

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

In the Matter of
Implementation of the National Suicide Hotline
Improvement Act of 2018
WC Docket No. 18-336

SECOND REPORT AND ORDER

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By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements.

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I. INTRODUCTION

1. Preliminary data from the Centers for Disease Control and Prevention (CDC) indicate that in 2020 there were 44,834 deaths by suicide in the United States,1 and evidence suggests that the COVID-19 pandemic has exacerbated suicidal thoughts and actions.2 Suicide significantly impacts at-risk

1 Farida B. Ahmad & Robert N. Anderson, The Leading Causes of Death in the US for 2020, 35 JAMA 1829 (2021); see also Centers for Disease Control and Prevention, National Center for Health Statistics, Suicide and Self-Inflicted Injury, https://www.cdc.gov/nchs/fastats/suicide.htm (last visited Oct. 27, 2021); Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, "Preventing Suicide" Fact Sheet, at 1 (2020), https://www.cdc.gov/violenceprevention/pdf/Suicide-factsheet\_508.pdf (indicating 47,511 deaths by suicide in 2019, making suicide the tenth leading cause of death in the United States).

2 U.S. Department of Veterans Affairs, 2021 National Veteran Suicide Prevention Annual Report at 9 (Sept. 2021), https://www.mentalhealth.va.gov/docs/data-sheets/2021/2021-National-Veteran-Suicide-Prevention-Annual-Report-FINAL-9-8-21.pdf (beginning in March 2020, observing an increase in all-cause mortality among Veterans receiving Veterans Health Administration care); William Wan, For months, he helped his son keep suicidal thoughts at bay. Then came the pandemic., Washington Post, Nov. 23, 2020,

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communities, including youth, the Black community, the LGBTQ+ community, Veterans, and the deaf, hard of hearing, deafblind, and people who have speech disabilities that impact communication.<sup>3</sup> Text messaging is a prevalent form of communication—in 2020, Americans sent an estimated 2.2 trillion text messages, a 119 billion increase in total messages sent from 2019.<sup>4</sup> Text messaging is especially popular with at-risk communities, members of which may prefer the anonymity and convenience of texting a crisis counselor rather than engaging in a phone conversation.<sup>5</sup>

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<https://www.washingtonpost.com/health/2020/11/23/covid-pandemic-rise-suicides/> (according to data from the CDC in August 2020, 25.5% of young adults (ages 18 to 24) said they had seriously considered suicide in the prior 30 days); see also Denise Mann, *Pandemic Tied to Higher Suicide Rate in Blacks, Lowered Rate in Whites: Study*, U.S. News & World Report (Dec. 17, 2020), <https://www.usnews.com/news/health-news/articles/2020-12-17/pandemic-tied-to-higher-suicide-rate-in-blacks-lowered-rate-in-whites-study> (stating that suicides among Black people doubled during COVID-19 lockdowns mainly due to the exacerbated racial disparities in healthcare); The Trevor Project, *National Survey on LGBTQ Youth Mental Health 2021*, <https://www.thetrevorproject.org/survey-2021/?section=Introduction> (last visited Oct. 27, 2021) (finding that more than 80% of LGBTQ youth reported that COVID-19 made their living situation more stressful).

<sup>3</sup> Michelle Johns et al., Centers for Disease Control and Prevention, *Trends in Violence Victimization and Suicide Risk by Sexual Identity Among High School Students – Youth Risk Behavior Survey, United States, 2015-2019* (Aug. 21, 2020), <https://www.cdc.gov/mmwr/volumes/69/su/su6901a3.htm>; see also Suicide Prevention Resource Center, *Suicide Rates for Black Populations, United States 2010-2019*, <https://www.sprc.org/scope/racial-ethnic-disparities/black-populations> (last visited Oct. 27, 2021) (noting that the understanding of racial and ethnic differences in suicide and suicidal behaviors is limited by underreporting and other limitations in data collection systems); Lillian Polanco-Roman, *Suicide-Related Risk among Racial and Ethnic Minority Youth: Important Considerations* (Jan. 5, 2020), <https://www.youthsuicideresearch.org/blog/suicide-related-risk-among-racial-and-ethnic-minority-youthnbspimportant-considerationsblog/youthresearchorg>. For the purposes of this *Second Report and Order*, the term “individuals with disabilities” means people who are deaf, hard of hearing, deafblind, or have speech disabilities.

<sup>4</sup> CTIA, *2021 Annual Survey Highlights* at 9, <https://api.ctia.org/wp-content/uploads/2021/07/2021-Annual-Survey-Highlights.pdf> (last visited Oct. 27, 2021) (counting SMS and MMS messages to find the total number of text messages sent). As far back as 2008, Americans sent more texts than they made phone calls. Nielsen, *In U.S., SMS Text Messaging Tops Mobile Phone Calling* (Sept. 23, 2008), <https://www.nielsen.com/us/en/insights/article/2008/in-us-text-messaging-tops-mobile-phone-calling/>.

<sup>5</sup> Thirty-five percent of teens prefer texting above other forms of communication, including in-person. Text Request, *How Many Texts Do People Send Every Day (2018)?*, <https://www.textrequest.com/blog/how-many-texts-people-send-per-day/> (last visited Oct. 27, 2021) (article originally posted on May 18, 2016 but has since been updated to reflect 2018 data); see also Common Sense Media, *Social Media, Social Life: Teens Reveal Their Experiences* (2018), <https://www.common Sense Media.org/social-media-social-life-infographic> (finding that texting is now the preferred means of communication among surveyed teens, surpassing face-to-face communications, which has declined 17% in the past six years); Common Sense Media, *New Survey Reveals Teens’ Anxieties, How They’re Staying Connected, and Their Struggles with Distance Learning Amid the Coronavirus Pandemic* (Apr. 8, 2020), <https://www.common Sense Media.org/about-us/news/press-releases/new-survey-reveals-teens-anxieties-how-theyre-staying-connected-and> (finding that 65% of teens surveyed reported talking to friends or family through texting or social media more than usual in response to the coronavirus); Jessica T. Markowitz, PhD, et al., *Text Messaging Intervention for Teens and Young Adults with Diabetes*, *Journal of Diabetes Science and Technology* 1 (2014), [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4455383/pdf/10.1177\\_1932296814540130.pdf](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4455383/pdf/10.1177_1932296814540130.pdf) (finding that adolescents and young adults use text messaging as their primary mode of communication, with “[a]dolescents ‘out-text[ing]’ any other age group, with an average of 3364 texts per month, followed by young adults”). See also *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 11-153 and 10-255, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 9846, 9853, para. 14 (2014) (*Text-to-911 Second Report and Order and Third Further Notice*) (recognizing that “people who are deaf, hard of hearing, or speech disabled have been consistently migrating away from specialized legacy devices [such as text telephones (TTY) and telecommunications relay services (TRS)] and towards more ubiquitous forms of text messaging communications because of the ease of access, wide availability, and practicability of modern text-capable devices”); Emergency

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2. In this *Second Report and Order*, we expand the availability of critical mental health and crisis counseling resources by requiring covered text providers to allow Americans to reach the National Suicide Prevention Lifeline (Lifeline) by texting 988, no later than July 16, 2022. The Commission previously designated 988 as the 3-digit telephone dialing code for the Lifeline and required covered providers to ensure telephone calls to 988 reach the Lifeline by the same July 16, 2022 deadline that we adopt today.<sup>6</sup> Given the popularity of text messaging, particularly among at-risk populations, it is essential for Americans to be able to text the Lifeline with the same short, easy-to-remember code by which they will be able to call the Lifeline.

## II. BACKGROUND

3. *Lifeline*. The Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) oversees and partially funds the Lifeline. The Lifeline provides free, confidential support for individuals in "suicidal crisis or emotional distress at any time of the day or night"<sup>7</sup> and consists of a national network of approximately 180 crisis centers linked by the Lifeline's toll free number.<sup>8</sup> In 2020, the Lifeline answered a total of 2,185,036 calls, an average of 185,086 calls per month,<sup>9</sup> and responded to 102,640 crisis chats, with an average of 8,553 chats per month in 2018, the most recent data available.<sup>10</sup> The Lifeline is also an access number for the Veterans Crisis Line, which the Department of Veterans Affairs (VA) oversees.<sup>11</sup> The Veterans Crisis Line offers Service Members, Veterans, and their families "supportive, timely, high quality crisis intervention services" on a 24/7 basis, nationwide.<sup>12</sup> As of August 2021, the Veterans Crisis Line has received more than 5.6 million calls, 218,000 texts, and 660,000 chats.<sup>13</sup>

4. In addition to talking with a crisis counselor, individuals currently experiencing a mental health crisis or emotional distress can use the Lifeline's online chat services through its website 24/7;<sup>14</sup>

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Access Advisory Committee (EAAC) Report and Recommendations (Dec. 6, 2011), [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-312161A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-312161A1.doc) (EAAC Report).

<sup>6</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order, 35 FCC Rcd 7373, 7404, para. 57 (2020) (*988 Report and Order*).

<sup>7</sup> Substance Abuse and Mental Health Services Administration, The Substance Abuse and Mental Health Services Administration Report to the Federal Communications Commission, WC Docket No. 18-336, CC Docket No. 92-105 at 3, 5 (Feb. 7, 2019) (SAMHSA Report); *see also* National Suicide Prevention Lifeline, *Our Crisis Centers*, <https://suicidepreventionlifeline.org/our-crisis-centers/> (last visited Oct. 27, 2021).

<sup>8</sup> Letter from Miriam Delphin-Rittman, Assistant Secretary for Mental Health and Substance Use, SAMHSA, to Jessica Rosenworcel, Acting Chairwoman, FCC, WC Docket No. 18-336, at 1 (filed Aug. 4, 2021) (SAMHSA Aug. 4 *Ex Parte* Letter).

<sup>9</sup> The Substance Abuse and Mental Health Services Administration Report to the Federal Communications Commission, Fiscal Year 2022 Justification of Estimates for Appropriations Committees at 60 (2021), <https://www.samhsa.gov/sites/default/files/samhsa-fy-2022-cj.pdf>.

<sup>10</sup> SAMHSA Report at 3, 5; *see also* National Suicide Prevention Lifeline, <https://suicidepreventionlifeline.org/our-crisis-centers/> (last visited Oct. 27, 2021).

<sup>11</sup> U.S. Dept. of Veterans Affairs, Veterans Health Administration, Report to the Federal Communications Commission, WC Docket No. 18-336, CC Docket No. 92-105, at 4 (Feb. 7, 2019) (VA Report) (explaining that callers can reach the Veterans Crisis Line by calling the Lifeline's toll free number and pressing "1").

<sup>12</sup> *Id.*

<sup>13</sup> Veterans Crisis Line, *Materials* (Aug. 2021), <https://www.veteranscrisisline.net/support/shareable-materials> (providing this information on the "VCL Timeline Graph").

<sup>14</sup> *See* National Suicide Prevention Lifeline, *Lifeline Chat*, <https://suicidepreventionlifeline.org/chat/> (last visited Oct. 27, 2021); *see also* SAMHSA Report at 4-5 (explaining that "26 of the Lifeline's crisis centers answered online

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and individuals with hearing and speech disabilities can access the Lifeline through telecommunications relay services (TRS).<sup>15</sup> Veterans and Service Members in crisis can reach the Veterans Crisis Line by either texting to a dedicated short code, 838255,<sup>16</sup> or through an online chat portal on the Veterans Crisis Line’s website, [www.veteranscrisisline.net](http://www.veteranscrisisline.net).<sup>17</sup> Non-governmental options are also available, including the Trevor Project, which provides free, confidential crisis chat and text services to LGBTQ+ youth in need on a 24/7 basis.<sup>18</sup> In 2020, the Trevor Project reached over 150,000 individuals through their chat and text services.<sup>19</sup>

5. *Adopting 988 for Voice Calls.* In 2020, the Commission designated 988 as the 3-digit code for voice calls to reach the Lifeline and required all telecommunications carriers, interconnected voice over Internet Protocol (VoIP) providers, and one-way VoIP providers to make any network changes necessary to ensure that users can dial 988 to reach the Lifeline’s toll free number, currently 1-800-273-8255 (TALK).<sup>20</sup> Following the Commission’s adoption of the *988 Report and Order*, Congress passed the National Suicide Hotline Designation Act of 2020, which amended section 251(e) of the Communications Act (Act) by adding a provision that designates 988 as the universal telephone number “for the purpose of the national suicide prevention and mental health crisis hotline system” operating through the Lifeline and through the Veterans Crisis Line.<sup>21</sup> Several providers—including T-Mobile,

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chats on a 24/7 basis” by February 2019 and that “the Lifeline responded to 102,640 crisis chats, with an average of 8,553 chats per month” in 2018).

<sup>15</sup> See National Suicide Prevention Lifeline, *Deaf, Hard of Hearing, Hearing Loss*, <https://suicidepreventionlifeline.org/help-yourself/for-deaf-hard-of-hearing/> (last visited Oct. 27, 2021). In the *988 Report and Order*, the Commission also required Internet-based telecommunications relay services (TRS) providers to ensure that callers using Video Relay Service, Internet Protocol Relay, and Internet Protocol Captioned Telephone Service reach the Lifeline by dialing 988 upon its implementation. Users of speech-to-speech services and TTY-based TRS dial 711 first to connect to a communications assistant who will complete the call to the Lifeline. *988 Report and Order*, 35 FCC Rcd at 7396, para. 43 & nn.196-98. The Lifeline also maintains a TTY number separate from 988. See National Suicide Prevention Lifeline, *Deaf, Hard of Hearing, Hearing Loss*, <https://suicidepreventionlifeline.org/help-yourself/for-deaf-hard-of-hearing/> (last visited Oct. 27, 2021) (providing information for individuals who are deaf, hard of hearing, or suffering hearing loss to contact the Lifeline via online chat or TTY).

<sup>16</sup> VA Report at 4.

<sup>17</sup> *Id.* (stating that “[s]ince launching chat services in 2009 and text services in 2011, the [Veterans Crisis Line] ha[d] answered more than 439,000 chats and nearly 108,000 texts” by February 2019).

<sup>18</sup> The Trevor Project, *Get Help Now*, <https://www.thetrevorproject.org/get-help-now/> (last visited Oct. 27, 2021) (providing access to the chat portal, TrevorChat, and explaining that reaching the text service, TrevorText, requires texting “START” to the short code 678-678).

<sup>19</sup> The Trevor Project, *Annual Report FY 2020: August 1, 2019 to July 31, 2020*, at 5, <https://www.thetrevorproject.org/wp-content/uploads/2021/05/Annual-Report-FY20-web.pdf> (last visited Oct. 27, 2021).

<sup>20</sup> *988 Report and Order*, 35 FCC Rcd at 7376, para. 4; see 47 CFR § 52.200; see also National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 5 (2020). For a complete background of the Commission’s response to the National Suicide Hotline Improvement Act of 2018, see generally Wireline Competition Bureau and Office of Economics and Analytics, Report on the National Suicide Hotline Improvement Act of 2018, (Aug. 14, 2019), <https://docs.fcc.gov/public/attachments/DOC-359095A1.pdf>; see also *988 Report and Order*, 35 FCC Rcd at 7376, paras. 5-26.

<sup>21</sup> See National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 3 (2020) (adding subsection (e)(4) to section 251 of the Communications Act); see also Wireline Competition Bureau Invites Comment on Costs and Feasibility of Providing Location Information for 988 Calls and Clarifies 988 Implementation Date, Public Notice, WC Docket No. 18-336, 36 FCC Rcd 13043 (WCB 2021) (designating 988 as the universal telephone number within one year (October 17, 2021) after enactment of the National Suicide Hotline Designation Act).

Verizon Wireless, and AT&T mobile service—have made 988 available to mobile customers well ahead of the July 16, 2022 deadline.<sup>22</sup>

6. *Text-to-988*. In the *988 Report and Order*, the Commission found that it was premature to address texting to 988, given that the Lifeline lacked the technical capability to receive text messages at the time of adoption.<sup>23</sup> The Communications Equality Advocates (CEA) filed a Petition for Reconsideration requesting that the Commission seek comment on requiring support for text-to-988 by July 16, 2022, the same date by which carriers must route 988 calls to the Lifeline.<sup>24</sup> Commenters, including mental health organizations, providers of suicide prevention and crisis intervention services, and mobile carriers, expressed support for a text-to-988 obligation.<sup>25</sup> The Commission granted CEA's Petition for Reconsideration, in part, by initiating a rulemaking to consider texting to 988.<sup>26</sup>

7. Since adoption of the *988 Report and Order*, the Lifeline has conducted a successful pilot program responding to text messages sent to its 1-800-273-8255 (TALK) Lifeline number.<sup>27</sup> SAMHSA launched its texting program in August 2020 after determining that hundreds of individuals were attempting to text the Lifeline and failing to reach crisis help.<sup>28</sup> From August 10, 2020 to May 31, 2021, the Lifeline received and responded to approximately 33,518 text messages at select Lifeline crisis centers, without advertisement of the capability.<sup>29</sup> Today, 33 crisis centers provide text services for the Lifeline.<sup>30</sup> In order to assure the Lifeline has the capacity to administer and handle increased communications SAMHSA provided \$32 million in supplemental funding to the Lifeline, and the President's Budget has requested \$102 million with a goal of assuring adequate capacity for phones, chats, and texts associated with full implementation of 988.<sup>31</sup>

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<sup>22</sup> T-Mobile, *T-Mobile Makes 988 Emergency Lifeline's Critical Mental Health Support Services Immediately Available to Customers* (Nov. 20, 2020), <https://www.t-mobile.com/news/community/t-mobile-makes-988-emergency-lifeline-available-to-customers>; Verizon, *Verizon reaches milestone with new connection to National Suicide Prevention Hotline* (Dec. 21, 2020), <https://www.verizon.com/about/news/verizon-milestone-national-suicide-prevention-hotline>; AT&T, *AT&T Helps Combat the Mental Health Crisis in America* (July 1, 2021), [https://about.att.com/story/2021/988\\_hotline.html](https://about.att.com/story/2021/988_hotline.html).

<sup>23</sup> *988 Report and Order*, 35 FCC Rcd at 7420, para. 83.

<sup>24</sup> Petition of Communications Equality Advocates for Reconsideration, WC Docket No. 18-336 (filed Oct. 16, 2020), <https://ecfsapi.fcc.gov/file/1016434511128/Communications%20Equality%20Advocates%20Petition%20for%20Reconsideration.pdf>; corrected by, Petition of Communications Equality Advocates for Reconsideration, WC Docket No. 18-336 (filed Oct. 20, 2020) (CEA Petition), <https://ecfsapi.fcc.gov/file/10201183107079/Communications%20Equality%20Advocates%20Petition%20for%20Reconsideration%20-%20Corrected.pdf>.

<sup>25</sup> See *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Further Notice of Proposed Rulemaking, 36 FCC Rcd 7943, 7946-47, para. 4 n.29 (2021) (*Further Notice*) (citing commenters in support of CEA's Petition for Reconsideration).

<sup>26</sup> See *id.* at 7946-47, para. 4 n.27; see also *id.* at 7976, para. 83.

<sup>27</sup> SAMHSA Aug. 4 *Ex Parte* Letter at 2. The Lifeline's text service pilot program did not include transferring texts to the Veterans Crisis Line.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*; see also Press Release, SAMHSA, SAMHSA Awards Vibrant Emotional Health the Grant to Administer 988 Dialing Code for the National Suicide Prevention Lifeline (June 16, 2021), <https://www.samhsa.gov/newsroom/press-announcements/202106161430>.

8. In April 2021, we issued a *Further Notice of Proposed Rulemaking (Further Notice)* proposing to require text providers to support text-to-988.<sup>32</sup> We proposed to require covered text providers to route covered 988 text messages to the Lifeline's current 10-digit number.<sup>33</sup> We also sought comment on numerous issues relating to implementation of text-to-988, including the scope of text messages that covered text providers must transmit to 988; technical and cost recovery considerations; and the timeframe for implementing text-to-988 functionality.<sup>34</sup>

9. In response to the *Further Notice*, we received many comments from stakeholders across different sectors, including mental health organizations, providers of suicide prevention and crisis intervention services, telecommunications and other service providers, and members of the general public. These commenters overwhelmingly support text-to-988 as a means to broaden access to lifesaving resources, especially for at-risk populations, and urge us to take steps necessary to make text-to-988 available by July 16, 2022, consistent with the implementation deadline for voice calls to 988.<sup>35</sup>

### III. DISCUSSION

#### A. Text-to-988 Will Save Lives

10. We conclude that requiring covered text providers to support text-to-988 will save lives. No commenter in the record opposes adoption of a text-to-988 requirement. As Americans become more reliant on texting to communicate, the need to access mental health assistance and resources by text is essential. Text messaging to the Lifeline will facilitate access to critical mental health resources for all, and particularly for at-risk populations who tend to prefer communicating through text rather than phone calls.

