standards.<sup>39</sup> In light of the resulting incentives for VRS providers to ensure CA quality and rule compliance, additional regulation of providers' internal processes appears unnecessary.

17. *Technical and environmental safeguards*. We adopt the pilot program's technical and environmental safeguards without substantial changes. Under these rules, VRS providers must ensure that home workstations enable the provision of confidential and uninterrupted service to the same extent as the provider's call centers, and that calls handled by at-home CAs are seamlessly integrated into the provider's call-routing, distribution, tracking, and support systems.<sup>40</sup> Specifically, the VRS provider must ensure that each home workstation (1) resides in a separate, secure location within the home, with restricted access; (2) allows the CA to use all call-handling technology to the same extent as call-center CAs; (3) is capable of supporting VRS in compliance with the Commission's mandatory minimum standards to the same degree as at call centers; (4) is equipped with effective means to prevent eavesdropping and outside interruptions; and (5) connects to the provider's network over a secure connection to ensure caller privacy.<sup>41</sup>

18. These performance-based standards allow providers flexibility in deciding how to achieve technical and environmental parity with call-center workstations, enabling the specific implementations to adapt and improve as technology changes.<sup>42</sup> VRS providers report that these safeguards have not posed significant compliance issues during the pilot period,<sup>43</sup> and commenters generally support their retention.<sup>44</sup>

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<sup>36</sup> See 47 CFR § 64.604(b)(8)(iv)(B).

<sup>37</sup> ZVRS and Purple Comment at 13-14.

<sup>38</sup> See 47 CFR § 64.604(b)(8)(iv)(D), (E).

<sup>39</sup> See *id.* § 64.604(b)(8)(iv)(A), (B), (C).

<sup>40</sup> *Id.* § 64.604(b)(8)(v).

<sup>41</sup> *Id.* § 64.604(b)(8)(v)(A)-(E).

<sup>42</sup> See Consumer Groups Comments at 2 (encouraging continued evaluation and improvements to the safeguards as technology changes and improves).

<sup>43</sup> See ZVRS and Purple Comments at 4 (agreeing that the technical and environmental safeguards should remain the same, based on its experience with the implementation of such safeguards); ZVRS and Purple Reply Comment at 3-4 (asserting that their nearly two years of at-home call-handling data demonstrates that they have been in compliance

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19. Consistent with our performance-based approach, we provide the following clarifications to help VRS providers understand their compliance options.<sup>45</sup> It is the VRS provider's responsibility to ensure that its CAs comply with the security-related safeguards for home workstations,<sup>46</sup> which are intended to protect the confidentiality of user information and call content in accordance with longstanding TRS rules.<sup>47</sup> Measures to ensure that home workstations have security equivalent to that of a call center may include, for example, password protection for equipment, a lock on the door to the CA's workspace, a virtual private network (VPN) connection to the VRS provider's network, VRS call encryption, soundproofing material, and sound-dampening installations, such as a white noise machine. Although the VRS provider is responsible for ensuring secure communications between the home workstation and the provider's network, the rules do not require subscription to a separate broadband Internet access line dedicated solely to that purpose. Similarly, a VRS provider must ensure the overall redundancy of its communications system, which must be functionally equivalent to the redundancy achieved by telephone networks,<sup>48</sup> and the inclusion of at-home interpreting may be part of a provider's plan. Given this overall responsibility, our rules do not require VRS providers to duplicate each element of redundancy, such as back-up power and business-grade Internet access service, at each home workstation.<sup>49</sup>

20. We also clarify that "home workstation" includes any work site that is used by a single CA or by multiple CAs working different shifts. If a home (other than a shared residence)<sup>50</sup> or other work site is used simultaneously by more than one CA, that location will be deemed a VRS call center subject to the applicable Commission rules.<sup>51</sup> This clarification ensures that the Commission is aware of the location and responsible supervisor for each such work site housing multiple CAs.

21. *Emergency call handling.* We retain the requirement that home workstations support the handling of emergency calls.<sup>52</sup> To allow the transfer of an emergency or 911 call from an at-home CA to a call center CA, as proposed by Convo,<sup>53</sup> would introduce delay that is inconsistent with functionally

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with the Commission's mandatory minimum standards and without an increased risk of waste, fraud, and abuse); *see also* ZVRS and Purple Petition at 11-15 (providing evidence regarding confidentiality, redundancy, reliability, and quality of service regarding ZVRS's and Purple's participation in the at-home call-handling pilot program).

<sup>44</sup> *See, e.g.*, Consumer Groups Comments at 1-2; GlobalVRS Comments at 3-4; ZVRS and Purple Comments at 4.

<sup>45</sup> *See* GlobalVRS Comment at 4-6 (seeking clarification on various technical and environmental safeguard requirements); ZVRS and Purple Comments at 4 (seeking clarification whether a CA's home workspace can be shared with non-resident CAs).

<sup>46</sup> *See* 47 CFR § 64.604(b)(8)(v), (v)(A), (D), (E).

<sup>47</sup> *See id.* §§ 64.604(a)(2), 64.611(a)(3)(iv), 64.5101 *et seq.*

<sup>48</sup> *Id.* § 64.604(b)(4)(ii).

<sup>49</sup> *See 2017 VRS Improvements Order*, 32 FCC Rcd at 2460, para. 53 n.159.