11. The record reflects overwhelming support for the conclusion that text-to-988 functionality will greatly improve consumer access to the Lifeline.<sup>36</sup> Over 14 National Alliance on Mental Illness (NAMI) offices across the United States filed in support of text messaging to 988.<sup>37</sup> SAMHSA, the government agency responsible for overseeing the Lifeline, states that texting capability would improve equitable access to the Lifeline, especially for at-risk communities;<sup>38</sup> and Vibrant, the

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<sup>32</sup> See generally *Further Notice*, 36 FCC Rcd 7943.

<sup>33</sup> *Id.* at 7958, para. 30.

<sup>34</sup> See generally *id.* at 7949-53, paras. 9-18.

<sup>35</sup> See, e.g., American Psychiatric Association et al. Comments at 1 (Mental Health Associations); Communications Equality Advocates Comments at vi (CEA); CTIA Comments at 7; Mental Health America Comments at 2 (MHA); National Alliance on Mental Illness Comments at 4-5 (NAMI); Vibrant Emotional Health Comments at 3 (Vibrant).

<sup>36</sup> See, e.g., CTIA Reply at 1 (agreeing that implementing text-to-988 capability will save lives by making it easier for people in mental health crises to reach the Lifeline); see also 2020 Mom Comments at 1 (filed in support of requiring text-to-988 to increase accessibility to lifesaving crisis services); Justice Bass Comments at 1 (explaining that text to 988 will also help to “destigmatize asking for help with an extra confidential way for people to gain support”).

<sup>37</sup> See generally NAMI National Office Comments at 1; Letter from Angela Kimball, National Director of Government Relations, Advocacy, and Public Policy, NAMI, the National Alliance on Mental Illness, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336 (filed Sept. 24, 2021) (NAMI Sept. 24 *Ex Parte* Letter); Letter from Jennifer Snow, Director of Public Policy, Government Relations, Advocacy, and Public Policy, NAMI, the National Alliance on Mental Illness, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336 (filed Oct. 12, 2021) (NAMI Oct. 12 *Ex Parte* Letter); see also NAMI Butler County Ohio Comments at 1; NAMI Chavez Comments at 1; NAMI Dodge County Comments at 1; NAMI Geauga County Comments at 1; NAMI Georgia Comments at 1; NAMI Maine Comments at 1; NAMI Minnesota Comments at 1; NAMI Mobile Comments at 1; NAMI Ohio Comments at 1; NAMI Oregon Comments at 1; NAMI Pinellas County Florida Comments at 1; NAMI Shelby Alabama Comments at 1; NAMI South Carolina Comments at 1; NAMI Tuscaloosa July 9 Comments at 1; NAMI Tuscaloosa July 12 Comments at 1.

<sup>38</sup> SAMHSA Aug. 4 *Ex Parte* Letter at 2.

administrator of the Lifeline, also notes that “text-to-988 capability would improve consumer accessibility to the Lifeline and save lives.”<sup>39</sup> Mental Health America suggests that “[i]f 988 is implemented without support for text messaging, individuals in need of mental health crisis services, particularly youth and adolescents, will remain unanswered.”<sup>40</sup> A bipartisan group of U.S. Representatives from Colorado express their support, stating that “[b]y allowing a text-to-988 option in addition to voice call, the Commission can lower the bar to entry and improve access to crisis counseling and mental health services.”<sup>41</sup> Text-to-988 will provide greater access to anyone who is not comfortable calling the Lifeline or cannot make a phone call.<sup>42</sup> For instance, individuals who are in abusive or controlling situations may feel safer texting than making a verbal call when in a crisis.<sup>43</sup> Similarly, for individuals who are helping someone who is experiencing symptoms such as paranoia or delusions and appears threatening, texting offers greater safety when reaching out for crisis assistance.<sup>44</sup>

12. The record also demonstrates that requiring covered text providers to support text-to-988 functionality will provide significant benefits to at-risk populations, particularly to young Americans who are disproportionately at risk for mental health crises.<sup>45</sup> Research shows that serious psychological distress, major depression, and suicidal thoughts and attempts among adolescents and young adults have increased significantly in recent years.<sup>46</sup> SAMHSA explains that individuals who send texts or online chats to the Lifeline both skew younger and are more likely to experience current suicidal ideation relative to the categories of individuals who typically access the Lifeline via phone.<sup>47</sup> Nearly 95% of teens have access to smart phones and report that texting is the primary way by which they connect.<sup>48</sup> According to Mental Health America, “[m]ultiple sources of data demonstrate youth prefer communicating by text rather than calls,” including a study finding that young people “were more likely to forgo psychological support than talk in person or over the phone.”<sup>49</sup> Nevada, which conducted one of the country’s first text messaging for crisis response pilot programs, TextToday, found an increase in help-seeking behaviors by youth as a result of the program and a preference for texting among the youth age cohort.<sup>50</sup> Some members of at-risk populations may prefer or find it easier to access the Lifeline via

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<sup>39</sup> Vibrant Comments at 2.

<sup>40</sup> MHA Comments at 2.

<sup>41</sup> Letter from Jason Crow, Ken Buck, Diana DeGette, Joe Neguse, Lauren Boebert, Doug Lamborn, and Ed Perlmutter, U.S. Representatives for Colorado, to Jessica Rosenworcel, Acting Chairwoman, FCC, WC Docket No. 18-336 (filed Sept. 9, 2021) (Colorado Congressional Letter).

<sup>42</sup> MHA Comments at 2; *see also* Angel Chavez Comment at 1.

<sup>43</sup> Mental Health Associations Comments at 1.

<sup>44</sup> *Id.*

<sup>45</sup> *See 988 Report and Order*, 35 FCC Rcd at 7374, para. 2; *see also* NAMI Feb. 13, 2020, Comments at 4.

<sup>46</sup> Sally C. Curtin, Centers for Disease Control and Prevention, *State Suicide Rates Among Adolescents and Young Adults Aged 10-24: United States, 2000-2018* (2020), <https://www.cdc.gov/nchs/data/nvsr/nvsr69/NVSR-69-11-508.pdf> (the rate of suicide among those aged 10 to 24 increased nearly 60% between 2007 and 2018).

<sup>47</sup> SAMHSA Aug. 4 *Ex Parte* Letter at 3.

<sup>48</sup> NAMI Feb. 13, 2020, Comments at 4 (“[Y]outh and young adults have a high risk of experiencing a mental health crisis. Suicide is the second leading cause of death for this demographic, and three fourths of all chronic mental illnesses begin between the ages of 14 and 24.”); *see also* Asha Z. Ivey-Stephenson et al., *Suicidal Ideation and Behaviors Among High School Students—Youth Risk Survey, United States, 2019* (Aug. 20, 2020), [https://www.cdc.gov/mmwr/volumes/69/su/su6901a6.htm#T1\\_down](https://www.cdc.gov/mmwr/volumes/69/su/su6901a6.htm#T1_down) (explaining that suicide is the second leading cause of death among 14-18 year-olds).

<sup>49</sup> Mental Health America Petition Comments at 2.

<sup>50</sup> Center for Law and Social Policy Comments at 1 (CLASP).

text as compared to the online chat portal, which requires people to have Internet access, find the website, and locate the chat portal.<sup>51</sup> A survey addressing how teens are coping and connecting during COVID-19 reported that 65% of teens used texting to communicate with friends and family more than usual in response to the pandemic.<sup>52</sup>

13. In addition to young Americans, text-to-988 will help other American communities that are disproportionately impacted by suicide, including Veterans, LGBTQ+ individuals, racial and ethnic minorities, and rural Americans.<sup>53</sup> Death by suicide amongst Veterans has steadily increased over the past several years.<sup>54</sup> Furthermore, the suicide rate has risen faster among Veterans than it has for non-Veteran adults.<sup>55</sup> LGBTQ+ youth are nearly five times as likely to have attempted suicide compared to heterosexual youth, and the suicide rate for Black children ages 5-12 is about two times higher compared to white children.<sup>56</sup> The record indicates that these at-risk communities may use text services at higher rates than other communities.<sup>57</sup> For example, NAMI reports that people of color text at a higher rate than white individuals, and lower-income households send twice as many texts than households with higher incomes.<sup>58</sup> Mental Health America notes that data they collected demonstrate that individuals “who identify as Black or African American are more likely to report that they would like to receive a phone

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<sup>51</sup> Derrick Ek Comments at 1 (filed on behalf of AIM Independent Living Center).

<sup>52</sup> Common Sense Media, *New Survey Reveals Teens’ Anxieties, How They’re Staying Connected, and Their Struggles with Distance Learning Amid the Coronavirus Pandemic* (Apr. 8, 2020), <https://www.commonsensemedia.org/about-us/news/press-releases/new-survey-reveals-teens-anxieties-how-theyre-staying-connected-and>.

<sup>53</sup> See *988 Report and Order*, 35 FCC Rcd at 7374, para. 2.

<sup>54</sup> Rajeev Ramchand, *Suicide Among Veterans*, RAND Corporation (2021), <https://www.rand.org/pubs/perspectives/PEA1363-1.html> (in 2018, 6,435 Veterans died by suicide).

<sup>55</sup> *Id.* (in 2018, the rate of suicide among Veterans was 32.0 per 100,000, as compared with 17.2 per 100,000 for non-Veterans).

<sup>56</sup> Mental Health Associations Comments at 1; see also NAMI Comments at 3.

<sup>57</sup> For example, Crisis Text Line data indicates that roughly 75% of texters to their service are below 25 years old and come from all demographics, often skewing rural and poor. Crisis Text Line, *Crisis Trends – FAQs*, <https://crisistrends.org/> (last visited Nov. 16, 2021) (data indicating that 19% of Crisis Text Line text volume is from the 10% lowest-income zip codes, and 6% of texters report that they are Native American and 14% are Latinx/Hispanic); see also Letter from Shawn D. Rodriguez, Vice President, General Counsel and Secretary, Crisis Text Line, to Marlene Dortch, Secretary, FCC, WC Docket No. 18-336 at Exh. A, 2 (filed Nov. 16, 2021) (CTL Nov. 16 *Ex Parte* Letter) (reporting that in 2020, of the 844,000 texters that Crisis Text Line responded to, 49.6% self-identified as LGBTQ+ and 2.8% self-identified as hard of hearing or experiencing deafness). We include in the record a written presentation from Crisis Text Line that was given to staff of Chairwoman Rosenworcel and Commissioner Carr on November 8 and 9, respectively, and filed in WC Docket No. 18-336 on November 16, 2021, after the filing deadline for *ex parte* presentations in permit but disclose proceedings. 47 CFR § 1.1206 (explaining that “all written *ex parte* presentations and all summaries of oral *ex parte* presentations must be filed no later than two business days after the presentation”). Nonetheless, we accept Crisis Text Line’s *ex parte* presentation in the record because Crisis Text Line’s failure to timely file was an inadvertent oversight and we believe that it is in the public interest to do so. See 47 CFR § 1.3 (explaining that the Commission may waive its rules “on its own motion or on petition if good cause therefor is shown”); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (explaining that waiver is appropriate if “special circumstances warrant a deviation from the Commission’s rule, and such deviation will serve the public interest” and citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972)).

<sup>58</sup> NAMI Comments at 3; NAMI National Office Comments at 1.



number they can immediately call or text for help” than members of any other race or ethnicity.<sup>59</sup> Individuals from communities, religious groups, or ethnic backgrounds that have been found to have lower professional help-seeking behaviors or whose communities are less typically accepting of mental health treatment will also benefit from the added privacy of seeking crisis support via text.<sup>60</sup>

14. Text messaging has also become a crucial form of communication for people who are deaf, hard of hearing, or have other disabilities that impact communication.<sup>61</sup> Studies find an increased risk of suicide among deaf and hard of hearing people when compared to those without hearing loss.<sup>62</sup> These individuals have increasingly adopted widely available text messaging platforms in lieu of specialized legacy devices, such as text telephones (TTY), because of the ease of access, wide availability, and practicability of modern text-capable devices.<sup>63</sup> Some individuals with disabilities find it more effective to access mental health support through text messaging over other means of communications.<sup>64</sup> Vibrant notes that for individuals in the disability community, the ability to text crisis services directly, without need for an intermediary interpreter or service, provides “substantial benefit.”<sup>65</sup> SAMHSA highlights the convenience texting would provide to people with autism spectrum disorder (ASD), who are at an increased risk for suicide, yet may have “difficulties with back and forth conversations, and may therefore prefer to text rather than call the Lifeline.”<sup>66</sup> Access to communications capabilities for individuals with disabilities is a longstanding Commission priority and statutory

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<sup>59</sup> Mental Health America Petition Comments at 1-2; *see also* Letter from American Foundation for Suicide Prevention, Mental Health America, National Alliance on Mental Illness, The Trevor Project and Vibrant Emotional Health, to Acting Chairwoman Rosenworcel, FCC, WC Docket No. 18-336 at 1 (filed Apr. 15, 2021).

<sup>60</sup> Vibrant Comments at 2.

<sup>61</sup> NAMI Butler County Ohio Comments at 1; *see also* NAMI Dodge County Comments at 1; NAMI Geauga County Comments at 1; NAMI Maine Comments at 1; NAMI Minnesota Comments at 1; NAMI Mobile Comments at 1; NAMI National Office Comments at 1; NAMI Ohio Comments at 1; NAMI Oregon Comments at 1; NAMI Pinellas County Florida Comments at 1; NAMI Shelby Alabama Comments at 1; NAMI South Carolina Comments at 1; NAMI Tuscaloosa July 9 Comments at 1; NAMI Tuscaloosa July 12 Comments at 1.

<sup>62</sup> *See 988 Report and Order*, 35 FCC Rcd at 7374, para. 2 (*citing* Meghan L. Fox, Psy.D, Tyler G. James, MS, CHES, and Steven L. Barnett, MD, *Suicidal Behaviors and Help-Seeking Attitudes Among Deaf and Hard-of-Hearing College Students*, American Association of Suicidology Journal, Volume 50, Issue 2, pp. 387-96 (Apr. 2020)) (noting a 2020 study showing that college students who are deaf or hard of hearing “are twice as likely to consider or attempt suicide than students without hearing loss”); *see also* Center for Dignity in Healthcare for People with Disabilities Petition Comments at 1.

<sup>63</sup> *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9853, paras. 14-16 (“[P]eople who are deaf, hard of hearing, or speech disabled have been consistently migrating away from specialized legacy devices, and towards more ubiquitous forms of text messaging communications because of the ease of access, wide availability, and practicability of modern text-capable devices.”).

<sup>64</sup> Alliance for Telecommunications Industry Solutions Comments at 5-6 (ATIS); *see also Concerns and Lessons Learned regarding Communications Access for People with Disabilities During the Pandemic*, Prepared for the FCC Disability Advisory Committee by the Pandemic Communication Access Working Group at 8 (dated Sept. 9, 2021), <https://www.fcc.gov/ecfs/filing/1092289133950> (2021 DAC Recommendations) (“Access to [N-1-1 services, including 988] can prove to be problematic for people who are Deaf, DeafBlind, Deaf with mobility disabilities, Hard of Hearing, or have speech disabilities. This struggle became pronounced during the pandemic due to the increased need for N-1-1 and 9-8-8 services.”); *see also id.* (“It is necessary to ensure that communication with people with disabilities is equally as effective as communication with people without disabilities.”).

<sup>65</sup> Vibrant Comments at 2, *citing* CEA Petition.

<sup>66</sup> SAMHSA Aug. 4 *Ex Parte* Letter at 2, *citing* National Institute of Mental Health, Autism Spectrum Disorder (2018) <https://www.nimh.nih.gov/health/topics/autism-spectrumdisorders-asd/>.

obligation.<sup>67</sup> Our requirement to support text-to-988 broadens access to 988 and helps ensure individuals with disabilities that impact communication can more easily reach lifesaving resources.

15. The Commission’s designation of 988 as the 3-digit telephone number for the Lifeline reflected its expectation that a simple, easy-to-remember, 3-digit dialing code for suicide prevention and mental health crisis counseling would “help increase the effectiveness of suicide prevention efforts, ease access to crisis services, reduce the stigma surrounding suicide and mental health conditions, and ultimately save lives.”<sup>68</sup> We conclude that providing text access at the same short code number will generate synergies that enhance the value of efforts to promote 988. We are also mindful that the promotion and availability of the 988 short code for telephone calls to the Lifeline crisis hotline, and by extension the Veterans Crisis Line, could create confusion as to whether that number is available for, and capable of, receiving text messages.<sup>69</sup> We find that requiring providers to implement text-to-988 will also help to avoid confusion or putting lives at risk.

### **B. Scope of Text-to-988 Requirement**

16. We adopt our proposed two-step process to establish the scope of text messages that fall within our text-to-988 requirement.<sup>70</sup> First, we establish an outer bound definition of “988 text message” that sets the maximum possible scope of text formats which covered text providers may be obligated to support for delivery to 988, based on the definition of “text message” that Congress enacted in 2018 in the Truth in Caller ID context.<sup>71</sup> Second, we establish a process to ensure that covered text providers only

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<sup>67</sup> See, e.g., Twenty-First Century Communications Video and Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 § 104 (2010) (CVAA) (directing the Commission to adopt rules requiring advanced communications services and product to be accessible by people with disabilities); see also Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA). These statutory provisions are codified at 47 U.S.C. §§ 402, 503, 617, 618, 619, and 620; see generally *id.* § 225 (establishing the TRS program).

<sup>68</sup> *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Notice of Proposed Rulemaking, 34 FCC Rcd 12562, 12572, para. 23 (2019) (988 Notice).

<sup>69</sup> Comments of the U.S. Department of Veterans Affairs, WC Docket No. 18-336, at 10 (filed Nov. 12, 2021) (VA *Ex Parte* In-Line Comments) (noting potential confusion with callers to the Veterans Crisis Line if promotion of the availability of text-to-988 is not rolled out simultaneously with the Lifeline and with sufficient time for testing on all platforms). We include in the record a written presentation from the U.S. Department of Veterans Affairs that the Commission received on November 12, 2021, during the Sunshine Agenda period. 47 CFR § 1.1203(a)(1) (“With respect to any Commission proceeding, all presentations to decisionmakers concerning matters listed on a Sunshine Agenda, whether ex parte or not, are prohibited during the period prescribed in paragraph (b) of this section unless: (1) The presentation is exempt under § 1.1204(a) . . .”). Pursuant to exception provided in section 1.1204(a)(5) of the Commission’s rules, 47 CFR § 1.1204(a)(5), the VA’s presentation is exempt from the prohibitions on presentations during the Sunshine Agenda period. *Id.* § 1.1204(a)(5) (explaining that presentations are exempt from the prohibition if “[t]he presentation is to or from an agency or branch of the Federal Government or its staff and involves a matter over which that agency or branch and the Commission share jurisdiction”). The Commission and the VA share jurisdiction because the VA oversees call handling and delivery to the Veterans Crisis Line and the Commission oversees call transmission to the Lifeline, an access number to the Veterans Crisis Line. Because the Veterans Crisis Line can only provide life-saving mental health and crisis services if call transmission, handling, and delivery function as a whole, we rely on consultation with our federal partners to implement 988 successfully.

<sup>70</sup> *Further Notice*, 36 FCC Rcd at 7953-58, paras. 19-29. While we acknowledge the importance of testing and coordination between covered text providers and the Lifeline, we decline at this time to adopt the VA’s proposed “third-step” to our scope of text messages because the proposed testing and validation process is not germane to *ex ante* defining the scope of covered text providers. VA *Ex Parte* In-Line Comments at 10.