<sup>50</sup> If two or more CAs share a house or apartment, it will not be deemed a "call center" even if they work there simultaneously.

<sup>51</sup> *See, e.g.*, 47 CFR § 64.606(a)(2)(ii)(A) (requiring applicants for VRS certification to submit documents and information regarding call centers).

<sup>52</sup> *See id.* § 64.604(b)(8)(v)(B), (C).

<sup>53</sup> Convo Comments at 2-3; Convo Reply Comment at 2; Letter from Jeff Rosen, Convo, to Marlene H. Dortch, FCC, CG Docket Nos. 03-123 and 10-51, at 1-2 (filed Sept. 6, 2019) (Convo Sept. 6, 2019 *Ex Parte*) (clarifying its comments on emergency call handling); *see also* ZVRS and Purple Reply Comments at 5 n.10 (explaining that while they have not experienced any issues with their at-home CAs' ability to handle emergency calls, they also support the option to allow at-home CAs to transfer emergency calls to call center CAs whenever necessary).

equivalent communication.<sup>54</sup> Further, the record to date indicates that at-home CAs have been able to effectively and efficiently handle emergency calls.<sup>55</sup> We also clarify that, if the CAs available to immediately answer a 911 call include both call-center and at-home CAs, a VRS provider's call-routing algorithm may give preference to having the call answered at a call center, provided that such routing is consistent with the priority treatment required by our rules and does not delay answering the 911 call.<sup>56</sup> We will continue to assess the performance of at-home CAs in emergencies and will revisit this issue if the evidence warrants.

22. *Authorization to participate.* To avoid imposing unnecessary or duplicative filing requirements, we do not require currently certified VRS providers—each of whom was previously approved to participate in the pilot program—to seek further authorization for at-home call handling.<sup>57</sup> A new applicant for VRS certification desiring to use at-home call handling must request such authorization as part of its application.<sup>58</sup> As under the pilot program, such authorization requests must include a detailed description of how the applicant will comply with the at-home call-handling safeguards and the monitoring and oversight requirements.<sup>59</sup> All VRS providers authorized for at-home call handling, including currently authorized providers, must inform the Commission in their annual VRS compliance reports of any substantive changes to their previously filed compliance plans. Because the at-home call handling safeguards and requirements are part of the Commission's mandatory minimum standards, noncompliance with such standards, or failure to adhere to a filed at-home compliance plan, may be considered in determining whether to grant or deny renewal of, or whether to suspend or revoke, a certification to provide VRS.<sup>60</sup> Because it is redundant with existing rules relating generally to TRS

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<sup>54</sup> See Sorenson Reply Comments at 9.

<sup>55</sup> See ZVRS and Purple Reply Comments at 5-6 n.10 (noting ZVRS and Purple have not experienced any issues with at-home CAs handling emergency calls).

<sup>56</sup> See Sorenson Reply Comments at 9; 47 CFR § 9.14(b)(2)(ii). If a non-911 call is handled by an at-home CA, and if the user then requests to call 911 as a sequential call, see Convo Sept. 6, 2019 *Ex Parte* at 1, the at-home CA must also handle a sequential 911 call. Such treatment, which is necessary to avoid any delay in 911 call completion caused by transfer to a different CA, conforms to the longstanding rule prohibiting CAs from refusing sequential calls. See 47 CFR § 64.604(a)(3)(i).

<sup>57</sup> To participate in the pilot program, each VRS provider was required to submit a detailed plan to demonstrate its ability to achieve full compliance with the above safeguards and the Commission's mandatory minimum TRS standards. 47 CFR § 64.604(b)(8)(i); 2017 *VRS Improvements Order*, 32 FCC Rcd at 2461-62, paras. 55-56.

<sup>58</sup> See generally 47 CFR § 64.606 (TRS certification requirements); see also ZVRS and Purple Comments at 11 (urging that advance notification be required for new providers but not for pilot program participants). Alternatively, if a newly certified VRS provider does not request or is not granted at-home authorization in conjunction with its grant of VRS certification, the provider may later seek at-home authorization via a separate application.

<sup>59</sup> ZVRS and Purple ask that “any detailed information that is reported with respect to at-home call-handling should not be made public to a greater extent than other information reported by the TRS Fund Administrator in its annual reports.” ZVRS and Purple Comments at 11. ZVRS and Purple also urge the Commission not to require sensitive information, such as survey responses, to be made public as providers otherwise may be disinclined to administer surveys in order to protect sensitive business information. *Id.* We do not pre-determine the confidentiality of any information submitted to the Commission. However, providers may request confidential treatment of certain information in accordance with sections 0.457 and 0.459 of our rules. 47 CFR §§ 0.457, 0.459.