<sup>71</sup> See 47 U.S.C. § 227(e)(8)(C); see also 47 CFR § 64.1600(o) (defining “text message” for the purposes of the Truth in Caller ID requirements); *Further Notice*, 36 FCC Rcd at 7953-56, paras. 19-24. In 2018, Congress passed the RAY BAUM’S Act, which directed the Commission to update its Truth in Caller ID rules consistent with the expanded reach of entities covered under the legislation. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, Div. P. Title V, § 503, 132 Stat. 348, 1091-94 (2018) (codified as amended in 47 U.S.C. § 227(e)) (RAY

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must enable transmission of text messages in formats that the Lifeline can actually receive. We also define the scope of entities subject to our text-to-988 requirements—i.e., “covered text providers”—to be consistent with our text-to-911 rules, which include CMRS providers and providers of interconnected text messaging services.<sup>72</sup> We find that this approach, in combination, provides a forward-looking, flexible scope that will expand with the capabilities of the Lifeline without unnecessarily obligating covered text providers to support formats that the Lifeline cannot yet receive.<sup>73</sup>

### 1. Scope of Covered Text Formats

17. *Outer Bound Definition.* Consistent with our proposal in the *Further Notice*, we adopt the Truth in Caller ID definition of “text message”—including the definitions for “short message service” (SMS)<sup>74</sup> and, as a requirement when Lifeline is able to support it, “multimedia message service” (MMS)<sup>75</sup>—as the outer bound scope of text messages that covered text providers may be obligated to transmit to 988. That definition states:

The term “text message” (i) means a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number or N11 service code; (ii) includes a [SMS] message and a multimedia message service (commonly referred to as ‘MMS’) message; and (iii) does not include—(I) a real-time, two-way voice or video communication; or (II) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in clause (ii).<sup>76</sup>

18. We find that there are several advantages to adopting the Truth in Caller ID definition in the text-to-988 context.<sup>77</sup> The definition encompasses, but is not exclusive to, SMS and MMS messages without limiting the outer bounds of supported text formats to specific technologies, thus providing

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BAUM’S Act). As a result, the Commission in 2019 adopted the definition of “text message,” codified in part 64 of the Commission’s rules. 47 U.S.C. § 227(e)(8)(C); 47 CFR § 64.1600(o); *see also Truth in Caller ID Second Report and Order*, 34 FCC Rcd at 7309-10, paras. 15-16.

<sup>72</sup> 47 CFR § 9.10(q)(1) (a covered text provider “includes all CMRS providers, as well as providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones”); *see Further Notice*, 36 FCC Rcd at 7956-58, paras. 27-29.

<sup>73</sup> *Further Notice*, 36 FCC Rcd at 7953-54, para. 19; *see* CEA Comments at 8 (“wholeheartedly” agreeing with the Commission that “such flexibility and adaptability are critical in our fast-changing tech environment”).

<sup>74</sup> *See* 47 CFR § 64.1600(m) (“The term ‘short message service’ or SMS refers to a wireless messaging service that enables users to send and receive short text messages, typically 160 characters or fewer, to or from mobile phones and can support a host of applications.”).

<sup>75</sup> *See* 47 CFR § 64.1600(k) (“The term ‘multimedia message service’ or MMS refers to a wireless messaging service that is an extension of the SMS protocol and can deliver a variety of media, and enables users to send pictures, videos, and attachments over wireless messaging channels.”).

<sup>76</sup> 47 U.S.C. § 227(e)(8)(C); *see also Truth in Caller ID Second Report and Order*, 34 FCC Rcd at 7309-10, paras. 15-16.

<sup>77</sup> *See* CEA Comments at 8-9; Vibrant Comments at 4; CEA Reply at 10-11; *see also* Comments of Kiran Idrees, Pouya Radfar, WC Docket No. 18-336, at 1 (filed Sept. 2, 2021) (Idrees & Radfar *Ex Parte* Comments) (arguing that the Truth in Caller ID definition is “sufficiently inclusive to capture the current universe of text messages that could be used for prohibited spoofing activity and will avoid ambiguity as to Congress’ intent”); Letter from Kimberly Williams, President and CEO, Vibrant Emotional Health, to Marlene H. Dortch, Secretary, FCC, WC Docket No 18-336, at 2 (filed Sept. 23, 2021) (Vibrant Sept. 23 *Ex Parte* Letter) (supporting the broad outer bound definition).

flexibility for inclusion of future text message formats under the rules.<sup>78</sup> It also represents a recent definition provided by Congress, albeit in a different policy context. We slightly modify the Truth in Caller ID definition to account for the 988 context by adopting our proposal to add “or 988” to the phrase from the Truth in Caller ID definition “10-digit telephone number or N11 service code.”<sup>79</sup> This modification will ensure that covered text providers’ obligations encompass those text messages sent to the Lifeline via the 3-digit code 988.<sup>80</sup> We also add language clarifying that the definition we adopt “includes and is not limited to” SMS and MMS messages. This addition clarifies that the word “includes,” within the definition we adopt, does not limit the scope of messages meeting the first prong of the definition and instead merely eliminates doubt as to whether SMS and MMS meet that definition. This clarification advances our policy goal of promoting availability of a broad range of communications methodologies for individuals reaching the Lifeline. Further, we think this clarification follows the canon of avoiding rendering language a nullity—if the definition included only SMS and MMS, the first provision would be unnecessary.

19. We decline to adopt the text-to-911 text message definition, as recommended by CTIA and T-Mobile.<sup>81</sup> The Truth in Caller ID definition is more recent than the text-to-911 text message definition, and it derives from Congress. The Truth in Caller ID definition expressly identifies that it includes images and sound.<sup>82</sup> Allowing the parties that operate the Lifeline to incorporate graphics or other rich media in addition to textual communications, if they choose to do so, offers members of at-risk communities the means to communicate flexibly and fully with the Lifeline.<sup>83</sup> Furthermore, the limitation

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<sup>78</sup> Vibrant Comments at 4 (stating that the “adoption of definitions that allow for a forward-looking scope for text-to-988 capabilities” and supports the Truth in Caller ID definitions as “provid[ing] space for ensuring text-to-988 can encompass future features and additional functionality” to the Lifeline); CEA Reply at 10 (agreeing with the Commission’s reasoning supporting the Truth in Caller ID rules as a “starting point” because “the Truth in Caller ID model is newer . . . , originates with Congress rather than the Commission, and unlike the text-to-911 definition explicitly includes images, sound, and other non-textual information”) (internal quotes omitted); Vibrant Sept. 23 *Ex Parte* Letter at 2 (encouraging the broad outer bound definition “to ensure all individuals are able to reach the Lifeline using their preferred method of communication”).

<sup>79</sup> *Further Notice*, 36 FCC Rcd at 7954, para. 20. We decline at this time to consider requiring covered text providers to enable text services to all N11 numbers because this is beyond the scope of the issues raised in the *Further Notice*. See Alliance of Information Referral Systems Comments at 1 (in addition to supporting the ability to transmit text messages to 988, supporting “that ability being shared by all other N11 numbers that wish to have the ability for their own 3-digit number to be accessed via a 3-digit text message”).

<sup>80</sup> *Further Notice*, 36 FCC Rcd at 7954, para. 20.

<sup>81</sup> CTIA Comments at 8-10; T-Mobile Reply at 1; see also CTIA Reply at 5-7; Letter from Sarah Leggin, Director, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336 at 1-2 (filed Sept. 17, 2021) (CTIA Sept. 17. *Ex Parte* Letter). See *Further Notice*, 36 FCC Rcd at 7954-55, para. 22 (seeking comment on whether a definition comparable to the text-to-911 context would be preferable as applied to text messages delivered to 988 or whether to adopt another alternative outer scope of required texts); see also 47 CFR § 9.10(q)(9), (10) (requiring providers to route “a message, consisting of text characters, sent to the short code ‘911’ and intended to be delivered to a PSAP by a covered text provider, regardless of the text messaging platform used”); *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9851, para. 10.

<sup>82</sup> Cf. 47 CFR § 9.10(q)(9) (“A 911 text message is a message, consisting of text characters, sent to the short code ‘911’ and intended to be delivered to a PSAP by a covered text provider, regardless of the text messaging platform used.”) (emphasis added).

<sup>83</sup> See, e.g., Letter from Kimberly Williams, President and CEO, Vibrant Emotional Health, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336, at 1 (filed Sept. 16, 2021) (Vibrant Sept. 16 *Ex Parte* Letter) (Individuals use rich media, such as emojis, to express their feelings and emotions surrounding a situation. In the event of confusion over emoji usage, the counselor can ask clarifying questions, as they do with text-based uncertainty.); T-Mobile Reply at 5-6 (explaining that enhanced communications features, such as video, images, and real-time text, may be beneficial and the Lifeline should explore these possibilities). Vibrant’s policy currently blocks images and

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of the initial implementation requirement to SMS messages, as discussed below, addresses CTIA and T-Mobile's concerns about meeting the implementation deadline if the Commission were to immediately require implementation of other text formats.<sup>84</sup> The annual review process we establish below, through which the Wireline Competition Bureau (Bureau) will require covered text providers to implement only those texting formats within the outer bound definition that the Lifeline can actually receive, will ensure that covered text providers are not burdened with unnecessary work, and will avoid any consumer confusion that would arise from implementing formats that cannot go through.

20. We clarify that the exclusions we adopt from the "988 text message" definition match those exclusions contained in the Truth in Caller ID "text message" definition. We therefore exclude "real-time, two-way voice or video communication[s]," as well as messages sent over "IP-enabled messaging service[s] to another user of the same messaging service" that are not SMS or MMS messages.<sup>85</sup> Similar to the Commission's interpretation in the *Truth in Caller ID Second Report and Order*, we conclude that "real-time, two-way voice or video communication" includes voice calling service.<sup>86</sup> We further "interpret the latter exclusion to include non-MMS or SMS messages sent using IP-enabled messaging services" between users of the same service.<sup>87</sup> For example, a message transmitted via an application delivered over IP-based networks, such as Twitter or LinkedIn, to another user of the same messaging service would be excluded from the outer bound definition.<sup>88</sup>

21. We decline CEA's request to affirmatively determine at this time what particular text messaging formats fit within the outer bound definition.<sup>89</sup> We direct the Bureau to resolve questions

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video from being seen by the crisis counselor, as graphic images or video could harm the counselor without prior screening. Vibrant Sept. 16 *Ex Parte* Letter at 1-2.

<sup>84</sup> Cf. CTIA Comments at 9-10; CTIA Petition Reply at 4 (noting CTIA member companies' optimism for the technical feasibility of text-to-988, "so long as (i) text-to-988 is implemented consistent with the existing capabilities of native SMS capabilities; and (ii) the Lifeline has demonstrated the appropriate readiness to receive and respond to text-to-988").

<sup>85</sup> See 47 CFR § 64.1600(o)(3); Appendix A, Final Rules, § 52.201(b)(1)(C).

<sup>86</sup> *Truth in Caller ID Second Report and Order*, 34 FCC Rcd at 7311, para. 20 (concluding that "'real-time, two-way' communications that are transmitted by means of a 10-digit telephone number or N11 service code are excluded from the definition of 'text message' because they are intended by Congress to be included in the definition of 'voice service'"). Kiran Idrees and Pouya Radfar argue that the "real-time, two-way voice or video communications" can be classified as "other information" within the Truth in Caller ID definition, and that, based on the adoption of technological advancements such as video-based communications during the COVID-19 pandemic, the Commission should include video communications within the outer bound definition. Idrees & Radfar *Ex Parte* Comments at 1. We find that the plain language of the Truth in Caller ID exclusion indicates that Congress explicitly intended to exclude real-time, two-way video communication from the definition of "text message."

<sup>87</sup> *Truth in Caller ID Second Report and Order*, 34 FCC Rcd at 7311, para. 20.

<sup>88</sup> See *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9860, para. 28 n.58 (describing applications that may be offered by CMRS providers or third parties and allow consumers "to send text messages using SMS, MMS or directly via IP over a data connection to dedicated messaging servers and gateways," and acknowledging that these services, which are often downloaded through mobile app stores, are increasingly popular with consumers and may be interconnected with the PSTN or not).

<sup>89</sup> CEA Reply at 17. For the same reasons that we deny CEA's request, we also decline to determine outright whether to exclude the specific services from the outer bound definition that are currently excluded from the text-to-911 obligations. See *Further Notice*, 36 FCC Rcd at 7955-56, para. 24 (noting that the Commission chose to exclude a variety of services from its text-to-911 rules, including "relay service . . . , mobile satellite service (MSS), and in-flight text messaging services, as well as text messages that originate from Wi-Fi only locations or that are transmitted from devices that cannot access the CMRS network," and seeking comment on whether to adopt similar exclusions for text-to-988) (internal citations omitted); see also VON Comments at 2 (requesting that the

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concerning the scope of the outer bound during the annual review process by applying the statutory Truth in Caller ID definition and Commission precedent regarding that definition.<sup>90</sup> We anticipate that addressing scope issues as they arise, in the context of specific technologies, will lead to better decisions based on more detailed information than trying to decide well ahead of any specific issue arising.

22. *Limitation to Currently-Employed Technology.* As proposed in the *Further Notice*, we initially require that covered text providers only support transmission of SMS messages to 988.<sup>91</sup> We adopt the proposed procedure delegating to the Bureau future determinations to require covered text providers to support additional text formats within the outer bound definition, in consultation with our federal partners and in consideration of what text formats the Lifeline is capable of receiving.<sup>92</sup> We therefore define “covered 988 text message” as a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers.

23. The record supports requiring transmission of texts to 988 in SMS format.<sup>93</sup> Vibrant indicates that the Lifeline can currently receive and respond to SMS messages sent to the 10-digit number.<sup>94</sup> Furthermore, representatives of covered text providers and public interest groups express support for requiring transmission of SMS messages to 988. In their support for adoption of requirements based on the Commission’s text-to-911 rules, CTIA and T-Mobile note the technical feasibility of supporting SMS messages to 988, given that that format is currently supported in texting to 911.<sup>95</sup> CEA also argues that the Commission should, at a minimum, require transmission of text messages in SMS within its broader outer bound definition.<sup>96</sup> Because there is no technical or operational impediment to transmitting SMS messages to 988 expressed by covered text providers, and the Lifeline is currently able

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Commission apply the same exclusions to text-to-988 as exist for text-to-911, and exclude “text messages that originate from Wi-Fi only locations or that are transmitted from devices that cannot access the CMRS network”).

<sup>90</sup> In the *Truth in Caller ID Second Report and Order*, the Commission found that RCS is “an IP-based asynchronous messaging protocol” that enables users to send messages within an IP-enabled messaging service, which “fits comfortably” within the exclusion contained in the definition. *Truth in Caller ID Second Report and Order*, 34 FCC Rcd at 7311-12, para. 21. We clarify that should the Bureau find in the future based on the record before it that RCS, RTT, or other formats do not fall within the exclusions from the 988 text message definition, then they may be acceptable formats within the outer bound scope.

<sup>91</sup> See *Further Notice*, 36 FCC Rcd at 7956, para. 25.

<sup>92</sup> *Id.*

<sup>93</sup> No commenters oppose requiring support for SMS messages to 988. Crisis Text Line acknowledges that texting via SMS, RTT, RCS, or other methods each present their own challenges. CTL Comments at 2. One commenter, though supportive of text-to-988, argues that SMS is outdated, and instead encourages the Commission to require all carriers to enable RCS. Adeboye A. Adejare Jr. Comments at 1 (Adejare Comments).

<sup>94</sup> Vibrant Comments at 4 (“Lifeline is currently capable of receiving various text formats, including SMS and MMS.”); see also *Further Notice*, 36 FCC Rcd at 7947-48, para. 5 & n.32 (noting that all text messages currently sent to the Lifeline are SMS messages).

<sup>95</sup> CTIA Comments at 8-10 (encouraging “definitional consistency with the text-to-911 rules that focus on Short Message Service (SMS) text messages”); CTIA Reply at 5 (“[T]o both reflect providers’ and the Lifeline’s capabilities, and to expeditiously enable text-to-911, the Commission’s definition of ‘covered text services’ should reflect the scope of the Commission’s text-to-911 rules, which include text-based SMS communications.”); T-Mobile Reply at 1 (agreeing with commenters that “the Commission should look to its text-to-911 rules” to define the scope of its 988 texting obligations); CTIA Sept. 17 *Ex Parte* Letter at 1-2 (advocating that the Commission “rely on the native capabilities of the broadly used [SMS] system”).

<sup>96</sup> CEA Comments at 8-9; see also CEA Reply at 7 (“At the outset, the scope of [the ‘988 text message’] definition should encompass any and all texting technologies and platforms that are or can be made capable of sending texts-to-988 by July 16, 2022.”).

to receive and respond to SMS messages, we require covered text providers to support SMS messages to 988.

24. We decline at this time to require covered text providers to support other text message formats, such as MMS, rich communications service (RCS),<sup>97</sup> and real-time text (RTT),<sup>98</sup> because the Lifeline cannot currently receive texts in these formats.<sup>99</sup> The Bureau will consider requiring covered text providers to support these or other additional formats through the Public Notice process we discuss below, should the Lifeline indicate it can receive such formats. While commenters note that rich media communications and next-generation text formats may offer benefits to individuals attempting to access the Lifeline,<sup>100</sup> requiring covered text providers to transmit messages in these formats is premature because we do not know if or when the Lifeline will accept these formats.<sup>101</sup> In addition, as CTIA states, including additional text formats such as RTT and RCS in the scope of our text-to-988 requirements “would cause consumer confusion when the Lifeline is only capable of *receiving* SMS messages today”<sup>102</sup> and, due to technical and engineering obstacles, would likely delay implementation of text-to-988 service.<sup>103</sup> Finally, with respect to multimedia messages, both ATIS and CTIA note that including media in text messages, a feature not currently supported in text-to-911 service, would present technical

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<sup>97</sup> See CEA Comments at 8-9 (describing rich communications service, or RCS, as a “successor format” to SMS and encouraging the Commission to include RCS in its definition of supported text formats to 988); see also Adejare Comments at 1 (advocating for the Commission to implement RCS and require all carriers to enable the service).

<sup>98</sup> 47 CFR § 67.1(g) (defining RTT as “text communications that are transmitted over Internet Protocol (IP) networks immediately as they are created, e.g., on a character-by-character basis”); *Transition from TTY to Real-Time Text Technology*; *Petition for Rulemaking to Update the Commission’s Rules for Access to Support the Transition from TTY to Real-Time Text Technology*, and *Petition for Waiver of Rules Requiring Support of TTY Technology*, CG Docket No. 16-145, GN Docket No. 15-178, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13568, 13568-69, para. 1 (2016) (*2016 RTT Order*) (identifying RTT as “a reliable and interoperable universal text solution ... for people who are deaf, hard of hearing, deaf-blind, or have a speech disability”). Because RTT is backwards compatible with TTY, individuals can currently use RTT to access the Lifeline via its TTY number. 47 CFR § 67.2(b); *2016 RTT Order*, 31 FCC Rcd at 13587-89, paras. 32-37.

<sup>99</sup> CEA Comments at 8-9 (requesting that the Commission require covered text providers to support MMS, RCS, and RTT message transmission by July 16, 2022, “unless such covered text provider is not then providing such format to its texting customers generally or the Lifeline is not ready to receive such format at that time”); see also CEA Reply at 10-11.

<sup>100</sup> See Adejare Comments at 1 (advocating for the Commission to implement RCS and require all carriers to enable the service, as it “will allow for better robust features to improve communications between the respondent and the person contacting the [Lifeline]”); T-Mobile Reply at 5-6 (explaining that enhanced communications features, such as video, images, or real-time text, may be beneficial, and the Lifeline should explore these possibilities); Vibrant Sept. 16 *Ex Parte* Letter at 1 (explaining that individuals use rich media, such as emojis, to express their feelings and emotions surrounding a situation; in the event of confusion over emoji usage, the counselor can ask clarifying questions, as they do with text-based uncertainty); 2021 DAC Recommendations at 9 (recommending that the Commission “evaluate the need for local or regional non-emergency N-1-1 services [including 988] to incorporate technologies like SMS, RTT, and TRS”).

<sup>101</sup> T-Mobile Reply at 5-6.

<sup>102</sup> CTIA Comments at 9-10.

<sup>103</sup> *Id.* (arguing that to expand beyond SMS messages, the format primarily supported in the text-to-911 context, to emerging message services like RTT and RCS would “require ground-up engineering efforts,” and requiring the inclusion of content such as images, sounds, or other information would delay text-to-988 implementation); see also ATIS Comments at 6-7 (outlining technical and operational considerations for MMS, RCS, and RTT formats); CTL Comments at 2 (“Texting via short message service, real-time text, rich communication services, or other methods each present their own challenges, which may be further complicated whether the communications occur on various mobile devices, computers, or over-the-top services.”); CTIA Reply at 5-7.

obstacles that could impede implementation by the July 16, 2022 deadline that we adopt.<sup>104</sup> Although Vibrant indicates that the Lifeline is technically capable of receiving MMS formats,<sup>105</sup> it clarifies that Lifeline policy and clinical standards “currently block[] images and video from being seen by the counselor.”<sup>106</sup> Because of the impediments to transmitting media such as images and video with text to 988, we decline to require covered text providers to support MMS messages to 988.

25. Just as our federal partners recently added a texting capability to the Lifeline, they may choose to expand the functionality of their texting service over time. It is important for the requirements we establish to keep pace flexibly and readily rather than resorting to a Commission-level proceeding every time the Lifeline can accept a new text format.<sup>107</sup> We therefore direct the Bureau to routinely consult with our federal partners at SAMHSA and the VA to determine when the Lifeline has implemented a new text message format to 988. We further direct the Bureau, on or before June 30, 2023, and no less frequently than annually thereafter, to propose and seek comment on implementation parameters for covered text providers to transmit any additional text message formats to 988 that the Lifeline is capable of receiving and that are within the scope of the outer bound message definition adopted herein.<sup>108</sup> The Bureau shall identify the additional text messaging format(s) that the Lifeline is capable of receiving, if any; propose and seek comment on an interpretive determination as to whether the additional text message format(s) fall within the outer bound definition; and propose and seek comment on implementation deadline(s) for those additional text message formats. If the Bureau finds after this process that the Lifeline is capable of receiving an additional text format that is within the scope of the outer bound definition that we have established, it shall release a second Public Notice requiring covered text providers to implement text-to-988 using that new format and setting an implementation date that is as prompt as reasonably practical.<sup>109</sup> The Bureau may set one implementation deadline or staggered

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<sup>104</sup> ATIS Comments at 6 (noting current limited functionality to text-only delivery, should implementation follow a path similar to text-to-911); CTIA Comments at 9-10 (arguing that to require providers to deliver messages to 988 that contain content, such as images, sounds, or other information, would delay implementation).

<sup>105</sup> Vibrant Comments at 4.

<sup>106</sup> Vibrant Sept. 16 *Ex Parte* Letter at 1-2 (noting that the policy intends to protect the counselor’s well-being from images or video that may be graphic, sexual, or otherwise inappropriate); *see also* Vibrant Sept. 23 *Ex Parte* Letter at 1-2 (clarifying that the Lifeline is able to receive forms of rich media, yet processes them according to current Lifeline policies). Vibrant indicates that the Lifeline platform can receive emojis, which can be a valuable communication tool used by an individual to express their emotions or situation, and that blocking or preventing the transmission of emojis can impede a counselor’s ability to fully understand the individual’s distress or concerns. Vibrant Sept. 16 *Ex Parte* Letter at 1. We clarify that nothing in our rules should change Vibrant’s current ability to receive emojis to the Lifeline.

<sup>107</sup> *See* CEA Reply at 7 (explaining that the outer bound definition should be “flexible enough to allow for the inclusion of additional technologies,” and “[s]uch flexibility should not require an additional rulemaking to include such new technologies” but rather delegate authority to the Bureau). *Cf.* CTIA Reply at 7 (encouraging the Commission to “keep the record open in this proceeding”).

<sup>108</sup> *See* ATIS Comments at 7 (expressing belief that “the Commission’s ‘preferred’ approach would address the needs of individuals who require or prefer texting as their mode of communication” and recommending evaluation of alternative text mechanisms to 988 as they are further developed). If our federal partners indicate that the Lifeline has not enabled functionality for additional text formats, the Bureau shall instead issue a Public Notice announcing that no new formats are required. We encourage our federal partners to periodically coordinate and consult with ATIS or other such organizations to keep abreast of current telecommunications industry trends and consider incorporation of new technology into the Lifeline’s infrastructure. *See* VA *Ex Parte* In-Line Comments at 10, 12, 15, and 24 (recommending that the Lifeline and the Veterans Crisis Line consult with organizations such as ATIS to stay current with telecommunications trends and system infrastructure).

<sup>109</sup> If the Bureau instead finds that, notwithstanding its initial proposal, the Lifeline is not capable of receiving an additional text format that is within the scope of the outer bound that we have established, it shall issue a Public Notice declining to adopt its initial proposal.



implementation deadlines for different classes of providers, and it shall identify all implementation deadlines with certainty (i.e., by a specified calendar date). In setting a deadline or deadlines for compliance, the Bureau shall assess factors such as technical and financial challenges with respect to implementation, the status of the Lifeline, and the public interest. We find our two-step approach allows us to ensure rapid support for additional texting formats as technology evolves,<sup>110</sup> while providing certainty to the industry and the public. Further, we find this approach facilitates further updates when the Lifeline implements a new texting format without requiring a Commission rulemaking, which often requires more time than Bureau-level action. Accordingly, we direct the Bureau to implement the approach we describe above, including through prescribing implementation deadlines.

26. CEA supports the Commission's proposal but asks for the Bureau to conduct annual public hearings rather than develop a written record.<sup>111</sup> We find the proposed Public Notice procedure achieves the same purpose as a public hearing—providing a forum to establish a record regarding expansion of the covered 988 text message definition—while imposing fewer administrative burdens and costs on the public and the Commission. We expect the Bureau to meet with interested parties, as permitted by the Commission's *ex parte* rules.

27. We decline to adopt CEA's proposals to bypass our Public Notice procedure and automatically include MMS, RCS, or RTT within the scope of covered 988 text messages if and when the Lifeline is ready to accept those new texting formats.<sup>112</sup> We think the Public Notice process is valuable because it will allow the Bureau to gather information to set appropriate technology-specific implementation deadlines and to evaluate whether a given technology fits within the outer scope of the definition of 988 text message we adopt herein. It also provides the Bureau time to facilitate dialogue between parties should any complications arise.<sup>113</sup> We are concerned that automatic inclusion of certain formats in the future could lead to avoidable problems, and we therefore decline CEA's suggestion.

28. We also decline CEA's proposal that, should the Bureau or Commission require inclusion of RCS, RTT, or any other format, covered text providers would be required to support the new format "by the later of (i) three months after the Lifeline states that it is ready to receive such format; or (ii) the date upon which the affected covered text provider begins providing such texting format to its customers generally."<sup>114</sup> We find it best to grant the Bureau flexibility to determine an implementation timeframe appropriate to each technology the Lifeline may implement. We prefer this approach because the Bureau

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<sup>110</sup> Cf. CTIA Reply at 7 (encouraging the Commission to "keep the record open in this proceeding" and consider updating the definition in both the text-to-911 and text-to-988 contexts to encompass additional formats as technology evolves); see also NAMI Sept. 24 *Ex Parte* Letter at 3 ("The FCC plays a critical role in building a 988-crisis response system that meets the needs of the public today and in the future."); NAMI Oct. 12 *Ex Parte* Letter at 3 (same).

<sup>111</sup> CEA Comments at 16; CEA Reply at 11.

<sup>112</sup> CEA Comments at 8-9; CEA Reply at 11-12.

<sup>113</sup> See Adejare Comments at 1 (advocating for the Commission to implement RCS and require all carriers to enable the service, as it "will allow for better robust features to improve communications between the respondent and the person contacting the [Lifeline]"); 2021 DAC Recommendations at 9 (recommending that the Commission "evaluate the need for local or regional non-emergency N-1-1 services [including 988] to incorporate technologies like SMS, RTT, and TRS"). Cf. ATIS Comments at 6-7 (outlining technical and operational considerations for MMS, RCS, and RTT formats); CTL Comments at 2 ("Texting via short message service, real-time text, rich communication services, or other methods each present their own challenges, which may be further complicated whether the communications occur on various mobile devices, computers, or over-the-top services."). CTIA states that expanding beyond SMS messages, the format primarily supported in the text-to-911 context, to emerging message services like RTT and RCS would "require ground-up engineering efforts," and requiring the inclusion of content such as images, sounds, or other information would delay text-to-988 implementation. CTIA Comments at 9-10; see also CTIA Reply at 5-7.

<sup>114</sup> CEA Comments at 9; CEA Reply at 11.

will be able to make a decision based on a thorough record focused on the Lifeline's actual implementation of the technology. We anticipate that some technologies such as RTT that are already generally in use may be easier for covered text providers, especially larger providers, to support if implemented by the Lifeline, and we encourage the Bureau to take ease of implementation and availability of the technology into account when reaching a determination.<sup>115</sup>

29. We decline requests from CEA and ZP Better Together (ZP) to require direct video communication (DVC)<sup>116</sup> and direct dialing from video relay service (VRS)<sup>117</sup> to 988.<sup>118</sup> With respect to VRS, ZP believes that by dialing 988 directly, both a Lifeline counselor and a VRS communications assistant would show up simultaneously. We are not addressing ZP's VRS request at this time because direct 988 dialing for VRS is beyond the scope of this item, which is focused on text-to-988. With respect to DVC, we strongly encourage the development and implementation of direct communications solutions for individuals with disabilities.<sup>119</sup> However, the Lifeline does not receive direct communications via video.<sup>120</sup> Requiring providers to support communications that the Lifeline is not

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<sup>115</sup> See, e.g., *2016 RTT Order*, 31 FCC Rcd at 13602, para. 66 (establishing a compliance date for RTT support of December 31, 2017 for Tier 1 providers and June 30, 2020 for non-Tier 1 providers); *id.* at 13602, para. 66 n.248 (defining Tier 1 providers as CMRS providers offering nationwide service, for the purposes of the Commission's RTT rules); see also Verizon, Report, GN Docket No. 15-178 (filed Nov. 13, 2017) (indicating Verizon's compliance with the RTT deadline for Tier 1 providers); AT&T, IP Voice Accessibility Status Report of AT&T, GN Docket No. 15-178 (filed Oct. 6, 2017) (indicating AT&T's compliance with the RTT deadline for Tier 1 providers); Competitive Carriers Association, Report, GN Docket No. 15-178, at 2 (filed Apr. 20, 2018) (reporting that T-Mobile USA deployed RTT by the December 31, 2017 deadline); Competitive Carriers Association, Report, GN Docket No. 15-178, at 2 (filed Oct. 18, 2019) (reporting that Sprint deployed RTT in conjunction with its commercial launch of VoLTE).

<sup>116</sup> DVC allows individuals with disabilities whose dominant or primary language is American Sign Language (ASL), and hearing individuals who are fluent in ASL, to communicate directly with the end recipient via video, rather than through third-party ASL interpreters available through VRS. CEA Petition at 4; see 47 CFR § 64.611(a)(5) (registration for hearing point-to-point VRS users).

<sup>117</sup> ZP Comments at 5. VRS is a form of telecommunications relay service that enables individuals with disabilities who use sign language to make telephone calls over broadband with a videophone to connect with voice users or other ASL users. *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, 3397, para. 3 (2019) (*Direct Video Calling Order*).

<sup>118</sup> CEA Comments at 12, n.33 (encouraging the Commission to "act soon" to implement DVC as an alternative means of contacting the Lifeline); ZP Better Together Comments at 4-6 (ZP) (advocating that the Commission's requirements for access to 988 include ways for deaf and hard of hearing Americans to reach the Lifeline via direct video calling or through simultaneous connections to the Lifeline via VRS); CEA Reply at 13-14 (supporting ZP's request to mandate that the Lifeline be available via DVC and be staffed with ASL-fluent counselors, and requesting that at a minimum the Commission seek "specific comment on the costs and benefits of offering a DVC option for communication with the Lifeline"); see also 2021 DAC Recommendations at 8 (recommending that the Commission "take steps ... to ensure that people who use text-based communications and [telecommunications relay service] can contact local or regional non-emergency and 9-8-8 services consistent with access to 911 services before, during, and after disasters, including national emergencies"). CEA also argued in its Petition for Reconsideration that the Commission should reconsider its decision to decline requiring the deployment of direct video calling. CEA Petition at 4.

<sup>119</sup> See Kelly Israel Comments at 2 (filed on behalf of Autistic Self Advocacy Network) (ASAN Comments) (recommending that the Commission collaborate with SAMHSA and the VA "to ensure that its outreach on the availability of text-to-988 services is accessible to individuals with cognitive disabilities").

<sup>120</sup> See National Suicide Prevention Lifeline, *Talk to Someone Now*, <https://suicidepreventionlifeline.org/talk-to-someone-now/> (last visited Oct. 27, 2021) (indicating ways to contact the Lifeline); see also *988 Report and Order*, 35 FCC Rcd at 7421, para. 84 (declining to mandate direct video calling to the Lifeline yet emphasizing that the

(continued...)

currently capable of receiving would cause consumer confusion, as individuals in crisis may attempt to access the Lifeline via direct video communications without realizing that the Lifeline cannot answer. We are pleased that the Lifeline is available to users of telecommunications relay services, including via 988, and the Lifeline maintains a separate TTY number, and we encourage our federal partners to continue to consider additional alternative means by which individuals with disabilities may contact the Lifeline.<sup>121</sup>

## 2. Definition of “Covered Text Provider”

30. We adopt our proposed definition of “covered text providers” as that term is defined in the Commission’s text-to-911 rules, to include “all CMRS providers, as well as providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.”<sup>122</sup> We find that the straightforward and well-established definition from the 911 context best delineates the scope of covered text providers obligated to support text-to-988 service.

31. The record supports our proposal to adopt the text-to-911 definition of “covered text provider” here.<sup>123</sup> CTIA encourages us to keep the text-to-988 scope consistent with the scope of covered text providers in the text-to-911 context in order to “identify a well-known and experienced scope of providers who will need to work collaboratively with the Lifeline to achieve the aggressive deadline that CTIA and others have suggested.”<sup>124</sup> T-Mobile similarly agrees with CTIA that the Commission should look to its text-to-911 rules when establishing the scope of covered text providers in the text-to-988 context.<sup>125</sup> And, as CTIA notes, no commenter suggests an alternative definition to our proposal.<sup>126</sup>

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Lifeline is available to users of telecommunications relay services, and telecommunications services will be able to reach the Lifeline via 988). Although as CEA explains no commenter has opposed making DVC available to connect with the Lifeline, we reiterate that the Lifeline, through Vibrant and our federal partners, is in the position to determine how to best allocate its resources to ensure that its lifesaving services are accessible by a wide range of individuals seeking assistance. *See* CEA Reply at 14.

<sup>121</sup> In the *988 Report and Order*, the Commission required Internet-based telecommunications relay services (TRS) providers to ensure that callers using Video Relay Service, Internet Protocol Relay, and Internet Protocol Captioned Telephone Service reach the Lifeline by dialing 988 upon its implementation. Users of speech-to-speech services and TTY-based TRS dial 711 first to connect to a communications assistant who will complete the call to the Lifeline. *988 Report and Order*, 35 FCC Rcd at 7396, para. 43 & nn.196-98; *see also* SAMHSA Aug. 4 *Ex Parte* Letter at 2; National Suicide Prevention Lifeline, *Deaf, Hard of Hearing, Hearing Loss*, <https://suicidepreventionlifeline.org/help-yourself/for-deaf-hard-of-hearing/> (last visited Oct. 27, 2021) (providing information for individuals who are deaf, hard of hearing, or suffering hearing loss to contact the Lifeline via online chat or TTY).

<sup>122</sup> *See Further Notice*, 36 FCC Rcd at 7956-58, paras. 27-29.

<sup>123</sup> *See, e.g.*, CEA Comments at 11 (“[P]roviders subject to the text-to-988 requirements should include not only wireless carriers, but all providers of interconnected text messaging services.”); SAMHSA Aug. 4 *Ex Parte* Letter at 1 (“SAMHSA is supportive of requiring covered text providers to support text messaging to 988....”).

<sup>124</sup> CTIA Comments at 9.

<sup>125</sup> T-Mobile Reply at 1.

<sup>126</sup> CTIA Reply at 5. CEA requests that the Bureau “conduct periodic public hearings to determine whether any new text messaging platforms or providers have become sufficiently widespread that they should be considered for inclusion as covered text message providers subject to a showing that it is reasonably feasible for them to provide text access to 988 or the 10-digit Lifeline number.” CEA Comments at 11; CEA Reply at 8. Unlike our two-step process for the scope of covered 988 text messages, we adopt outright a definition of “covered text provider” and require all such providers that meet the definition to comply with our text-to-988 requirements. As such, we decline CEA’s request.

32. We require interconnected text messaging service providers, which enable customers to “send text messages to all or substantially all text-capable U.S. telephone numbers and receive text messages from the same,”<sup>127</sup> to support text-to-988 service.<sup>128</sup> We decline to apply our requirements to non-interconnected text providers, as CEA suggests.<sup>129</sup> By definition, non-interconnected text providers cannot send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, meaning they are unlikely to be able to transmit texts to and receive texts from 988.<sup>130</sup> Even non-interconnected text providers that use telephone numbers—for instance where an application uses telephone numbers to identify users relative to each other rather than for routing—may nonetheless be unable to send text messages to users of other services or to all or substantially all telephone numbers.<sup>131</sup> Obligating non-interconnected text providers to attempt to route texts to 988 via telephone numbers when physical routing is beyond such providers’ control could increase customer confusion or diminish public trust in texting as a means to reach the Lifeline.<sup>132</sup>

33. VON and Mitel request that we exempt covered text providers in Wi-Fi only locations because “there remain challenges to the reliability of routing text messages to interconnected networks without the benefit of a CMRS provider.”<sup>133</sup> We decline at this time to adopt a blanket exemption for covered text providers in Wi-Fi only locations. While we anticipate interconnected text messaging service providers will typically use CMRS-based solutions to support text-to-988, CMRS networks are not the only means of interconnection, and covered text providers may use any reliable method or methods to support text routing and transmission to 988.<sup>134</sup> Furthermore, neither VON nor Mitel elaborate on or provide evidence to support their claims of technical challenges associated with routing without access to a CMRS network, or that such challenges cannot be bypassed by adopting a non-CMRS solution. While we agree with Mitel that “[r]outing messages to the interconnected network often requires access to an underlying wireless network or provider,”<sup>135</sup> commenters have not provided sufficient support for us to conclude that covered text providers in Wi-Fi only locations are never able to

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<sup>127</sup> See *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, PS Docket Nos. 10-255 and 11-153, Report and Order, 28 FCC Rcd 7556, 7570, para. 41 (2013) (*Bounce-Back Order*).

<sup>128</sup> See *Further Notice*, 36 FCC Rcd at 7957-58, paras. 28-29.

<sup>129</sup> CEA Comments at 10-11; CEA Reply at 8-9; see also CEA Comments at 15 (stating that including non-interconnected text message providers within the scope of the text-to-988 would meet user expectations and possibly save lives).

<sup>130</sup> Appendix A, Final Rules, § 52.201(c)(3).

<sup>131</sup> Mitel Reply at 2 (“[M]any solutions that include messaging only provide messaging to other subscribers to the application or within the subscriber’s organization and do not include the ability to send messages outside these limited groups.”); VON Comments at 2 (“Non-interconnected applications should be exempted because users of such services cannot send text messages to users of other text applications or to substantially all text capable U.S. telephone numbers. Such applications only use telephone numbers to identify their contacts who also use the same application.”); see also *Bounce-Back Order*, 28 FCC Rcd at 7570, para. 40 (affirming that the definition of “covered text provider” does not extend to “non-interconnected IP-based messaging applications that support communication with a defined set of users of compatible applications but that do not support general communication with text-capable telephone numbers”).

<sup>132</sup> See *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9863-64, para. 37 (“[I]mposing the same requirements on both CMRS and interconnected text providers will respond to consumers’ reasonable expectations and reduce consumer confusion.”).

<sup>133</sup> VON Comments at 3; see also Mitel Reply at 2 (“In Wi-Fi only locations, an over-the-top messaging application may not be able to route text messages at all or with consistent reliability without relying on a wireless provider.”).

<sup>134</sup> *Infra*, Section III.E (Technical Considerations).