<sup>60</sup> See 47 CFR § 64.606(c)(2), (e)(2).

providers,<sup>61</sup> we delete the separate provision stating that VRS providers may also be subject to withholding, forfeitures, and penalties for noncompliant minutes handled by home workstations.<sup>62</sup>

23. *Monitoring, oversight, auditing, and inspection requirements.* We adopt without substantive change the pilot program's monitoring, oversight, auditing, and inspection requirements. These rules require VRS providers to (1) inspect and approve each home workstation before it is used; (2) equip each home workstation with monitoring technology sufficient to ensure that CA performance is supervised to the same extent as CAs in a call center; (3) regularly analyze any data collected to address possible waste, fraud, and abuse; (4) conduct random, unannounced inspections of at least 5% of home workstations per year; (5) keep all records pertaining to home workstations for a minimum of five years; and (6) allow review, audit, and inspection of home workstations and workstation records by the Commission and the TRS Fund administrator.<sup>63</sup> Commenters generally support retaining these obligations, which are needed to ensure that home workstations comply with the at-home safeguards and receive sufficient call-center support and supervision.<sup>64</sup> We clarify that the rule requiring a VRS provider to conduct initial and periodic inspections of each home workstation does not specify how the inspections are conducted, provided that such inspections are consistent with the provider's at-home compliance plan and are effective in determining whether the CA's home workstation and workspace are in compliance with the at-home safeguards.<sup>65</sup>

24. Although the *2019 VRS Improvements FNPRM* proposed to set the retention period for at-home call-handling data at three years rather than the currently required five years,<sup>66</sup> we conclude that the five-year period should be required. Requiring record retention for five years will provide greater assurance that relevant information is available and can be reviewed, if necessary, in deciding whether renewal of a VRS provider's certification is warranted. This is consistent with the retention periods for other VRS provider records, such as the data supporting cost reports and claims for payment from the

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<sup>61</sup> See, e.g., *id.* § 64.604(c)(5)(iii)(E)(4) ("The TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in this section . . .").

<sup>62</sup> See *id.* § 64.604(b)(8)(ii).

<sup>63</sup> *Id.* § 64.604(b)(8)(vi), (vii).

<sup>64</sup> See ZVRS and Purple Comments at 3-4 (stating that, based on pilot program experience, monitoring and oversight obligations should remain the same). GlobalVRS also seeks clarification of whether in-person inspection costs would be considered allowed expenses and whether they would be reimbursable as an exogenous cost. GlobalVRS Comments at 6-7. Reasonable costs incurred to comply with the provision of at-home call handling are allowable TRS expenses. However, because participation in the at-home call-handling program is optional, we decline to categorize such expenses as exogenous costs. Exogenous treatment is available only for costs that result from new TRS service requirements or other causes beyond the provider's control. See *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Order, 32 FCC Rcd 5891, 5925, para. 66 (2017).

<sup>65</sup> See GlobalVRS Comments at 6-7 (seeking clarification of the inspection requirement). To make clear that the workspace as a whole must be inspected, we amend the inspection rule to expressly require pre-activation inspection of each home workstation "and its home environment." We also clarify that, under the amended rule, the initial 12-month period during which at least 5% of home workstations must be inspected begins on the effective date of the rule (or, if a VRS provider is newly certified, on the effective date of VRS certification), and each subsequent 12-month period begins on the first day after the end of the previous 12-month period.

<sup>66</sup> *2019 VRS Improvements FNPRM*, 34 FCC Rcd at 3420, para. 46; 47 CFR § 64.604(b)(8)(vi)(D).

TRS Fund.<sup>67</sup> Therefore, we do not find a data retention period of five years to be burdensome, or to inappropriately “overlap” with other data retention rules.<sup>68</sup>

25. *Call detail reports and call center information.* We adopt without substantive change the pilot program rules requiring monthly requests for compensation to include, for each at-home CA (1) a home workstation identification number (ID), street address, and CA ID, and (2) the call center ID, location, and supervisor name for the call center supervising that CA.<sup>69</sup> Collecting such data ensures that the TRS Fund administrator and the Commission are able to review, audit, and, if necessary, investigate the handling of calls at home workstations to the same extent as at call centers.<sup>70</sup>

26. *Annual reports.* In lieu of the semi-annual report required under the pilot program, we require VRS providers to include at-home call-handling data in their annual VRS compliance reports.<sup>71</sup> We conclude that annual filings (in lieu of the semi-annual filings required by the pilot program rules) are sufficient now that the program is converted to a permanent status. We require these reports to include the same information that has proved useful in evaluating call-handling performance under the pilot program (1) the total number of CAs who have worked at home during the reporting period; (2) the total number of 911 calls handled during the reporting period; and (3) the total number of complaints, if any, submitted to the provider regarding its at-home call-handling program or calls handled by at-home CAs. These reporting requirements, which are supported by most commenters,<sup>72</sup> provide data to help the Commission assess the use and effectiveness of at-home call handling. Therefore, we decline to eliminate such reports altogether for currently participating providers, as ZVRS and Purple suggest.<sup>73</sup>

27. To remove unnecessary reporting burdens, however, we delete the specific pilot-program requirements for the submission of detailed information about the at-home CA screening process, at-home

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<sup>67</sup> 47 CFR § 64.604(c)(5)(iii)(D)(7); *see also id.* § 64.604(c)(11)(iv) (requiring IP CTS providers to maintain consumer registration and equipment records for at least five years after the consumer ceases to obtain service from the providers).

<sup>68</sup> *See* ZVRS and Purple Comments at 12; *see* 47 CFR § 64.604(c)(5)(iii)(D)(7).

<sup>69</sup> *See* 47 CFR § 64.604(b)(8)(viii). We amend this rule to characterize the relevant identification number as a “home workstation ID,” rather than a “call center ID,” in order to clarify that a home workstation is not considered to be a “call center” for purposes of the TRS rules. We make a conforming amendment to the call data submission rule. *See id.* § 64.604(c)(5)(iii)(D)(2)(ix).

<sup>70</sup> ZVRS and Purple support the retention of the ID rules, stating that such information would combat waste, fraud, and abuse by making “anomalous usage” easily detectable. ZVRS and Purple Comments at 4; *see also* Consumer Groups Reply Comments at 2; Convo Comments at 3; GlobalVRS Comments at 3-4 (all supporting the retention of the reporting requirements and safeguards). VRS providers are not required to notify the Commission and the TRS Fund administrator before opening, closing, or relocating home workstations, or to include home workstations in their semi-annual call center reports (*see* 47 CFR § 64.604(c)(5)(iii)(N)(2)). VRS providers should not count home workstations as operating call centers for purposes of an application for certification or recertification to provide VRS. *See id.* § 64.606(a)(2)(ii)(A).

<sup>71</sup> *See* 47 CFR § 64.606(g).

<sup>72</sup> *See* Convo Comments at 3; GlobalVRS Comments at 3-4; Consumer Groups Reply Comments at 2 (all asserting the Commission should maintain the reporting requirements and safeguards for all providers); *see also* Sorenson Reply Comments at 10 (asserting all providers should be subject to the same data collection requirements).

<sup>73</sup> ZVRS and Purple Comments at 9-11; ZVRS and Purple Reply Comments at 4-5. We decline to adopt the suggestion of ZVRS and Purple that such reports should not be made public as they would not “be valuable to consumers.” ZVRS and Purple Comments at 11-12. The public has a legitimate interest in information regarding the performance of VRS providers employing at-home CAs, and in any event the Commission cannot withhold such data from the public absent a request that satisfies sections 0.457 and 0.459 of our rules. 47 CFR §§ 0.457, 0.459. *See generally* 5 U.S.C. § 552.

CA training materials and call-handling protocols, CA surveys and self-evaluations, CAs terminated from the program, inspections of home workstations, oversight of CAs working at home, tracking software reports, and costs of at-home call handling.<sup>74</sup> The reporting of this information, which was deemed necessary during the pilot program to enable an evaluation of whether at-home call handling could be safely permitted, is no longer necessary now that the experimental phase has been successfully completed.<sup>75</sup> In lieu of these voluminous reports, we require VRS providers to describe in their annual reports any substantive changes in the information previously submitted in the provider's at-home compliance plan.

#### IV. PROCEDURAL MATTERS

28. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>76</sup> the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is set forth in Appendix C.

29. *Paperwork Reduction Act Analysis.* The Report and Order contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).<sup>77</sup> It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA.<sup>78</sup> OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002,<sup>79</sup> we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In Appendix C, we have assessed the effects of the required collection of information about VRS at-home call handling. We find that the requirements are no more burdensome than those currently applicable to VRS providers and are needed to ensure compliance with the Commission's rules and protect against waste, fraud, and abuse of the TRS program.

30. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

31. *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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

#### V. ORDERING CLAUSES

32. 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, the foregoing Report and Order IS ADOPTED, and the Commission's rules are hereby amended, as set forth in Appendix B.

33. IT IS FURTHER ORDERED that the Report and Order and the amendments to the Commission's rules SHALL BE EFFECTIVE 30 days after publication of a summary in the Federal

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<sup>74</sup> See 47 CFR § 64.604(b)(8)(ix).

<sup>75</sup> As noted earlier, we retain the requirement that VRS providers maintain all records pertaining to home workstations for at least five years. See *id.* § 64.604(b)(8)(vi)(D).

<sup>76</sup> 5 U.S.C. § 601 et seq.

<sup>77</sup> Pub. L. No. 104-13, 109 Stat 163 (1995) (codified at 44 U.S.C. §§ 3501-3520).

<sup>78</sup> 44 U.S.C. § 3507(d).

<sup>79</sup> Pub. L. No. 107-198, 116 Stat. 729 (2002); 44 U.S.C. § 3506(c)(4).

Register, except that the amendments to sections 64.604 and 64.606 of the Commission's rules, which contain new or modified information collection requirements, SHALL BE EFFECTIVE on the date specified in a notice published in the *Federal Register* announcing Office of Management and Budget approval of the information requirements of such rules pursuant to the Paperwork Reduction Act.

34. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of the Report and Order, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

35. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****List of Commenting Parties****Comments:**

ASL Services Holdings, LLC dba GlobalVRS (GlobalVRS)

Convo Communications, LLC (Convo)

CSDVRS, LLC, dba ZVRS (ZVRS) and Purple Communications, Inc. (Purple)

Telecommunications for the Deaf and Hard of Hearing, Inc., National Association of the Deaf, Association of Late-Deafened Adults, Inc., Cerebral Palsy and Deaf Organization, and American Association of the DeafBlind (collectively, Consumer Groups)

**Reply Comments:**

Consumer Groups

Convo

Sorenson Communications, LLC (Sorenson)

ZVRS and Purple

## APPENDIX B

## Final Rules

The Federal Communications Commission amends Title 47 of the Code of Federal Regulations as follows:

**Part 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

1. The authority citation for part 64 continues to read as follows:

**Authority:** [INSERT CURRENT AUTHORITY CITATION]

2. Amend section 64.601 by redesignating paragraphs (a)(5) through (a)(16) as paragraphs (a)(7) through (a)(18) and paragraphs (a)(17) through (a)(51) as paragraphs (a)(20) through (a)(54) and adding new paragraphs (a)(5), (a)(6), and (a)(19) to read as follows:

**§ 64.601 Definitions and provisions of general applicability.**

(a) \* \* \*

(5) “At-home CA” means a CA that a VRS provider authorizes to handle VRS calls at a home workstation.