<sup>135</sup> Mitel Reply at 2.

use a CMRS-based or alternative method to reliably support text routing and transmission to 988. We reiterate that our requirements exclude providers that are unable to allow consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers.

### C. Routing Texts to 988

34. We adopt our proposal to require covered text providers to route covered 988 text messages to the Lifeline's current 10-digit number, 1-800-273-8255 (TALK).<sup>136</sup> Our decision is consistent with the Commission's approach in the *988 Report and Order* to require service providers to "transmit all calls initiated by an end user dialing 988 to the current toll free access number for the Lifeline."<sup>137</sup> Most commenters support centralized routing for text-to-988.<sup>138</sup>

35. We find our centralized routing rule will allow for swift implementation of text-to-988 to the Lifeline's 10-digit number by lowering technical requirements and costs for covered text providers to route texts to the Lifeline.<sup>139</sup> As Vibrant states, our centralized routing solution for text-to-988 will "allow[] for a seamless delivery of crisis intervention services that is consistent with clinical standards, best practices, and national guidelines overseen by the administrator and SAMHSA."<sup>140</sup> CTIA notes that by requiring centralized routing, "the Commission can significantly lower technical hurdles to enable wireless providers to deploy text-to-988 as soon as possible."<sup>141</sup> ATIS "has not identified any technical challenges associated with" routing covered 988 texts to the Lifeline 10-digit number.<sup>142</sup> We note that several wireless providers were able to implement routing calls to 988 within six months of adoption,<sup>143</sup> and we anticipate that similarly swift implementation may be possible here.

36. We also find that adopting our proposal will provide our federal partners with the flexibility to develop and expand routing solutions to meet the Lifeline's needs. Once text messages are routed to the Lifeline's 10-digit number, the Lifeline can then "forward those messages to the appropriate

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<sup>136</sup> See *Further Notice*, 36 FCC Rcd at 7958-60, paras. 30-35.

<sup>137</sup> *988 Report and Order*, 35 FCC Rcd at 7387, para. 29.

<sup>138</sup> *Further Notice*, 36 FCC Rcd at 7958, para. 31, citing CTIA Petition Reply at 5; Vibrant Emotional Health Petition Comments at 3-4; see, e.g., CEA Comments at 11-12; CTIA Comments at 12; Vibrant Comments at 3; CEA Reply at 5-6; CTIA Reply at 7; CTIA Sept. 17 *Ex Parte* Letter at 2; CTL Nov. 16 *Ex Parte* Letter at Exh. A, 2; Vibrant Sept. 16 *Ex Parte* Letter at 1 (supporting centralized routing to the Lifeline). Cf. NAMI Sept. 24 *Ex Parte* Letter at 2 ("Calls to 988 should be answered locally, and many who will call for help will expect that they are connected to support locally."); NAMI Oct. 12 *Ex Parte* Letter at 2 (same).

<sup>139</sup> CEA Comments at 11-12; CEA Reply at 5-6. We note that centralized routing will not hasten SAMHSA's and the VA's ability to transfer texts from the Lifeline to the Veterans Crisis Line, which will require developing a transfer system, testing, and conducting a pilot program.

<sup>140</sup> Vibrant Comments at 3; see also Vibrant Sept. 16 *Ex Parte* Letter at 1 (supporting centralized routing to the Lifeline).

<sup>141</sup> CTIA Comments at 12; see also CTIA Reply at 7 ("There is broad agreement that texts sent to 9-8-8 should be directed centrally to the Lifeline, consistent with the approach for voice calls to 9-8-8, and that the Commission should adopt this approach."); CTIA Sept. 17 *Ex Parte* Letter at 2 (same).

<sup>142</sup> ATIS Comments at 2-3.

<sup>143</sup> *988 Report and Order*, 35 FCC Rcd at 7387, para. 29; see also T-Mobile, *T-Mobile Makes 988 Emergency Lifeline's Critical Mental Health Support Services Immediately Available to Customers* (Nov. 20, 2020), <https://www.t-mobile.com/news/community/t-mobile-makes-988-emergency-lifeline-available-to-customers>; Verizon, *Verizon reaches milestone with new connection to National Suicide Prevention Hotline* (Dec. 21, 2020), <https://www.verizon.com/about/news/verizon-milestone-national-suicide-prevention-hotline>; AT&T, *AT&T Helps Combat the Mental Health Crisis in America* (July 1, 2021), [https://about.att.com/story/2021/988\\_hotline.html](https://about.att.com/story/2021/988_hotline.html).

local crisis center,” similar to the current mechanism for voice call routing to 988.<sup>144</sup> Currently, the Lifeline’s network consists of over 180 crisis centers, with 33 centers providing text service.<sup>145</sup> SAMHSA has identified resource strain and capacity issues experienced during its rollout of text service to the Lifeline’s 10-digit number and, as a result, indicates its intention to explore working with existing crisis text and chat services outside the Lifeline as well as expanding text capacity within the network.<sup>146</sup> We encourage SAMHSA and the VA to work with outside entities as needed to meet increased demand, and we believe our centralized routing rule will better allow for the Lifeline’s network to adapt, evolve, and expand as necessary to meet capacity and technological needs.

37. We decline to require covered text providers to route covered 988 text messages directly to a Lifeline local crisis center or Veterans Crisis Line crisis center.<sup>147</sup> While text-to-911 uses such direct routing, we believe that approach would be counterproductive for text-to-988. We disagree with Intrado’s proposal to leverage the existing text-to-911 infrastructure by using Intrado’s Text Control Center (TCC) services to transmit texts to 988 directly to an individual local crisis center, once the crisis center has made a valid request for text-to-988 service.<sup>148</sup> We are concerned that implementation of a localized routing model would be time-consuming,<sup>149</sup> contrary to our goal of making text-to-988 rapidly available to all Americans.<sup>150</sup> CTIA and T-Mobile point to specific technical and administrative challenges should the Commission require covered text providers to route texts to 988 to local crisis centers, which would compromise swift implementation by the July 16, 2022 date.<sup>151</sup> ATIS, T-Mobile, and VON also note routing to the local crisis centers would require the adoption of new technical standards and specifications, including the development of intermediate gateway providers at regional centers, which

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<sup>144</sup> CEA Comments at 11-12. CEA clarifies that it is “generally agnostic” as to the text routing solution, provided that the chosen requirement does not delay implementation of text-to-988. CEA Reply at 6.

<sup>145</sup> SAMHSA Aug. 4 *Ex Parte* Letter at 1-2.

<sup>146</sup> *Id.* at 2.

<sup>147</sup> *Further Notice*, 36 FCC Rcd at 7959, para. 33. See Intrado Comments at 2. Intrado states that centralized routing to the Lifeline could serve as an interim solution if local routing is not technically ready. *Id.* CEA also supports exploring location-based routing to local crisis centers in the long run, though ultimately questions the feasibility of Intrado’s proposed solution based upon industry feedback in the record. CEA Reply at 6; see also CEA Comment at 12 (“[I]f ... key stakeholders were to agree on an alternative method for routing texts to 988 that is reliable and has built-in flexibility sufficient to handle unexpected surges or emergencies, such as an outage, and provided the Commission revisits the efficiency of the chosen routing mechanism periodically to determine that it is still the most effective routing method available in light of technological advances, CEA would have no objection to the adoption of such a method.”).

<sup>148</sup> Intrado Comments at 2-3; see also Letter from Mary Boyd, Vice President—Government and Regulatory Affairs, Intrado, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-336, at 1 (filed Oct. 20, 2021) (Intrado Oct. 20 *Ex Parte* Letter) (describing how leveraging Intrado’s Text Control Center and location-based routing “could perform the accurate routing of Text-to-988 messages to a centralized 988 Center (or to multiple 988 Centers)”). This proposal mirrors the text-to-911 rules, where a covered text provider must enable text-to-911 service within six months of a local PSAP’s valid request for service. 47 CFR 9.10(q)(10)(ii).

<sup>149</sup> *Cf.* Intrado Comments at 2-3 (arguing that “connecting the Lifeline and local crisis centers to the 911 TCCs would accelerate the text-to-988 implementation timeline, support 988 accessibility and limit 988 routing costs”).

<sup>150</sup> *Cf.* VA *Ex Parte* In-Line Comments at 22 (expressing concern that implementation may be delayed by operational issues, including procuring sustainable funding for a national system and consulting with ATIS on the system architecture).

<sup>151</sup> CTIA Reply at 8; T-Mobile Reply at 3-4; see also CTL Comments at 2 (“By contrast to landline phones, the portability of a phone number and the physical mobile phone itself makes using a person’s area code far less reliable an indicator of the person’s present geolocation, which means providing support to texters in crisis (including providing hyperlinked resources via text) across state lines may be necessary.”).

could increase costs and delay launch of text-to-988.<sup>152</sup> Requiring delivery of texts to 988 to individual crisis centers could impede the Lifeline network’s future expansion, as covered text providers would need to implement text routing to each new center to ensure that the community served by that center can communicate via text if desired, as opposed to immediate nationwide access through centralized routing.<sup>153</sup> Furthermore, as CTIA points out, “Intrado fails to explain why texts to 9-8-8 should be routed differently from voice calls to 9-8-8.”<sup>154</sup> We see no difference between voice and text service to the Lifeline presented in the record that would justify adopting alternate routing infrastructures for either service. In contrast, there are significant differences between 988 and 911, chief among them the nationwide Lifeline voice and text service routed through a centralized, toll free 10-digit number as opposed to the localized PSAP network.<sup>155</sup>

38. We find that it is premature to require covered text providers to enable covered 988 text messages to include location information.<sup>156</sup> As instructed by Congress in the National Suicide Hotline Designation Act of 2020, in April 2021 the Bureau released a report on the costs and feasibility of providing location information with calls to 988.<sup>157</sup> In the report, the Bureau recommended the establishment of a multi-stakeholder advisory committee to develop detailed recommendations on how to address several challenges presented in the record, including privacy considerations, technical implementation, and cost recovery.<sup>158</sup> NAMI and Vibrant reiterate arguments raised in the 988 *Geolocation Report* that requiring geolocation information with calls and texts to local crisis centers will improve accuracy in connecting individuals in crisis with counselors who are in the best position to provide localized care.<sup>159</sup> Yet, as the Bureau identified in the 988 *Geolocation Report*, requiring providers

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<sup>152</sup> ATIS Comments at 4-5; VON Comments at 3-4; T-Mobile Reply at 3; *see also* Intrado Oct. 20 *Ex Parte* Letter at 1 (explaining that use of Intrado’s Text Control Center (TCC) “would require modifications to the TCC to support 988, and the wireless carriers’ messaging centers would need to add translations to send 988 text messages to a TCC”).

<sup>153</sup> *See* Vibrant Sept. 16 *Ex Parte* Letter at 1 (“The Lifeline’s unique centralized routing process for texts was discussed in addition to various routing options that would allow for a single point of entry for texts to be further distributed to the appropriate crisis center.”). *Cf.* Intrado Oct. 20 *Ex Parte* Letter at 1 (arguing that use of Intrado’s existing Text Control Centers “could also allow the 988 Center(s) flexibility to route the Text-to-988 messages to other destinations”). Intrado also acknowledges that while its Text Control Centers can support a variety of text formats, such as SMS, MMS, and RCS, it cannot support RTT. *Id.*

<sup>154</sup> CTIA Reply at 7-8 (noting that Intrado fails to explain why texts to 988 should be routed differently from how Vibrant and other mental health stakeholders believe they should be routed); *see also* CEA Comments at 11-12 (supporting routing texts to the Lifeline’s 10-digit number, as “[t]his is the same routing solution the Commission adopted with respect to voice calls to 988, and the record supports the conclusion that it would be the most cost-effective routing method”).

<sup>155</sup> *See* T-Mobile Reply at 2-3 (arguing that to require text-to-988 service, which for voice calls is routed nationwide through a central toll free number, to be routed similarly to text-to-911, an inherently local service, “would ignore the key distinction between the Lifeline and the crisis response services it offers and emergency response reached by dialing 911”).

<sup>156</sup> *See* CEA Comments at 12-13 (agreeing “with the Commission that it would be premature to impose such a [location information] requirement for text messages when the issue has not yet been resolved with respect to voice calls”).

<sup>157</sup> FCC, 988 Geolocation Report – National Suicide Hotline Designation Act of 2020 (2021), [https://docs.fcc.gov/public/attachments/FCC-20-100A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-20-100A1_Rcd.pdf) (988 Geolocation Report).

<sup>158</sup> *Id.* at 2; *see also* NAMI Sept. 24 *Ex Parte* Letter at 2 (encouraging the Commission to “move forward with addressing issues surrounding geolocation, particularly addressing the immediate need of routing [988] calls to call centers near where the caller is physically located”); NAMI Oct. 12 *Ex Parte* Letter at 2 (same).

<sup>159</sup> NAMI Sept. 24 *Ex Parte* Letter at 2; NAMI Oct. 12 *Ex Parte* Letter at 2; Vibrant Sept. 16 *Ex Parte* Letter at 1; *see* 988 Geolocation Report at 9-10.

to transmit location information to 988 “raises important privacy and legal issues, is technically complex, and could impose significant costs.”<sup>160</sup> Several commenters, including ATIS and CTIA, highlight the challenges identified in the 988 *Geolocation Report* and oppose a location information requirement for text-to-988, indicating it would be premature for the Commission to adopt such a mandate without further study and standards development.<sup>161</sup> Given the similar complexity and interrelation between call and text routing to 988, we decline, at this time, NAMI and Vibrant’s requests to require location information with texts transmitted to 988. Commenters also raise privacy concerns should the Commission require the transmission of location information without the texter’s consent.<sup>162</sup> Given the Bureau’s recommendation and the similar concerns raised in the record regarding technical limitations of providing location information, we decline, at the present time, to require covered text providers to include location information with texts to 988.

39. We also decline to require covered text providers to take action to route texts to 988 to the Veterans Crisis Line, and we instead defer to our federal partners to determine whether and how to make it possible to text 988 for the Veterans Crisis Line’s text service. Telephone callers to the Lifeline’s 10-digit number can press “1” to connect directly with a crisis counselor at the Veterans Crisis Line. Texting, on the other hand, is not presently integrated—texters who wish to reach the Veterans Crisis Line contact a text short code (838255) rather than the Lifeline’s toll free 10-digit number.<sup>163</sup> We recognize that there would be significant benefits to enabling texters to reach the Veterans Crisis Line by texting 988. At the same time, we recognize the critical need for carefully developing a pilot program and extensively testing the transfer of texts between 988 and the Veterans Crisis Line to ensure that no

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<sup>160</sup> 988 Geolocation Report at 20.

<sup>161</sup> ATIS Comments at 4 (“ATIS agrees with the Commission that it should not adopt” a requirement to include location information in texts to 988.); CTIA Comments at 13 (“[T]he Commission is correct that ‘it would be premature’ to require ‘covered text providers to enable text-to-988 messages to include location information.’”); *see also* CTIA Comments at 14 (“[D]eveloping [location information] capability presents a number of technological and logistical challenges that would have to be addressed.”) (internal quotations omitted); CEA Reply at 7 (“While CEA believes that transmission of location information would be very useful ... to the extent that it would delay implementation of text-to-988, CEA would oppose the adoption of such a requirement at this juncture. It seems more appropriate and efficient to consider such a requirement for text messages at the same time the Commission considers it for voice calls.”); T-Mobile Reply at 2 (“T-Mobile, like many stakeholders, believes that customers should be able to consent to the collection and transmission of their location information, but that 988 calling should not *require* geolocation.”). *Cf.* CEA Comments at 7 (“In the Order, the Commission recognized that a key objective is to make 988 ‘as ubiquitous as 911’ – and this will be simply impossible unless text-to-988 is established on the same footing as text-to-911, i.e., subject to the same deployment milestones, location information requirements, and so forth.”).

<sup>162</sup> CEA Comments at 13 (“[T]he Commission should be cognizant of the fact that, for privacy reasons, not all users will want their location information to be passed” to the Lifeline, and proposing to allow texters to opt out of sharing location information with the Lifeline.); ZP Comments at 5-6 (“[M]any individuals, both deaf and hearing, may not want to share their location information when dialing the Lifeline hotline, and might only want to share that information after providing consent.”); CEA Reply at 7 (acknowledging that transmission of location information would be useful, subject to the need to protect privacy, yet opposing adoption of a requirement to the extent it delays implementation of text-to-988); T-Mobile Reply at 2 (noting that texters “should be able to consent to the collection and transmission of their location information”). Intrado argues that the text-to-911 infrastructure is “uniquely suited” to manage any privacy concerns with location information and texts to 988, due to the reliance on coarse location information strictly for routing purposes and not available to the Lifeline or call takers. Intrado Comments at 5.

<sup>163</sup> *See Further Notice*, 36 FCC Rcd at 7959, para. 34. Nothing in this *Second Report and Order* prohibits or impedes the Veterans Crisis Line’s continued use of its texting short code.



Service Member, Veteran, or family member is left without access to lifesaving resources.<sup>164</sup> Any rush to enable texting 988 for the Veterans Crisis Line’s text service before sufficient implementation work and testing would raise safety concerns, should any text conversations be dropped or lost in transfer. We believe our federal partners at the VA and SAMHSA are best positioned to evaluate the benefits, challenges, and costs of transferring texts and to pursue a solution, if desirable. We agree with ATIS that use of 988 “makes it infeasible to automatically route calls to one service or the other” without additional information, such as through a secondary input exchange, to enable providers to correctly route the text to the proper recipient.<sup>165</sup> There is no record support for Commission action to require providers to selectively route texts to 988 to the Veterans Crisis Lifeline’s text service. Nor does the record reveal any solutions for requiring providers to implement texting to 988 for the Veterans Crisis Line’s text service that we could effectuate in conjunction with requiring providers to implement texting to 988 for the Lifeline. After evaluation and testing, our federal partners may be able to pursue a workable, reliable approach to enabling texts to 988 to reach the Veterans Crisis Line. At the present time, Service Members, Veterans, and their families may reach the Veterans Crisis Line by calling 1-800-273-8255 and pressing 1, by texting 838255, or by chat through the Veterans Crisis Line’s website, <https://www.veteranscrisisline.net>. We recognize that during the rollout and launch of 988, our federal partners at the VA will face challenges in promoting widespread public awareness that the Veterans Crisis Line is reachable by text through a short code that is separate from 988. We direct Commission staff to work cooperatively with our federal partners to promote awareness of how Service Members, Veterans, and their families can reach the Veterans Crisis Line.

#### **D. Implementation Timeframe**

40. We adopt our proposal to set a uniform nationwide implementation deadline for text-to-988 of July 16, 2022—concurrent with 988’s voice implementation deadline—for all covered text providers to support transmission of all covered 988 text messages.<sup>166</sup> Guiding our decision is the need to minimize the time needed to implement text-to-988 so as to help address the growing epidemic of suicide as quickly as possible. By setting a uniform deadline, rollout of text-to-988 will be most effective, enabling stakeholders to clearly and consistently communicate when the public can access texting services universally,<sup>167</sup> while avoiding any confusion stemming from a different deadline than voice implementation.<sup>168</sup> Although a phased-in approach may enable us to set a shorter deadline for some providers, this approach risks confusion not just among those “unaware of the details of staggered regulatory deadlines,”<sup>169</sup> but also among those who may seek to call rather than text. Such a scenario “could be disastrous for individuals and, in the aggregate, could erode trust in the Lifeline.”<sup>170</sup> Further, we find that a July 16, 2022 deadline provides the Lifeline adequate time to prepare for additional texting volume, with Vibrant expressing confidence following its successful 2021 pilot program that “the Lifeline has the capability to receive text-to-988 messages on the first day of 988 operation.”<sup>171</sup> And as ATIS

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<sup>164</sup> See VA *Ex Parte* In-Line Comments at 2 (acknowledging the need for the VA to “assess the feasibility of the technology that is going to be used to fulfill this [service] as texts will be received through the national Lifeline and then rerouted to [the Veterans Crisis Line]”).

<sup>165</sup> ATIS Comments at 6.

<sup>166</sup> As stated above, this deadline applies only to texts the user sends to 988. It does not apply to texts to the Veterans Crisis Line using its existing short code.

<sup>167</sup> See *988 Report and Order*, 35 FCC at 7409, para. 63.