(6) “At-home VRS call handling” means the handling of VRS calls by a CA at a home workstation.

\* \* \* \* \*

(19) “Home workstation” or “home CA workstation” means a VRS CA’s workstation in the CA’s home or in any location where two or more CAs do not simultaneously handle VRS calls.

\* \* \* \* \*

3. Amend section 64.604 by revising paragraphs (b)(4)(iii), (b)(8), and (c)(5)(iii)(D)(2)(ix) to read as follows:

**§ 64.604 Mandatory minimum standards.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(iii) A VRS provider shall not allow its CAs to handle VRS calls from a home workstation unless so authorized by the Commission.

\* \* \* \* \*

(8) *At-home VRS call handling.*

(i) *Limit on minutes handled.* In any calendar month, a VRS provider authorized by the Commission to employ at-home CAs may be compensated for minutes handled from home workstations up to a maximum of the greater of:

(A) Fifty percent (50%) of a VRS provider’s total minutes for which compensation is paid in that month; or

(B) Fifty percent (50%) of the provider’s average projected monthly conversation minutes for the calendar year, according to the projections most recently filed with the TRS Fund administrator.

(ii) *Personnel safeguards.* A VRS provider shall:

(A) Allow a CA to work at home only if the CA is a qualified interpreter with at least three years of professional interpreting experience, has the experience, skills, and knowledge necessary to effectively

interpret VRS calls without in-person supervision, has learned the provider's protocols for at-home call handling, and understands and follows the TRS mandatory minimum standards; and

(B) Provide at-home CAs equivalent support to that provided to CAs working from call centers, including, where appropriate, the opportunity to team-interpret and consult with supervisors, and ensure that supervisors are readily available to resolve problems that may arise during a relay call.

(iii) *Technical and environmental safeguards.* A VRS provider shall ensure that each home workstation enables the provision of confidential and uninterrupted service to the same extent as the provider's call centers and is seamlessly integrated into the provider's call routing, distribution, tracking, and support systems. Each home workstation shall:

(A) Reside in a separate, secure workspace where access during working hours is restricted solely to the CA;

(B) Allow a CA to use all call-handling technology to the same extent as call-center CAs;

(C) Be capable of supporting VRS in compliance with the applicable mandatory minimum standards to the same degree as at call centers;

(D) Be equipped with an effective means to prevent eavesdropping and outside interruptions; and

(E) Be connected to the provider's network over a secure connection to ensure caller privacy.

(iv) *Monitoring and oversight obligations.* A VRS provider shall:

(A) Inspect each home workstation and its home environment to confirm their compliance with paragraph (b)(8)(iii) of this section before activating the workstation for use;

(B) Assign a unique workstation identification number to each VRS home workstation

(C) Equip each home workstation with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center and regularly analyze the records and data produced by such monitoring to proactively address possible waste, fraud, and abuse;

(D) Keep all records pertaining to home workstations, except records of the content of interpreted conversations, for a minimum of five years; and

(E) Conduct random and unannounced inspections of at least five percent (5%) of all home workstations, including their home environments, in each 12-month period.

(v) *Commission audits and inspections.* Home workstations and workstation records shall be subject to review, audit, and inspection by the Commission and the TRS Fund administrator and unannounced on-site inspections by the Commission to the same extent as call centers and call center records subject to the rules in this chapter.

(vi) *Monthly reports.* With its monthly requests for compensation, a VRS provider employing at-home CAs shall report the following information to the TRS Fund administrator for each home workstation:

(A) The home workstation identification number and full street address (number, street, city, state, and zip code);

(B) The CA identification number of each individual handling VRS calls from that home workstation; and

(C) The call center identification number, street address, and name of supervisor of the call center responsible for oversight of that workstation.

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(D) \* \* \*

(2) \* \* \*

(ix) The call center (by assigned center ID number) or home workstation (by assigned home workstation identification number) that handled the call; and

\* \* \* \* \*

4. Amend section 64.606 by adding new paragraphs (a)(4) and (g)(5) to read as follows:

**§ 64.606 Internet-based TRS provider and TRS program certification.**

(a) \* \* \*

(4) *At-home VRS call handling.* An applicant for initial VRS certification that desires to provide at-home VRS call handling shall include a detailed plan describing how the VRS provider will ensure compliance with the requirements of 47 CFR § 64.604(b)(8).

\* \* \* \* \*

(g) \* \* \*

(5) If a VRS provider is authorized to provide at-home call handling, its annual compliance report shall include the following information:

(i) The total number of CAs handling VRS calls from home workstations over the preceding year;

(ii) The number of 911 calls handled by the provider’s home workstations;

(iii) The total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs; and

(iv) A description of any substantive changes in the VRS provider’s currently effective at-home call-handling compliance plan.