<sup>168</sup> MHA Comments at 1 (encouraging “a national uniform deadline for texting so that text-to-988 is available before or no later than the same time voice calls to 988”); NAMI Comments at 4-5 (encouraging a national uniform deadline); NAMI Sept. 24 *Ex Parte* Letter at 2 (same); NAMI Oct. 12 *Ex Parte* Letter at 2 (same).

<sup>169</sup> *988 Report and Order*, 35 FCC Rcd at 7409, para. 63.

<sup>170</sup> *Id.*

<sup>171</sup> See Vibrant Comments at 3.

highlights, because we only require that covered text providers send text messages to the Lifeline's 10-digit number, the need for a phased approach is eliminated.<sup>172</sup>

41. We specifically set a deadline of July 16, 2022, which nearly all commenters who address timing support.<sup>173</sup> Just as we concluded previously with respect to 988 implementation for voice calls,<sup>174</sup> we set as early of a deadline as possible because of the numerous benefits of swift implementation in preventing suicide. As explained above, providers need not route calls to individual call centers, eliminating the need for lengthy development of new technical standards and specifications. Some providers themselves also support a July 16, 2022 deadline as providing sufficient time for implementation.<sup>175</sup> Setting a deadline for text-to-988 that matches the existing deadline for implementing calls to 988 also avoids public confusion and enhances the efficacy of marketing campaigns promoting 988.<sup>176</sup> As the Mental Health Associations state, “[d]elaying an implementation deadline [beyond July 2022] will not prevent people in crisis from reaching out to 988 through text,” and such individuals will find their “[r]equest for help will go unanswered” without action in this proceeding.<sup>177</sup>

42. We reject VON's arguments that we should set a deadline of 12 months following the effective date of the order due to “[t]he need to develop and implement new routing and technical standards” that may pose challenges to meeting the voice deadline of July 16, 2022.<sup>178</sup> Specifically, VON compares the Lifeline's call centers to PSAPs, explaining how in the context of text-to-911, a new joint standard needed to be created in order to direct texts to the latter.<sup>179</sup> However, as explained above, we do not require that providers route texts to individual call centers, but instead to the Lifeline's toll free 10-digit number. Additionally, VON cites these potential challenges only in vague terms, and claims only that they “might” serve as obstacles to “meeting the *voice* deadline of July 16, 2022.”<sup>180</sup> Moreover, as explained below, the flexible text-to-988 rules we adopt today do not generate significant technical obstacles, and the record's support for a July 16, 2022 deadline suggests that the issues pertinent to a texting solution specifically can be overcome in the given timeframe.<sup>181</sup> For example, ATIS supports a

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<sup>172</sup> ATIS Comments at 4 (“ATIS believes that a phased approach is unnecessary if the Commission adopts its proposal to require providers to route covered 988 text messages only to the Lifeline's 10-digit number.”).

<sup>173</sup> See *id.* at 3-4 (“ATIS believes that the previously proposed deadline of July 16, 2022, is reasonable.”); CEA Comments at vi (“CEA agrees with the Commission's proposal to apply the same deadline for implementation of text-to-988 that is has already adopted for voice-to-988, i.e., July 16, 2022.”); CTIA Comments at 7 (“CTIA and other commenters have urged the Commission to establish an implementation deadline for text-to-988 capability of July 16, 2022 . . . , or six months after the Lifeline is actually able to receive and respond to text messages on its end, whichever is later.”); Mental Health Associations Comments at 1 (“We also encourage the FCC to require a national uniform deadline for texting so that text-to-988 is available before or no later than the same time voice calls to 988 are available by July 2022.”); MHA Comments at 2 (“Mental Health America also strongly encourages the Commission to . . . require full implementation of text-to-988 by July 2022, such that text crisis support is available on the first day of 988 implementation.”); NAMI Comments at 4 (“[W]e encourage the FCC to require a national uniform deadline for texting so that text-to-988 is available at or before the same time voice calls to 988 are available by July 2022.”); Vibrant Comments at 3.

<sup>174</sup> *988 Report and Order*, 35 FCC Rcd at 7404, para. 57.

<sup>175</sup> CTIA Comments at 7 (supporting a July 16, 2022 deadline).

<sup>176</sup> CEA Reply at 10; Vibrant Comments at 3; MHA Comments at 2; NAMI Comments at 4-5.

<sup>177</sup> Mental Health Associations Comments at 1.

<sup>178</sup> See VON Comments at 4.

<sup>179</sup> *Id.* at 3-4.

<sup>180</sup> *Id.* at 4 (emphasis added).

<sup>181</sup> See SAMHSA Aug. 4 *Ex Parte* Letter at 2 (explaining the steps SAMHSA would take to increase capacity to respond to texts to 988 by July 16, 2022); cf. VA *Ex Parte* In-Line Comments at 21 (noting the challenges that the implementation deadline would pose to the resources needed to develop a unified platform approach between the

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July 16, 2022 deadline as “reasonable” given that “it is already possible to text the existing Lifeline toll-free number,” highlighting that “texting to the new three-digit short code (988) would create no new technical challenges.”<sup>182</sup>

### E. Technical Considerations

43. We adopt our proposal to allow covered text providers to use any reliable method or methods to support text routing and transmission to 988.<sup>183</sup> We find that this approach accounts for currently-available text messaging formats and technologies and also provides the flexibility to adapt to future availability. No commenter opposed our proposal.<sup>184</sup> As ATIS explains, texting to 988 “can and should be implemented in a timely manner[,]” and should “create no technical challenges.”<sup>185</sup>

44. *Network Upgrades.* Based on the record, we do not expect that covered text providers will need to install significant network upgrades to implement the texting to 988 requirements adopted herein.<sup>186</sup> Though covered text providers must determine how to support texting to 988 as adopted, the rules we adopt today provide the flexibility to choose the most effective method for doing so. For example, covered text providers may choose to route text messages to 988 over their mobile-switched networks or use an IP-based method to deliver text messages to the Lifeline. We are encouraged that many providers have implemented voice calling to 988 a year or more before the implementation deadline, and we envision that covered text providers can also easily implement texting to 988.

45. *Equipment Upgrades.* We find, based on the record, that no significant software or equipment upgrades will be necessary to implement texting to 988.<sup>187</sup> We agree with ATIS, one of the organizations that set the standards for texting to 911, that “[a] focus on functionality rather than technical standards is required to meet the needs of those who communicate primarily via texting.”<sup>188</sup> We are not persuaded by VON’s argument that, like implementing text-to-911, industry needs to develop new routing and technical standards that may delay text-to-988’s implementation.<sup>189</sup> VON generically states that 911

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Lifeline and the Veterans Crisis Line). In light of the VA’s concerns, we direct the Bureau to support our federal partners, at their request, to help facilitate developing effective long-term implementation solutions.

<sup>182</sup> ATIS Comments at 3; *see also* CTIA Reply at 11 (suggesting that providers should be able to meet the July 16, 2022 deadline).

<sup>183</sup> *Further Notice*, 36 FCC Rcd at 7961-62, para. 42. Text 2 Them argues that the Commission should not adopt texting to 988 rules because they “would be a continuation and expansion of an infringement of Text 2 Them, Inc. patent rights.” Alvin T. Butler Sr. Comments at 1 (rec. June 21, 2021) (filed on behalf of Text 2 Them, Inc.) (Text 2 Them Comments). The Commission has no reason to be involved with respect to any such claims because we have asserted no regulatory authority over the development of technology that may be used in text-to-988, or over patents, trademarks, or other intellectual property rights in such technology that may be involved. We reiterate that covered text providers may use any reliable method or methods to support text routing and transmission to 988, and emphasize our neutrality on the technologies that covered text providers use to support text messaging to 988.

<sup>184</sup> *See Text-to-911 Further Notice*, 27 FCC Rcd at 15674, para. 42 (explaining that while proposing the text-to-911 rules, the Commission similarly “consider[ed] both SMS and currently available, as well as anticipated, software applications as potential platforms.”).

<sup>185</sup> *See* ATIS Comments at 3.

<sup>186</sup> *Further Notice*, 36 FCC Rcd at 7962, para. 43. We direct the Bureau, in evaluating one or more possible deadlines for RTT implementation, to account for any deadline(s) set for RTT implementation in the RTT proceeding (CG Docket No. 16-145).

<sup>187</sup> *Id.* at 7963-64, para. 47 (“We seek comment on possible equipment or software upgrades required for covered text providers to implement text-to-988.”).

<sup>188</sup> ATIS Comments at 3.

<sup>189</sup> VON Comments at 3-4 (citing that ATIS and TIA needed to create a joint standard, the ATIS/TIA J-STD-110, to comply with the text-to-911 rules).

networks and the Lifeline are “two distinct infrastructures” that will require new standards, but does not explain why these infrastructural differences merit developing new standards.<sup>190</sup> We find more convincing ATIS’s assertion that changes to industry standards will “be minimal if, as expected, no changes are required to consumer devices to support text-to-988 requirements”<sup>191</sup> because the bulk of the record indicates that texting to 988’s centralized routing solution, limited scope of text messaging service technologies, and other adopted requirements are straightforward to implement by our adoption deadline.<sup>192</sup>

46. We exempt legacy devices that are incapable of sending text messages via 3-digit codes from the text-to-988 requirements, provided the software for these devices cannot be upgraded over the air to allow text-to-988.<sup>193</sup> In the *Text-to-911* proceeding, the Commission did not require certain legacy devices to comply with the text-to-911 requirements because “the messaging application or interface on the mobile device will likely provide an error message indicating an invalid destination number, reducing user confusion somewhat” that the legacy device could not support texting to 911.<sup>194</sup> No commenter discussed legacy devices nor indicated that circumstances have changed since the Commission adopted this exemption in the *Text-to-911* proceeding. Accordingly, we find that the same exemption is appropriate here.

47. *Network Access.* We require CMRS providers to allow access to their SMS networks by any other covered text provider for the capabilities necessary to transmit 988 text messages originating on such other covered text providers’ networks, similar to the text-to-911 rules.<sup>195</sup> We find this rule is

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<sup>190</sup> *Id.* (explaining only that “PSAPs consist of local police departments, fire departments, emergency medical teams and military teams. Meanwhile, the Lifeline is a network of more than 180 accredited call centers which was launched in 2015.”).

<sup>191</sup> ATIS Comments at 3.

<sup>192</sup> *See id.* at 3-4 (explaining that since “it is already possible to text the existing Lifeline toll-free number” our proposals should not present any technical challenges and cautions that “[a]n expanded scope of features along with different forms of texting would substantially diminish the chances of meeting a July 2022 deadline.”); CTIA Comments at 8-10 (explaining that there could be possible delays to implementation if we require support for technologies beyond SMS); Vibrant Comments at 3-4 (supporting centralized routing for text messages to 988 by a uniform deadline and explaining that the Lifeline can already accept SMS and MMS); CEA Reply at 5-6 (arguing that “implementation of text-to-988 will be very straightforward, and less complex than implementation of text-to-911 if implemented with centralized routing, as the Commission has proposed and as the Lifeline administrator endorses”); CTIA Reply at 5-6; T-Mobile Reply at 2-4 (explaining that centralized routing is feasible, while location based routing would present serious technical and administrative hurdles); CTIA Sept. 17 *Ex Parte* Letter at 2.

<sup>193</sup> *Further Notice*, 36 FCC Rcd at 7964, para. 48 (asking whether the Commission should adopt an exemption for legacy devices under any adopted text-to-988 requirements that is similar to the exemption for legacy devices in the *Text-to-911* proceeding).

<sup>194</sup> *See Bounce-Back Order*, 28 FCC Rcd at 7582-83, paras. 73-76; *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9851, para. 10 & n.26 (clarifying that if a legacy “device’s text messaging software can be upgraded over the air to support a text to 911, however, then the covered text provider must make the necessary software upgrade available”).

<sup>195</sup> *Further Notice*, 36 FCC Rcd at 7962-63, para. 45; *see* 47 CFR § 9.10(q)(11). In the same provision of the text-to-911 rules, the Commission requires “[c]overed text providers using the CMRS network to deliver 911 text messages must clearly inform consumers that, absent an SMS plan with the consumer’s underlying CMRS provider, the covered text provider may be unable to deliver 911 text messages[]” and that “CMRS providers may migrate to other technologies and need not retain SMS networks solely for other covered text providers’ 911 use, but must notify the affected covered text providers not less than 90 days before the migration is to occur.” 47 CFR § 9.10(q)(11); *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70, para. 45. We decline to adopt the same or comparable requirements for texting to 988. Because we already require such notifications in the 911 context, an additional, similar notification here would essentially be duplicative because it would merely provide the same information about the provider’s technological capabilities. Further, no commenter addressed this issue. In the

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necessary to implement our text to 988 requirement as we anticipate that many interconnected text providers will choose CMRS network-based solutions to implement texting to 988.<sup>196</sup> No commenter opposed providing this network access. Mitel explains that, like in the texting to 911 context, routing messages to interconnected networks often requires access to an underlying wireless network and provider.<sup>197</sup> Similar to the text-to-911 rules, we adopt this requirement to “respond to consumers’ reasonable expectations and reduce consumer confusion” regarding text-to-988’s availability.<sup>198</sup>

48. Similar to the Commission’s position in the *Text-to-911 Second Report and Order*, we conclude that it is the responsibility of the covered text provider using the CMRS-based solution to ensure that its text messaging service is technically compatible with the CMRS providers’ SMS-based network and devices and in conformance with any applicable technical standards.<sup>199</sup> As in the text-to-911 context, we further require CMRS providers to make any necessary specifications for accessing their SMS networks available to other covered text providers upon request, and to inform such covered text providers in advance of any changes to these specifications.<sup>200</sup> We clarify, however, that we do not intend to use these requirements to establish an open-ended obligation for CMRS providers to maintain underlying SMS network support merely for the use of other providers,<sup>201</sup> nor do we require CMRS providers to reconfigure any SMS text-to-988 platforms in order to facilitate the ability of other covered text providers to access the CMRS providers’ networks.<sup>202</sup> Further, as with the text-to-911 rules, CMRS providers’ obligation to allow access to CMRS networks “is limited to the extent that the CMRS providers offers SMS.”<sup>203</sup> While we expect that adopting these rules will similarly encourage “interconnected text providers to actively develop solutions to support [text-to-988] without reliance on CMRS providers’ underlying networks,”<sup>204</sup> we nonetheless encourage providers to enact solutions to carry other covered text providers’ text messages to 988 over their networks.<sup>205</sup>

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absence of a clearer record on potential benefits, we decline to impose the additional cost of a notification requirement. *See Further Notice*, 36 FCC Rcd at 7962-63, para. 45 (seeking comment on adopting the same or comparable requirements to the text-to-911 rules that provide access to SMS networks for 911 text messages).

<sup>196</sup> *Further Notice*, 36 FCC Rcd at 7962-63, para. 45 (seeking “comment on the technical implementation capability and network upgrades necessary for interconnected text messaging service providers” and adopting requirements comparable to the text-to-911 rules for texting to 988); *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70, para. 45 (similarly anticipating that many interconnected text providers will choose CMRS network-based solutions to implement texting to 911).

<sup>197</sup> Mitel Reply at 2-3 (supporting the Commission’s proposal to allow network-based solutions to deliver text messages to the Lifeline).

<sup>198</sup> *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9863, para. 37; *see* 47 CFR § 9.10(q)(11).

<sup>199</sup> *Further Notice*, 36 FCC Rcd at 7962-63, para. 45; *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70 & n.138.

<sup>200</sup> *Further Notice*, 36 FCC Rcd at 7962-63, para. 45; *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70 & n.138.

<sup>201</sup> *Further Notice*, 36 FCC Rcd at 7962-63, para. 45; *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70, para. 45 (clarifying that the Commission was not establishing an open-ended obligation for other providers).

<sup>202</sup> *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9868-70, para. 45.

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> We also encourage covered text providers to consider billing policies for texting to 988 that will encourage individuals to send text messages to the Lifeline. For example, most texters to the Crisis Text Line are not charged standard messaging rates by their mobile carriers, and texts to and from the Crisis Text Line do not appear on most texters’ phone bills to bolster confidentiality. *See* CTL Comments at 8.

## F. Other Issues

49. *Cost Recovery.* We adopt our proposal to require all covered text providers to bear their own costs to implement text-to-988.<sup>206</sup> We find that this approach promotes efficiency in implementation and avoids unnecessary administrative costs.<sup>207</sup> In the *988 Report and Order*, we observed that “[u]nlike previous numbering proceedings in which the Commission established a cost recovery mechanism,” implementation of 988 itself does not involve “shared industry costs such as central or regional numbering databases or third-party administrators.”<sup>208</sup> Similarly, we conclude that implementation of a text-to-988 solution requires no shared industry costs, with costs being provider-specific and solutions unique to each.<sup>209</sup> As such, as proposed in the *Further Notice* we find that the requirements in section 251(e)(2) of the Act that “[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis”<sup>210</sup> does not apply.<sup>211</sup>

50. *Bounce-back Messages.* We decline to require covered text providers to send an automatic bounce-back message specifically designed to address where text-to-988 service is unavailable for several reasons. First, the record indicates that failed messages are likely to be rare. CTIA explains that network failures are “rare due to redundancies in the SMS network”<sup>212</sup> and Vibrant indicates that to date the Lifeline’s text messaging service has not experienced any downtime.<sup>213</sup> Second, in the rare instance that covered text providers fail to deliver a text message to the Lifeline, current notice practices are sufficient. Individuals texting the Lifeline currently receive a bounce-back message under a variety of circumstances. CTIA explains that covered text providers usually send customers a notification from a device or network when a CMRS provider cannot deliver a text message due to a network failure.<sup>214</sup> Vibrant also indicates that the Lifeline currently sends individuals scheduled text messages approximately every 10 minutes if there is a wait to reach a crisis counselor that informs them they are in the queue, offers access to other resources while they wait, and provides the option to call the Lifeline.<sup>215</sup>

<sup>206</sup> *Further Notice*, 36 FCC Rcd at 7964, para. 49.

<sup>207</sup> See, e.g., CEA Comments at 15 (agreeing “that covered text providers should bear their own cost of complying with the text-to-988 mandate” and observing that costs “are likely to be substantially lower than those of implementing text-to-911 both for crisis centers in the aggregate and covered text providers” and that “no cost recovery mechanism is needed”).

<sup>208</sup> *988 Report and Order*, 35 FCC Rcd at 7413, para. 69 & n.305; see, e.g., *Telephone Number Portability*, CC Docket No. 95-116, RM 8535, Third Report and Order, 13 FCC Rcd 11701, 11738-11778, paras. 68-146 (1998).

<sup>209</sup> See *988 Report and Order*, 35 FCC Rcd at 7413, para. 69; *Further Notice*, 36 FCC Rcd at 7964, para. 49.

<sup>210</sup> 47 U.S.C. § 251(e)(2).

<sup>211</sup> See also, e.g., CTIA Comments at 11 n.33 (arguing that Section 251(e) “is not applicable here because, while text messages may be routed using ten-digit NANPA numbers, they do not touch the PSTN”).

<sup>212</sup> CTIA Sept. 17 *Ex Parte* Letter at 3 & n.10.

<sup>213</sup> Vibrant Sept. 23 *Ex Parte* Letter at 2.

<sup>214</sup> CTIA Sept. 17 *Ex Parte* Letter at 3 & n.10. While some carriers already have a bounce-back message for text-to-988 in place, we believe that this bounce-back message will no longer be necessary when texting to 988 is operational because those text messages will be delivered to the Lifeline. Vibrant Sept. 23 *Ex Parte* Letter at 2-3 (explaining that some carriers currently send their customers a bounce-back message “informing the individual to call the Lifeline or text the current 10 digit dialing code.”).