\* \* \* \* \*

## APPENDIX C

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 as amended (RFA)<sup>1</sup> the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the Further Notice of Proposed Rulemaking.<sup>2</sup> The Commission sought written public comment on the proposals in the *2019 VRS Improvements FNPRM*, including comment on the IRFA.<sup>3</sup> No comments were received in response to the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>4</sup> A copy of the Report and Order, and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>5</sup>

**A. Need For, and Objectives of, the Rules**

2. The Report and Order makes permanent, with some modifications,<sup>6</sup> a pilot program that permits communications assistants (CAs) to handle video relay service (VRS) calls at home, subject to safeguards designed to maintain service quality, protect call confidentiality, and prevent waste, fraud, and abuse. The safeguards require that CAs working at home have substantial interpreting experience and specialized at-home training, and that a CA's home workspace be secure from eavesdropping and interruptions, and that home workstations be seamlessly integrated into the provider's call-routing, distribution, tracking, and support systems. Data obtained during the at-home call handling pilot program has shown that at-home call handling subject to safeguards will improve the efficiency and effectiveness of VRS. Participating VRS providers reported that the average at-home CA handles more calls daily and has a comparable or lower ratio of complaints to answered calls than the average call center CA. Adopting permanent rules for at-home call handling will expand the available pool of qualified sign-language interpreters who can work as VRS CAs and enable VRS providers to improve service quality and reliability.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

3. No comments were filed in response to the IRFA.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

4. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 3396, 3417-22, paras. 39-54 (2019) (*2019 VRS Improvements FNPRM*).

<sup>3</sup> *Id.* at 3431, 3449-51, para. 80, Appx. E.

<sup>4</sup> See 5 U.S.C. § 604.

<sup>5</sup> See *id.* § 604(b).

<sup>6</sup> These rule changes include: (1) amending the experience requirement for CAs providing at-home call handling from having the equivalent of a minimum of three years of VRS call center experience to having the equivalent of a minimum of three years of full-time professional sign language interpreting, whether community interpreting or VRS interpreting; (2) eliminating the requirement for CAs to sign written compliance certifications; and (3) amending the limit on the percentage of minutes that may be handled by at-home CAs from 30% to 50%.

proposed rules as a result of those comments.<sup>7</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to which the Rules will Apply**

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rule changes.<sup>8</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>9</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>10</sup> A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>11</sup>

6. The rules adopted in this Report and Order will affect obligations of VRS providers. These services can be included within the broad economic category of All Other Telecommunications. There are currently five providers that have received a certification to provide VRS and receive compensation from the TRS Fund for providing VRS: ASL Services Holdings, LLC d/b/a GlobalVRS, Convo Communications, LLC, CSDVRS, LLC d/b/a ZVRS, Purple Communications, Inc.,<sup>12</sup> and Sorenson Communications, Inc.

7. *All Other Telecommunications.* “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or VoIP services via client-supplied telecommunications connections are also included in this industry.<sup>13</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.<sup>14</sup> For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.<sup>15</sup>

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<sup>7</sup> 5 U.S.C. § 604(a)(3).

<sup>8</sup> *Id.* § 603(b)(3).

<sup>9</sup> *Id.* § 601(6).

<sup>10</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). The statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” *Id.*

<sup>11</sup> 15 U.S.C. § 632.

<sup>12</sup> CSDVRS, LLC d/b/a ZVRS and Purple Communications, Inc. are wholly owned subsidiaries of the ZVRS Holding Company. The two companies are in the process of merging, but currently each independently provides VRS and receives compensation from the TRS Fund for providing VRS. *See Purple Communications, Inc. et al., Order and Consent Decree*, 32 FCC Rcd 1608, 1615, para. 9 (2017) (allowing Purple and ZVRS to offer VRS under their existing brands for no more than 3 years).

<sup>13</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>14</sup> 13 CFR § 121.201; NAICS Code 517919.

<sup>15</sup> [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_51SSSZ4&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table).

Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

**E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements**

8. In allowing VRS CAs to handle VRS calls at-home on a permanent basis, the Commission retains some of the reporting, recordkeeping, and other compliance requirements previously applicable to VRS providers under the pilot program, while eliminating others.

9. A VRS provider or applicant for VRS certification may request authorization to provide at-home VRS call handling in conjunction with an application for certification to provide VRS or for renewal of such certification, or at any other time. As under the existing pilot program rules, the application must include a detailed description of how the applicant will comply with the at-home call handling safeguards and monitoring and oversight requirements.

10. To work at home, a CA must: be a qualified interpreter with at least three years of professional interpreting experience, have the experience, skills, and knowledge necessary to effectively interpret VRS calls without in-person supervision, have learned the provider’s protocols for at-home call handling, and understand and follow the TRS mandatory minimum standards. A VRS provider must provide on-the-job support equivalent to that provided to CAs working from call centers, including team interpreting and readily available supervisors to resolve problems that may arise during a relay call.

11. Requirements for at-home CA workstations remain substantially the same as under the pilot program. They must be placed in a separate location within the home, with restricted access and effective means to minimize the impact of outside noise and prevent eavesdropping; configured to enable the CA to use all call-handling technology to the same extent as other CAs; capable of supporting VRS in compliance with the Commission’s mandatory minimum standards; and connected to the provider’s network over a secure connection to ensure caller privacy.

12. As under the pilot program, VRS providers must appropriately monitor and oversee the provision of at-home call handling. Specifically, they must approve each at-home CA workstation and its home environment before activation; equip workstations with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider’s call center; conduct random, unannounced inspections of at least 5% of all at-home workstations annually; and keep all records pertaining to at-home workstations for a minimum of five years.

13. As under the pilot program, for calls handled through at-home workstations, VRS providers must submit the following data to the TRS Fund administrator in their monthly requests for compensation, in addition to the data otherwise required to receive payment for handling calls:

- A unique workstation identification number (ID), street address, and CA ID for each CA working at home; and
- The location and call center IDs of call centers providing supervision for at-home workstations, and the names of persons at such call centers responsible for oversight of these workstations.

14. VRS providers that provide at-home call handling must submit some but not all of the information previously required in implementation reports.<sup>16</sup> Instead of being submitted every six

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<sup>16</sup> VRS providers participating in the at-home call handling pilot program were required to submit implementation reports that included a description of the screening process used to select CAs who may work from home; copies of training materials and written protocols for at-home CAs; the total number of CAs who have worked at home during the reporting period; the total number of 911 calls handled during the reporting period; a description and copies of any survey results or self-evaluations concerning CAs’ experience handling calls at home; the total number of CAs

(continued....)

months, as under the pilot program, these reports must only be filed annually, as part of the annual filings already required to demonstrate VRS providers' overall compliance with the Commission's VRS rules.

**F. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered**

15. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>17</sup>

16. The rule amendments adopted by the Commission do not increase VRS providers' compliance burden compared with the existing rules applicable under the pilot at-home call-handling program. Providing at-home call handling remains optional for any small entities certified to provide VRS. Maintaining most of the existing safeguards as conditions for permitting VRS providers to let CAs work at home will help prevent waste, fraud, and abuse; assure that mandatory minimum standards are met; and ensure the confidentiality, reliability, and quality of VRS. The requirements apply equally to all VRS providers. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

17. To eliminate counterproductive effects and unnecessary compliance burdens, the Commission relaxes or eliminates some of the regulations applicable to VRS providers that choose to allow CAs to work at home. Instead of requiring at-home CAs to have a minimum of three years of VRS call center experience, as under the pilot program, the Commission only requires three years of full-time professional sign language interpreting, whether in community interpreting or VRS call handling. This modification will allow VRS providers to hire interpreters who have not previously been able to work in VRS (and thus lack the previously required VRS call center experience) because they cannot travel to one of a provider's call centers due to a lack of proximity or inadequate public transportation options. The Commission also eliminates the specific requirements for VRS providers to adopt written dismissal policies for at-home CAs and require such CAs to sign written compliance certifications, as VRS providers have sufficient incentives to ensure at-home CAs comply with the Commission's rules without adopting paperwork rules on these matters. Lastly, the Commission increases the limit on the percentage of minutes that may be handled by at-home CAs from 30% to 50%, increasing the flexibility of VRS providers, including small businesses, in hiring CAs.

18. The Commission authorizes each currently certified VRS provider to continue providing at-home call handling under the new rules, without additional filings. Only new applicants for VRS certification are required to include a request for authorization in their applications, if they wish to employ at-home CAs. Incorporating at-home call handling requirements into the recertification requirement streamlines the application process and aligns with existing, more general filing

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terminated from the program; the total number of complaints, if any, submitted to the provider regarding its at-home call-handling program or calls handled by at-home CAs; and the total number of on-site inspections of at-home workstations conducted, along with the dates and locations of such inspections. 47 CFR § 64.604(b)(8)(ix). The amended rule requires only the submission of (1) the total number of CAs handling VRS calls from home workstations over the preceding year; (2) the number of 911 calls handled by the provider's home workstations; (3) the total number of complaints, if any, submitted to the provider regarding its at-home call handling program or calls handled by at-home CAs; and (4) a description of any substantive changes in the VRS provider's currently effective at-home call-handling compliance plan.

<sup>17</sup> 5 U.S.C. § 603(b).

requirements.<sup>18</sup> Similarly, the Commission eases the burden imposed by required reports on at-home call-handling compliance by reducing their frequency, eliminating most of the required information, including the detailed cost and workstation-monitoring data required under the pilot program, and consolidating the at-home call-handling compliance report with the more comprehensive annual filing already required to demonstrate a VRS provider's overall compliance with Commission's VRS rules.<sup>19</sup>

**G. Report to Congress**

19. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>20</sup> In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**H. Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals**

None.

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<sup>18</sup> 47 CFR § 64.606(a)(2).

<sup>19</sup> 47 CFR § 64.606(g).

<sup>20</sup> See 5 U.S.C. § 801(a)(1)(A).

**STATEMENT OF  
CHAIRMAN AJIT PAI**

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

Video relay service (VRS) provides an essential means of communication between individuals with hearing or speech disabilities who use American Sign Language and voice telephone users. And an important part of promoting the service's success is ensuring that there is an adequate pool of Communications Assistants (CAs)—qualified sign-language interpreters who can interpret and relay a conversation between the signing and speaking parties.