<sup>215</sup> Vibrant Comments at 3 (“If there is a wait to reach a crisis counselor, texters will receive scheduled texts that let them know they’re still in the queue. The scheduled texts offer resources such as Vibrant’s online Safe Space while they wait. Texters in queue are also given the option to call the Lifeline as well.”); Vibrant Sept. 23 *Ex Parte* Letter at 2 (“If there is a wait to reach a crisis counselor, the individual will receive scheduled texts that let them know they’re still in the queue every 10 minutes.”); CTIA Sept. 17 *Ex Parte* Letter at 2-3. We also believe that Vibrant’s current bounce-back messaging practices address commenters’ suggestion that individuals texting 988 should

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Consequently, we further agree with commenters that to the extent operational concerns, network congestion, or outsized demand prevent texters from reaching a crisis counselor, the parties that operate the Lifeline are in the best position to send a message to texters because covered text providers do not have visibility into the Lifeline's operations.<sup>216</sup> Third, we decline to require 988-specific bounce-back messages because such a mandate risks delay of text-to-988 implementation. We recognize comments from CTIA which state that developing a bounce-back messaging capability "would require substantial additional time and complexity, as well as the development of standards and requirements for implementation, and would significantly delay the July 16, 2022 implementation target."<sup>217</sup> T-Mobile further asserts that when a CMRS provider has not delivered a text message to the Lifeline due to network congestion, sending a Lifeline-specific automatic bounce-back message could be technically infeasible because "[c]arriers cannot determine if a text sent to the 10-digit Lifeline number has not been delivered due to network congestion or other factors related to nature of SMS generally."<sup>218</sup>

51. Finally, a key circumstance that prompted the Commission to require automatic bounce-back messaging for text-to-911 are not present for text-to-988. In the *Text-to-911* proceeding, the Commission adopted an automatic bounce-back messaging requirement because texting was and is only available to some PSAPs, and Americans in many parts of the country could not text 911 at all.<sup>219</sup> In contrast, our centralized routing approach ensures that texting to 988 will be uniformly available nationwide.<sup>220</sup> The unique geographic gaps that the bounce-back requirement addresses in the 911

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receive automatic bounce-back messages with content specifying alternative ways to reach the Lifeline. ASAN Comments at 3-4; Karen Ranus Comments at 1; Kathy Schmidt Comments at 1; John Stewart Comments at 1; Matthew Kuntz Comments at 1; Mental Health Associations Comments at 1; NAMI Comments at 4; NAMI Dodge County Comments at 1 (supporting the Commission requiring bounce-back messages to include alternative ways to reach the Lifeline); NAMI Geauga County Comments at 1; NAMI Maine Comments at 1; NAMI Minnesota Comments at 1; NAMI Mobile Comments at 1; NAMI National Office Comments at 1; NAMI Ohio Comments at 1; NAMI Oregon Comments at 1; NAMI Pinellas County Florida Comments at 1; NAMI South Carolina Comments at 1; NAMI July 6 Tuscaloosa Comments at 1; NAMI July 12 Tuscaloosa Comments at 1; Paul C Elmore Comments at 1; Ron Koon Comments at 1.

<sup>216</sup> CTIA Comments at 13; CTIA Reply at 8-9; CTIA Sept. 17 *Ex Parte* Letter at 2-3; T-Mobile Reply at 4-5.

<sup>217</sup> CTIA Sept. 17 *Ex Parte* Letter at 3. *See* ATIS Comments at 5 (explaining that requiring bounce-back messaging, could require an implementation timeline that is between 12 and 18 months after the development of stable standards).

<sup>218</sup> T-Mobile Reply at 5.

<sup>219</sup> *Text-to-911 Further Notice*, 27 FCC Rcd at 15668, para. 25 (proposing an automatic bounce-back messaging requirement for CMRS providers and other providers of text messaging services, in part, because there may be "numerous instances where consumers attempt to send text messages to PSAPs in areas where text-to-911 is not yet available"); *Bounce-Back Order*, 28 FCC Rcd at 7559, 7561 paras. 8, 13 (reaffirming this reasoning when the Commission adopted the bounce-back requirement for texting to 911 and acknowledging that "there is substantial data to suggest that some consumers are acting on this belief in areas where text to 911 is not available").

<sup>220</sup> CTIA indicates that our centralized routing solution obviates the need for a bounce-back messaging requirement when a customer is roaming, unlike in the text-to-911 context. CTIA Sept. 17 *Ex Parte* Letter at 2 & n.5 ("By routing texts to 988 to the Lifeline centrally, texts to 988 sent while the customer is roaming will be delivered to the Lifeline in the same way that any text would be delivered when sent by a roaming customer in the ordinary course."); *see also* 47 CFR § 9.10(q)(7). *But cf.* Intrado Oct. 20 *Ex Parte* Letter at 2 ("The TCC manages the messaging today for 9-1-1 bounce back needs, and customized solutions could be provided for Texts-to-988. If a [t]ext-to-988 was successfully sent by the wireless carrier but the 988 [c]enter was unavailable to receive texts (for a variety of reasons/situations), the TCC could work with the 988 [c]enter to customize the message that would be returned to the person sending the [t]ext-to-988.").

context are not present here.<sup>221</sup> It is possible that, as in the text-to-911 context, requiring a bounce-back message for text-to-988 could help “persons in emergency situations being able to know immediately if a text message has been delivered to the proper authorities” in the limited situations when consumers cannot send text messages to the Lifeline.<sup>222</sup> However, given the urgency of improving access to lifesaving suicide prevention resources, and in light of existing protections against and in the event of a delivery failure, we decline to a bounce-back messaging requirement for text-to-988 at this time.<sup>223</sup> We will monitor the operation of texting to 988 post-implementation and will not hesitate to revisit the issue of requiring a bounce-back if warranted.

52. *Federal Coordination.* We direct the Bureau to continue to coordinate implementation of 988 with SAMHSA, including any issues pertaining to the delivery of text messages to 988. We direct the Bureau and Commission staff to support the VA in promoting awareness of texting options for Service Members, Veterans, and their families, and to support the VA and SAMHSA in piloting, testing, and implementing any solution our federal partners may choose to pursue to allow texting to 988 for the Veterans Crisis Line’s text service. We also encourage SAMHSA to continue to work to expand the Lifeline’s texting infrastructure.<sup>224</sup> We will continue to work with and support our federal partners in their efforts to assist Americans in crisis.

53. *Future Technical Corrections to Lifeline 10-Digit Number.* In our rules, we identify the current 10-digit telephone number of the Lifeline, 1-800-273-8255 (TALK). We direct the Bureau, after notice and comment, to update this reference to the correct number if the Lifeline ever changes telephone

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<sup>221</sup> *Bounce-Back Order*, 28 FCC Rcd at 7562, para. 16 (explaining that the Commission was concerned that “the availability of text-to-911 will not be uniform but will vary both by service provider and by area, and the extent of availability will change over time as the transition progresses”).

<sup>222</sup> *Id.* at 7559, para. 8.

<sup>223</sup> CEA Comments at 15-16 (arguing that the Commission should follow the text-to-911 model because of the similar importance and benefit to users); CEA Reply 12-13; Vibrant Comments at 3-4 (advocating for “a bounce-back message “when the carrier is aware that a message was not delivered to the Lifeline via 988, . . . and/or in circumstances in which there are technical difficulties or service interruptions that prevent a message from being received by the Lifeline”); Vibrant Sept. 23 *Ex Parte* Letter at 2; Karen Ranus Comments at 1 (encouraging the Commission “to include a plan requiring automated bounce-back messages be sent when text-to-988 is unavailable, including when text-to-988 is not available in the service area or when the Lifeline is unavailable to respond to text messaging”); Kathy Schmidt Comments at 1; John Stewart Comments at 1; Matthew Kuntz Comments at 1; NAMI Dodge County Comments at 1; NAMI Geauga County Comments at 1; NAMI Maine Comments at 1; NAMI Minnesota Comments at 1; NAMI Mobile Comments at 1; NAMI National Office Comments at 1; NAMI Ohio Comments at 1; NAMI Oregon Comments at 1; NAMI Pinellas County Florida Comments at 1; NAMI South Carolina Comments at 1; NAMI Tuscaloosa July 9 Comments at 1; NAMI Tuscaloosa July 12 Comments at 1; Paul C Elmore Comments at 1; Ron Koon Comments at 1. We note that commenters debate the benefits and drawbacks of a bounce-back message for texters. *Compare, e.g.*, NAMI Comments at 3-4 (“We do not believe that an automatic bounce-back message will negatively impact individuals seeking help during a crisis. We contend the opposite. If someone is in crisis and cannot be helped, they should receive a bounce-back message to ensure that they know what else to do to receive help.”); Options for Independent Living Comments at 2 (expressing support for a bounce-back messaging requirement so individuals will not delay using other modes to reach crisis and mental health services), *with, e.g.*, CTL Comments at 2-3 (arguing that “if imminent risk texters are met with bounce-back messages regarding unavailability of services, or unduly long wait times, the risks of disengagement and adverse outcomes increase[.]” so ensuring that the Lifeline has adequate resources to handle the texting volume is essential); CTL Reply at 4 (clarifying that, rather than being met with silence, consumers would benefit from receiving a bounce-back message that points to alternative resources when the Lifeline cannot receive text messages or is experiencing a high text message volume). We lack clear data by which to resolve this debate and need not do so based on other reasons supporting our conclusion that we should not require a bounce-back message, such as that it would prevent timely implementation of text-to-988.

<sup>224</sup> See SAMHSA Aug. 4 *Ex Parte* Letter at 2.



numbers. This direction applies to the text-to-988 rules we adopt today and to our previously-adopted 988 telephone rules.<sup>225</sup>

### G. Legal Authority

54. We conclude that Title III of the Act and the CVAA provide us with authority for the rules we adopt today.<sup>226</sup> No commenter opposes these conclusions. With respect to CMRS providers, we find that Title III provides us the authority to require wireless carriers to enable and support text-to-988 service.<sup>227</sup> Consistent with the U.S. Supreme Court’s recognition that Title III provides the Commission a “broad mandate” to manage spectrum usage in the public interest,<sup>228</sup> we find that significant public interest benefits will likely inure from broadly enabling access to lifesaving services through texting. Further, the rules adopted here are analogous to those the Commission adopted to facilitate text-to-911, which relied in part on the Commission’s Title III authority. Therefore, with respect to CMRS providers, we conclude that Title III provides sufficient authority for the rules we adopt today.

55. As to interconnected text messaging service providers, the CVAA granted us authority to adopt “other regulations . . . as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network.”<sup>229</sup> We conclude that the Lifeline constitutes an “emergency network” within the meaning of the CVAA. The CVAA does not define what an “emergency network” is, nor does it elaborate on what qualifies as “emergency services.” However, Congress, through the National Suicide Hotline Designation Act, deemed “life-saving resources” such as the Lifeline and the Veterans Crisis Line “essential” and recognized the need for an “easy-to-remember, 3-digit phone number”—that is, one readily available in an emergency situation.<sup>230</sup> As CTIA argues, it is therefore reasonable to conclude that such services should be considered “emergency services” and that the Lifeline and Veterans Crisis Line act as an “emergency network” within the meaning of the CVAA.<sup>231</sup> Moreover, texting capabilities provide “easy

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<sup>225</sup> 47 CFR § 52.200(b); Appendix A, Final Rules, § 52.201(b).

<sup>226</sup> Because we decline to adopt a location information requirement, we need not address at this time the privacy issues related to the sharing or disclosure of location information as discussed in the *Further Notice*. See *Further Notice*, 36 FCC Rcd at 7971, para. 66 (seeking “comment on the Commission’s authority to mandate location information with text-to-988 service”).

<sup>227</sup> See 47 U.S.C. § 303(b) (authorizing the Commission to “[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class”); *id.* § 303(g) (requiring the Commission to “encourage the larger and more effective use of radio in the public interest”); *id.* § 303(r) (enabling the Commission to “prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this [Act]”); *id.* § 307 (authorizing the Commission to grant station licenses); *id.* § 309(a) (authorizing the Commission, in acting on certain license applications, to determine “whether the public interest, convenience, and necessity will be served by granting such application”); *id.* § 316(a) (authorizing the Commission to modify existing licenses to impose new license conditions if, in the judgment of the Commission, such action will promote the public interest, convenience, and necessity). As we noted in the *Further Notice*, the Commission has recognized that its determination to classify SMS and MMS services as “information services” under the Act “does not affect the general applicability of the spectrum allocation and licensing provisions of Title III and the Commission’s rules” to SMS and MMS services. See *Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service*, WT Docket No. 08-7, Declaratory Ruling, 33 FCC Rcd 12075, 12101, para. 50 (2018); *Further Notice*, 36 FCC Rcd at 7969, para. 63, n.163.

<sup>228</sup> See *Nat’l Broad. Co. v. United States*, 319 U.S. 190, 219 (1943); see also *Cellco Partnership v. FCC*, 700 F.3d 534, 537, 541 (D.C. Cir. 2012) (upholding the Commission’s authority to rely on Title III provisions to impose data roaming rules and acknowledging that Title III provides the Commission “broad authority to manage spectrum . . . in the public interest”).

<sup>229</sup> *Further Notice*, 36 FCC Rcd at 7969-70, para. 64; 47 U.S.C. § 615c(g).

<sup>230</sup> National Suicide Hotline Designation Act of 2020, Pub. L. No. 116-172, 134 Stat. 832 § 2 (2020).

<sup>231</sup> CTIA Comments at 11.

access to emergency services for people with disabilities,” including those with hearing and speech disabilities.<sup>232</sup> Such individuals may not be able to take advantage of 988’s voice service, necessitating that an alternative means of communicating be provided.<sup>233</sup> We therefore conclude that the CVAA provides authority for the rules we adopt today,<sup>234</sup> and the record reflects agreement with our analysis.<sup>235</sup> Because we find that Title III and the CVAA provide sufficient authority for the rules we adopt today, we find it unnecessary to address other possible sources of authority to adopt these rules.<sup>236</sup>

## H. Benefits and Costs of Text-to-988

56. Consistent with our proposal in the *Further Notice*, we find that benefits of requiring service providers to support text-to-988 far exceed the costs of implementation.<sup>237</sup> The loss of victims’ lives to suicide cannot be adequately captured by any pecuniary measure; the principal benefit of text-to-988 is that it will reduce suicide risk by providing an additional means of reaching help for the most vulnerable. Text-to-988 will reduce the risk of suicide mortality, primarily among those who would either send a text to 988 or forgo a lifesaving intervention altogether. Three vulnerable communities, in particular, face this stark choice: youth, who rely heavily on text messages for their general communications needs;<sup>238</sup> the deaf, deafblind, hard of hearing, and speech disabled;<sup>239</sup> and those who are reluctant to dial 988 because they feel unsafe, ashamed or embarrassed, including many LGBTQ+ youth and victims of domestic abuse.<sup>240</sup> As outlined above, the ability to text to the short and easy-to-remember

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<sup>232</sup> ZP Comments at 3.

<sup>233</sup> See SAMHSA Aug. 4 *Ex Parte* Letter at 3 (explaining that texting services may provide a more accessible option to those who are deaf or hard of hearing); NAMI Comments at 3 (observing that “[t]ext messaging has also become a critical form of communication for people who are deaf, hard of hearing, and who have other disabilities that impact communication”).

<sup>234</sup> See *Further Notice*, 36 FCC Rcd at 7670, para. 64.

<sup>235</sup> See, e.g., CTIA Comments at 10 (agreeing that the Commission’s approach “represents both the best reading of the Act in general, and the CVAA in particular, as the source of legal authority for text-to-988”); ZP Comments at 2-3 (contending that the CVAA “requires the Commission to ensure access to advanced communications services by people with disabilities,” including the Lifeline).

<sup>236</sup> Cf. CTIA Comments at 11 (arguing that a “belt and suspenders” approach would “raise unnecessary questions about the scope of the Commission’s ancillary and numbering authority,” particularly given that “the Commission has a clear basis of authority under the CVAA”).

<sup>237</sup> *Further Notice*, 36 FCC Rcd at 7971, para. 68.

<sup>238</sup> According to Mental Health Associations, “[n]early 95 percent of teens have access to smart phones and say that texting is the primary way that they connect.” Mental Health Associations Comments at 1. Mental Health America claims that multiple sources of data demonstrate youth prefer communicating by text rather than calls. One study found youth were more likely to forgo psychological support than talk in person or over the phone. MHA Petition Comments at 2.

<sup>239</sup> In the *Text-to-911 Second Report and Order*, the Commission stated: “The Commission’s Emergency Access Advisory Committee (EAAC) noted that individuals who are deaf, hard of hearing, or speech-disabled and need to communicate with 911 via voice currently have no direct means of accessing 911 while mobile other than through attaching a separate teletype (TTY) device to their cellphone. However, most people who are deaf, hard of hearing, or speech-disabled have discarded TTYs or has [sic] never acquired or used a ‘mobile’ TTY, and thus no longer have a practicable means of directly accessing 911.” *Text-to-911 Second Report and Order*, 29 FCC Rcd at 9853-54, para. 15. Without the texting capability envisioned in this *Second Report and Order*, 988 presents the same barrier for the deaf, deafblind, hard of hearing, and speech-disabled.

<sup>240</sup> MHA Comments at 2 (“Texting may also be the only way individuals feel safe reaching out for help for their mental health concerns without fear of being overheard, for example, for LGBTQ+ youth living in unsupportive environments.”); see also Mental Health Associations Comments at 1 (“We would like to also note that, anecdotally, many people who are in abusive or controlling situations feel safer texting than making a verbal call when in a crisis situation.”).

988 code will make the lifesaving interventions of the Lifeline crisis centers even more accessible than dialing alone.<sup>241</sup> As no commenter in the record disputes, we find that the benefits of implementing text-to-988 will quickly exceed costs, and dwarf them over time.<sup>242</sup>

57. In the *Further Notice*, we estimated the cost of implementing text to 988 would be nearly \$27 million over five years.<sup>243</sup> We based our estimate on Intrado's existing estimates of the costs of upgrading 911 call centers to receive text messages.<sup>244</sup> Although one commenter asserts that the costs of implementation are likely to be "substantially lower" than our estimate,<sup>245</sup> no commenters provided any individual estimates or disputed our underlying approach or our estimate of the combined total cost of nearly \$27 million with an alternate figure.<sup>246</sup> We agree that implementation costs may be lower than we

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<sup>241</sup> See *supra* Section III.A, Text-to-988 Will Save Lives.

<sup>242</sup> We expect an impact from texting similar to what we see from calls to crisis centers; however, there are limited studies evaluating this effect because texting to crisis centers is a more recent method of reaching crisis services. Available survey-based studies of calls to crisis centers reveal crisis centers can substantially reduce suicides during the initial call and follow-up periods. For example, Tyson et al. find a 25 percent reduction in callers' self-harming thoughts and a 17 percent reduction in callers' suicidal thoughts between the beginning and end of helpline calls. Philip Tyson et al., *Preventing Suicide and Self-Harm: Evaluating the Efficacy of a Helpline From a Service User and Helpline Worker Perspective*, Crisis (2016), Vol. 37, Issue 5, 353-360, p. 355-56. <https://econtent.hogrefe.com/doi/full/10.1027/0227-5910/a000390>.

<sup>243</sup> *Further Notice*, 36 FCC Rcd at 7972-73, para. 72, n.181.

<sup>244</sup> See Intrado, Inc., Comments, PS Docket Nos. 11-153 and 10-255, at 14 (rec. Dec. 12, 2011) (Intrado Text-to-911 Comments) (estimating CMRS and PSAP system component costs of \$20 million and \$282.9 million, respectively, to deploy texting capability to 911).

<sup>245</sup> CEA Comments at 15. One of CEA's justifications for asserting that implementation costs will be lower is that there are fewer Lifeline crisis centers than there are PSAPs. Our methodology described in *infra* note n.246 accounts for this difference. Similarly, Vibrant notes that "[t]ext-to-988 does not have the same requirement for physical legacy switch upgrade that was noted for the 988-telephone requirement and thus should have lowered associated costs." Vibrant Comments at 4.