To expand the number of qualified individuals willing and able to work as CAs, the Commission in 2017 authorized a pilot program to allow some CAs to work at home. Our hope was that CAs working from home would provide similar service quality to those working at call centers and that the safeguards we put in place for this pilot program would protect call confidentiality and prevent waste, fraud, and abuse.

I'm pleased to say that the pilot program has been a success. Therefore, we are making the at-home program permanent. This Report and Order will allow CAs to telework from their homes and reliably serve VRS users. And by providing CAs with more flexibility with respect to their worksite, we will encourage more qualified sign-language interpreters to help provide VRS and thus help provide better service to those with hearing or speech disabilities.

I'd like to thank the following people for their committed and careful work on this matter. From the Consumer and Governmental Affairs Bureau, Bob Aldrich, Diane Burstein, Eliot Greenwald, Debra Patkin, Michael Scott, and Patrick Webre; from the Enforcement Bureau, Sharon Lee; from the Office of Economics and Analytics, Susan Lee and Virginia Metallo; and from the Office of General Counsel, Terry Cavanaugh, Richard Mallen, and Bill Richardson.

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

I support this item, which will hopefully promote the intended goal of attracting and retaining qualified communications assistants to handle VRS calls. Since many providers are already taking advantage of the pilot program, I trust that our action today will provide greater certainty to participating companies and those with hearing or speech disabilities, and it may be fully justifiable on the merits. I must, however, admit that I was somewhat taken aback by the item's throwaway attempt at a cost-benefit analysis. Let me be clear: no blame should be assigned to the Chairman, who has done more to fix our broken process than anyone else. At the same time, no one has been more vocal on the need for robust cost-benefit analysis than me, and even though we are still institutionalizing better practices, it must be said that the effort in this item is beyond embarrassing.

According to the draft's reasoning, allowing at-home call handling is cost-effective because VRS providers will only provide it if it's cost-effective to them. That reasoning is both very circular and not necessarily true: I can come up with a handful of reasons why a company would do something that is not cost-effective. Moreover, the analysis ignores the fact that it's ratepayers, and not merely VRS providers, that bear the cost of paying for VRS minutes. Since the per-minute rate is based on formulas designed to compensate providers for the "reasonable costs" of providing VRS, the new rule could very well lead to an increase in rates, and, in turn, greater burdens on ratepayers, once the current schedule sunsets in 2021. That's not to say that we shouldn't allow call-handling if the practice leads to higher average costs—after all, other benefits may offset those costs—but the effect on ratepayers should at least figure into our analysis. In the end, however, a sound analysis should be provided to the Commissioners to inform the decision of whether or not to set it aside for another policy objective, authorized under the law.

Given the active involvement of the Office of Economics and Analytics in most Commission-level items, a more serious and thorough inquiry would have been expected, and I hope that today's effort is an outlier with respect to future proceedings.

**STATEMENT OF  
COMMISSIONER BRENDAN CARR**

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

We have a special duty at the FCC to make sure that communications technologies are available to every American. We also have a duty to make sure that the programs supporting accessible technologies and services are sustainable. And that certainly applies to our VRS program, which supports translator-assisted video calls. Back in 2011, we prohibited those communications assistants from working at home, out of a concern that it could result in VRS fraud, or threaten call quality and confidentiality. But two years ago we stood up a pilot program to see if those concerns were warranted.

The pilot program allowed communications assistants to work from home, and it demonstrated that as long as we implement prudent safeguards to prevent fraud and maintain service quality, we can greatly improve the program for both users and employees of VRS providers. While providers' call centers are in a few fixed locations, qualified communications assistants are spread throughout the country. By allowing more qualified people to enter these jobs, we can greatly expand the pool of prospective workers, foster greater competition among providers, and thus improve the quality of services for consumers.

So I want to thank the Consumer and Governmental Affairs Bureau for their work on this item. It has my support.

**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

Re: *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

I support today's item because it advances our important responsibilities under Section 225 of the Act to ensure that persons who are deaf, hard of hearing, deaf-blind, or have speech disabilities can communicate in a manner that is functionally equivalent to persons without such disabilities. Transitioning the pilot program to a permanent option to allow communications assistants (CAs) to work from their homes reflects the kind of innovation we will need to embrace a flexible workforce necessary for the Future of Work. This means more highly-skilled interpreters who don't live near a call center, or for any reason cannot commute to one, will be available to relay video conversations in a manner that for many best achieves our goal of functional equivalence.

I am pleased that the item retains safeguards that were required for the pilot program. These measures will help ensure that CAs are well-trained and qualified, and ensure that VRS providers can maintain adequate oversight and supervision of those CAs working remotely. The technical and environmental safeguards we retained will ensure that home workstations are secure and adequately equipped to provide call center-equivalent functionality and technical capabilities, including the ability to seamlessly handle 911 emergency calls.

I did raise a concern with my colleagues about the missed opportunity to engage in meaningful economic analysis regarding the costs of at-home call handling as compared to call center costs. To be sure, the item points to benefits such as increased customer loyalty, and improved productivity and reduced stress for CAs who work at home. But then it concludes, without specific analysis, that those benefits outweigh the associated costs of at-home call handling. Raising cost-benefit analysis without showing your work is not a sound practice.

I thank the Disability Rights Office and their colleagues in the Consumer and Governmental Affairs Bureau for their work on this item.