<sup>246</sup> Our methodology for adapting Intrado's text-to-911 cost estimates to the text-to-988 cost estimates is as follows. First, using the Bureau of Labor Statistics Consumer Price Index (CPI), we converted Intrado's 2011-dollar figures to 2021 dollars by multiplying by a factor of 1.16. We then discounted the five-year payment streams to today's present value using an annual rate of 7 percent, in compliance with the Office of Management and Budget (OMB) guidelines. See OMB Circular A-4, [https://obamawhitehouse.archives.gov/omb/circulars\\_a004\\_a-4/](https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/). To illustrate, the CMRS text-to-988 conversion cost of \$19,024,916 is the present value of five annual payments of \$4,640,000 (= \$4,000,000 \* 1.16) discounted at 7 percent (= \$4,640,000/1.07 + \$4,640,000/1.07<sup>2</sup> + . . . + \$4,640,000/1.07<sup>5</sup>). Second, in computing PSAP software costs, Intrado assumed only 45 percent of the more than 6,800 PSAPs would require a software upgrade to enable SMS. We make no such assumption about the pre-existing SMS capabilities of the 180 Lifeline crisis centers; therefore, we multiply Intrado's estimated PSAP software upgrade costs by 2.22 (= 100% / 45%) to reflect that 100 percent of Lifeline call centers may require SMS upgrades, not the lower 45 percent for PSAPs, many of which already have the needed software. Third, although there are currently 8,334 U.S. PSAPs (6,800 primary PSAPs and more than 1,400 secondary PSAPs), Intrado relied upon a lower number of "over 6,800" in preparing its 2011 cost estimate, either reflecting the smaller number of PSAPs existing in 2011 or perhaps just the 6,800 primary PSAPs. Averaging our revised total PSAP facility and software cost estimates over Intrado's PSAP count, it would cost approximately \$40,613 (= (\$263,277,595 + \$12,891,283) / 6,800) to prepare each PSAP to receive and respond to text messages. We use this amount to approximate the cost to make each Lifeline crisis center text-to-988-ready, which would function like PSAPs for the suicidal. For the 180 Lifeline crisis centers in the U.S., these costs are \$7,310,340 (= \$40,613\*180). See *Further Notice*, 36 FCC Rcd at 7973, para. 72, n.181, where we cited a population of 180 Lifeline crisis centers. FCC PSAP Master Registry, [911 Master PSAP Registry | Federal Communications Commission \(fcc.gov\)](http://911.MasterPSAPRegistry.FederalCommunicationsCommission(fcc.gov)); Intrado Text-to-911 Comments at 15; [Our Crisis Centers : Lifeline \(suicidepreventionlifeline.org\)](http://OurCrisisCenters:Lifeline(suicidepreventionlifeline.org)). Finally, we added 2021 current-dollar, Commission-estimated interconnected text provider implementation costs of \$613,275. This amount equals interconnected text provider costs of \$555,000 (2014 dollars) x 1.105 price index factor (again using the CPI). The final total text-to-988 implementation costs sum to nearly \$27 million (\$26,948,531 = \$19,024,916 + \$7,310,340 + \$613,275). As in the past, we focus on those

(continued....)

projected. However, since no commenter provided an estimate of the impact of these potential reductions, we find it prudent to rely on our original estimate.

58. Commenters suggest quantifiable benefits that would greatly exceed these costs. For example, the Mental Health Associations emphasize that improved access to “mental health response to mental health crises” will result in cost savings for communities and individuals.<sup>247</sup> These “[e]mergency department visits for mental health and substance use disorders cost an average of \$520 across 10.7 million visits in 2017, for a total cost nationwide of nearly \$5.6 billion.”<sup>248</sup> Any reduction in these visits and resulting cost savings are benefits of implementing text-to-988. In addition, the Center for Law and Social Policy (CLASP) points to an evaluation of Nevada’s TextToday pilot program, one of the country’s first crisis response lines that accepted text messages. The evaluation found an increase in help-seeking by youth and a preference for texting.<sup>249</sup> Groups that would be especially likely to benefit from text-to-988 are members of the LGBTQ+ community, and deaf, deafblind, hard of hearing, and speech-disabled adults. Between 2015 and 2019, we estimate there were more than 39,000 suicides among youth 10-19, LGBTQ+ adults, and deaf, deafblind, hard of hearing, and speech-disabled adults.<sup>250</sup> If text-to-988 reduces the annual risk of suicide mortality among these groups and others by even a very small amount, the benefits would easily outweigh the costs of implementing text-to-988.

#### IV. PROCEDURAL MATTERS

59. *Paperwork Reduction Act of 1995 Analysis.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small

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costs within our regulatory purview. For instance, our estimate does not include (i) the cost for Lifeline crisis centers to receive and respond to an increased volume of text messages due to the availability of texting to 988; (ii) the cost to promote the availability of a separate texting solution for Service Members, Veterans, and the families; or (iii) the cost, should our federal partners choose to undertake it, of integrating texting to the Veterans Crisis Line with the Lifeline and expanding Veterans Crisis Line service to accommodate a likely resulting increased texting volume. Since the benefits of our actions are likely to be large, even at a small, highly probable reduction in suicide mortality risk, it is likely that the benefits of implementing text-to-988 will exceed its total costs.

<sup>247</sup> Mental Health Associations Comments at 2.

<sup>248</sup> *Id.* In addition, “from 2015-2020, one in four fatal police shootings involved a person with mental illness, with one in three being a person of color.” *Id.*

<sup>249</sup> CLASP Comments at 1.

<sup>250</sup> Using the Centers for Disease Control’s Web-based Injury Statistics Query and Reporting System (WISQARS) data, we estimated total suicides among youth ages 10-19, LGBTQ adults, and among the deaf, deaf-blind, hard of hearing, and speech-disabled adults. For the years 2015-2019, there were 13,755 suicides among youth ages 10-19. During the same period, 218,358 adults ages 20-85+ committed suicide. We assume 12,228 (5.6% \* 218,358) of those adults were LGBTQ (CDC WISQARS database). Jeffrey M. Jones, “LGBT Identification Rises to 5.6% in Latest U.S. Estimate,” Gallup, <https://news.gallup.com/poll/329708/lgbt-identification-rises-latest-estimate.aspx>. We assume 13,101 (6% \* 218,358) of those adults were deaf, deaf-blind, hard of hearing, or speech-disabled (there are an estimated 3.7 percent deaf and hard of hearing American adults and children). Ross E. Mitchell, *How Many Deaf People Are There in the United States? Estimates from the Survey of Income and Program Participation*, The Journal of Deaf Studies and Deaf Education, Volume 11, Issue 1, Winter 2006, pages 112-119, <https://academic.oup.com/jdsde/article/11/1/112/410800>. There is also an estimated 7.5 million Americans (2.3 percent of the 330 million U.S. population) who have speech disabilities. Statistics on Voice, Speech, and Language, National Institute on Deafness and Communication Disorders (NIDCD), <https://www.nidcd.nih.gov/health/statistics/statistics-voice-speech-and-language>, the sum of these being 6 (= 3.7 + 2.3) percent. The sum of these gives 39,088 (= 13,755 + 12,228 + 13,101), which annually comes to 9,771 (= 39,088/5). Our estimate of the number of suicides for these communities is likely conservative because our estimates extrapolate shares of population to shares of suicides. Yet, there is a greater propensity for suicide within these at-risk communities.

business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

60. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules, as proposed, addressed in this Second Report and Order. The FRFA is set forth in Appendix B. The Commission will send a copy of this Second Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

61. *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 Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

62. *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).

63. *Contact Person.* For further information about this rulemaking proceeding, please contact Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0388 or [michelle.sclater@fcc.gov](mailto:michelle.sclater@fcc.gov).

## V. ORDERING CLAUSES

64. IT IS ORDERED, pursuant to sections 201, 251(e)(4), 301, 303, 307, 309, 316, and 615c of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201, 251(e)(4), 301, 303, 307, 309, 316, 615c, that the Second Report and Order in WC Docket No. 18-336 IS ADOPTED.

65. IT IS FURTHER ORDERED that, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission’s rules, 47 CFR §§ 1.4(b)(1), 1.103(a), this Second Report and Order SHALL BE EFFECTIVE 30 days after publication in the Federal Register.

66. IT IS FURTHER ORDERED that Part 52 of the Commission’s rules IS AMENDED as set forth in Appendix A.

67. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Second Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

68. IT IS FURTHER ORDERED that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Second 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

## FINAL RULES

The Federal Communications Commission amends part 52 of Title 47 of the Code of Federal Regulations as follows:

## PART 52 – NUMBERING

1. The legal authority citation for part 52 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 155, 201-205, 207-209, 218, 225-227, 251-252, 271, 301, 303, 307, 309, 316, 332, 615c, unless otherwise noted.

\* \* \* \* \*

**Subpart E –Universal Dialing Code for National Suicide Prevention and Mental Health Crisis Hotline System**

2. Insert the following new section 52.201:

**§ 52.201 Texting to the National Suicide Prevention and Mental Health Crisis Hotline.**

(a) *Support for 988 text message service.* Beginning July 16, 2022, all covered text providers must route a covered 988 text message to the current toll free access number for the National Suicide Prevention Lifeline, presently 1-800-273-8255 (TALK).

(b) *Access to SMS networks for 988 text messages.* To the extent that CMRS providers offer Short Message Service (SMS), they shall allow access by any other covered text provider to the capabilities necessary for transmission of 988 text messages originating on such other covered text providers' application services.

(c) *Definitions.* For purposes of this section:

- (1) *988 text message* (A) means a message consisting of text, images, sounds, or other information that is transmitted to or from a device that is identified as the receiving or transmitting device by means of a 10-digit telephone number, N11 service code, or 988; (B) includes and is not limited to a SMS message and a MMS message; and (C) does not include—(i) a real-time, two-way voice or video communication; or (ii) a message sent over an IP-enabled messaging service to another user of the same messaging service, except a message described in clause (B).
- (2) *Covered 988 text message* means a 988 text message in SMS format and any other format that the Wireline Competition Bureau has determined must be supported by covered text providers.
- (3) *Covered text provider* includes all Commercial Mobile Radio Services (CMRS) providers as well as all providers of interconnected text messaging services that enable consumers to send text messages to and receive text messages from all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones.

- (4) *Multimedia message service (MMS)* shall have the same definition as the term in § 64.1600(k) of the Commission's rules.
- (5) *Short message service (SMS)* shall have the same definition as the term in § 64.1600(m) of the Commission's rules.

## APPENDIX B

## FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Implementation of the National Suicide Hotline Improvement Act of 2018 Further Notice of Proposed Rulemaking (*Further Notice*), released April 2021.<sup>2</sup> The Commission sought written public comments on the proposals in the *Further Notice*, including comment on the IRFA. No comments were filed addressing the IRFA. Because the Commission amends its rules in this Second Report and Order, the Commission has included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.<sup>3</sup>

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

2. In this Second Report and Order, the Commission adopts rules requiring CMRS providers and providers of interconnected text messaging services that enable consumers to send text messages to, and receive text messages from, all or substantially all text-capable U.S. telephone numbers, including through the use of applications downloaded or otherwise installed on mobile phones (covered text providers) to enable delivery of text messages to 988. The Commission further requires that covered text providers route 988 text messages to the National Suicide Prevention Lifeline's (Lifeline) 10-digit number, currently 1-800-273-8255 (TALK). The Commission believes these proposed rules will expand the availability of mental health and crisis counseling resources to Americans who suffer from depressive or suicidal thoughts, by allowing individuals in crisis to reach the Lifeline by texting 988.

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

3. There were no comments filed that specifically addressed the proposed rules and policies presented in 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 proposed rules as a result of those comments.<sup>4</sup>

5. The Chief Counsel did not file any comments in response to this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

6. 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 final rules adopted pursuant to the *Order*.<sup>5</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>6</sup> In addition, the term "small business" has

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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> *Implementation of the National Suicide Hotline Improvement Act of 2018, WC Docket No. 18-336, Further Notice of Proposed Rulemaking*, 36 FCC Rcd 7943 (2021) (*Further Notice*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 5 U.S.C. § 604 (a)(3).

<sup>5</sup> See 5 U.S.C. § 603(b)(3).

<sup>6</sup> See 5 U.S.C. § 601(6).



the same meaning as the term “small-business concern” under the Small Business Act.<sup>7</sup> A “small-business concern” is one which: (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>8</sup>

7. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.<sup>9</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>10</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.<sup>11</sup>

8. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>12</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>13</sup> Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>14</sup>

9. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>15</sup> U.S. Census Bureau data from the 2017 Census

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<sup>7</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), 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.”

<sup>8</sup> See 15 U.S.C. § 632.

<sup>9</sup> See 5 U.S.C. § 601(3)-(6).

<sup>10</sup> See U.S. Small Business Administration, Office of Advocacy, *What’s New With Small Business?* (Sept. 2019), <https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> 5 U.S.C. § 601(4).

<sup>13</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. See IRS, *Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), Who May File Form 990-N to Satisfy Their Annual Reporting Requirement*, <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard> (last visited Oct. 27, 2021). We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>14</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

<sup>15</sup> 5 U.S.C. § 601(5).

of Governments<sup>16</sup> indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>17</sup> Of this number there were 36,931 general purpose governments (county<sup>18</sup>, municipal and town or township<sup>19</sup>) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts<sup>20</sup> with enrollment populations of less than 511 governmental jurisdictions.<sup>21</sup>

10. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.”<sup>22</sup> The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.<sup>23</sup> U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.<sup>24</sup> Of this total, 3,083 operated with fewer than 1,000 employees.<sup>25</sup> Thus, under this size standard, the majority of firms in this industry can be considered small.

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<sup>16</sup> See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

<sup>17</sup> See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also Table 2. CG1700ORG02 Table Notes\_Local Governments by Type and State\_2017.

<sup>18</sup> See *id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>19</sup> See *id.* at Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

<sup>20</sup> See *id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2017.

<sup>21</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations Tables 5, 6, and 10.

<sup>22</sup> See U.S. Census Bureau, 2017 NAICS Definition, 517311 Wired Telecommunications Carriers, <https://www.census.gov/naics/?input=517311&year=2017&details=517311> (last visited Oct. 4, 2021).

<sup>23</sup> See 13 CFR § 121.201; see also U.S. Census Bureau, 2017 NAICS Definition, 517311 Wired Telecommunications Carriers, <https://www.census.gov/naics/?input=517311&year=2017&details=517311> (last visited Oct. 4, 2021).

<sup>24</sup> See U.S. Census Bureau, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*,

(continued...)

11. *Local Exchange Carriers (LECs)*. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers.<sup>26</sup> Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>27</sup> U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year.<sup>28</sup> Of that total, 3,083 operated with fewer than 1,000 employees.<sup>29</sup> Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

12. *Incumbent Local Exchange Carriers (Incumbent LECs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers.<sup>30</sup> Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>31</sup> U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year.<sup>32</sup> Of this total, 3,083 operated with fewer than 1,000 employees.<sup>33</sup> Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.<sup>34</sup> Of this total, an estimated 1,006 have 1,500 or fewer employees.<sup>35</sup> Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

13. *Competitive Local Exchange Carriers (Competitive LECs)*. Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service

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<https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false> (last visited Oct. 4, 2021).

<sup>25</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>26</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers"*, <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017>.

<sup>27</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>28</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>29</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>30</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>31</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>32</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>33</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>34</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>35</sup> *Id.*

providers. The appropriate NAICS Code category is Wired Telecommunications Carriers<sup>36</sup> and under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>37</sup> U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year.<sup>38</sup> Of that number, 3,083 operated with fewer than 1,000 employees.<sup>39</sup> Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.<sup>40</sup> Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.<sup>41</sup> In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.<sup>42</sup> Also, 72 carriers have reported that they are Other Local Service Providers.<sup>43</sup> Of this total, 70 have 1,500 or fewer employees.<sup>44</sup> Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.<sup>45</sup>

14. *Interexchange Carriers (IXCs)*. Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers.<sup>46</sup> The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>47</sup> U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year.<sup>48</sup> Of that number, 3,083 operated with fewer than 1,000

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<sup>36</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>37</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>38</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>39</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>40</sup> See Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-301823A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> We have included small incumbent LECs in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not “national” in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

<sup>46</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>47</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>48</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110,

(continued....)

employees.<sup>49</sup> According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.<sup>50</sup> Of this total, an estimated 317 have 1,500 or fewer employees.<sup>51</sup> Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

15. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers. The SBA category of Telecommunications Resellers is the closest NAICS code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry.<sup>52</sup> Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees.<sup>53</sup> U.S. Census Bureau data from 2012 show that 1,341 firms provided resale services during that year.<sup>54</sup> Of that number, all operated with fewer than 1,000 employees.<sup>55</sup> Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.<sup>56</sup> Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.<sup>57</sup> Consequently, the Commission estimates that the majority of local resellers are small entities.

16. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included

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<https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>49</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>50</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).  
[https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-301823A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf).

<sup>51</sup> *Id.*

<sup>52</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517911 Telecommunications Resellers"*,  
<https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

<sup>53</sup> See 13 CFR § 121.201, NAICS Code 517911.

<sup>54</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517911,  
<https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517911&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>55</sup> *Id.* Available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees. The largest category provided is for firms with "1000 employees or more."

<sup>56</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>57</sup> See *id.*

in this industry.<sup>58</sup> The SBA has developed a small business size standard for the category of Telecommunications Resellers.<sup>59</sup> Under that size standard, such a business is small if it has 1,500 or fewer employees.<sup>60</sup> 2012 U.S. Census Bureau data show that 1,341 firms provided resale services during that year.<sup>61</sup> Of that number, 1,341 operated with fewer than 1,000 employees.<sup>62</sup> Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.<sup>63</sup> Of this total, an estimated 857 have 1,500 or fewer employees.<sup>64</sup> Consequently, the Commission estimates that the majority of toll resellers are small entities..

17. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers.<sup>65</sup> The applicable SBA size standard consists of all such companies having 1,500 or fewer employees.<sup>66</sup> U.S. Census Bureau data for 2012 indicates that 3,117 firms operated during that year.<sup>67</sup> Of that number, 3,083 operated with fewer than 1,000 employees.<sup>68</sup> Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.<sup>69</sup> Of these, an estimated 279 have 1,500 or fewer employees.<sup>70</sup> Consequently, the Commission estimates that most Other Toll Carriers are small entities.

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<sup>58</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517911 Telecommunications Resellers,"* <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

<sup>59</sup> See 13 CFR § 121.201, NAICS Code 517911.

<sup>60</sup> *Id.*

<sup>61</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517911, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517911&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>62</sup> *Id.* Available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA's size standard.

<sup>63</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>64</sup> See *id.*

<sup>65</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>66</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>67</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>68</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>69</sup> See *Trends in Telephone Service*, Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

<sup>70</sup> *Id.*

18. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers.<sup>71</sup> This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual networks operators (MVNOs) are included in this industry.<sup>72</sup> Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.<sup>73</sup> U.S. Census Bureau data for 2012 show that 1,341 firms provided resale services during that year.<sup>74</sup> Of that number, 1,341 operated with fewer than 1,000 employees.<sup>75</sup> Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to the Commission's Form 499 Filer Database, 86 active companies reported that they were engaged in the provision of prepaid calling cards.<sup>76</sup> The Commission does not have data regarding how many of these companies have 1,500 or fewer employees, however, the Commission estimates that the majority of the 86 active prepaid calling card providers that may be affected by these rules are likely small entities.

19. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.<sup>77</sup> The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.<sup>78</sup> For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year.<sup>79</sup> Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1000 employees or more.<sup>80</sup> Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

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<sup>71</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517911 Telecommunications Resellers,"* <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

<sup>72</sup> *Id.*

<sup>73</sup> See 13 CFR § 121.201, NAICS Code 517911.

<sup>74</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517911, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517911&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

<sup>75</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>76</sup> See Federal Communications Commission, *FCC Form 499 Filer Database*, <http://apps.fcc.gov/cgb/form499/499a.cfm> (last visited July 10, 2020).

<sup>77</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite),"* <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>78</sup> See 13 CFR § 121.201, NAICS Code 517312 (previously 517210).

<sup>79</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series: Estab and Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517210, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517210&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false&vintage=2012>.

<sup>80</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

20. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018 there are 265 Cellular licensees that will be affected by our actions.<sup>81</sup> The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.<sup>82</sup> Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees.<sup>83</sup> Thus, using available data, we estimate that the majority of wireless firms can be considered small.

21. *Cable and Other Subscription Programming.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (e.g., limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers.<sup>84</sup> The SBA size standard for this industry establishes as small any company in this category with annual receipts less than \$41.5 million.<sup>85</sup> Based on U.S. Census Bureau data for 2012, 367 firms operated for the entire year.<sup>86</sup> Of that number, 319 firms operated with annual receipts of less than \$25 million a year and 48 firms operated with annual receipts of \$25 million or more.<sup>87</sup> Based on this data, the Commission estimates that a majority of firms in this industry are small.

22. *Cable Companies and Systems (Rate Regulation).* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.<sup>88</sup> Industry data indicate that there are 4,600 active cable systems in the United States.<sup>89</sup> Of this total, all but five cable

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<sup>81</sup> See Federal Communications Commission, *Universal Licensing System*, <http://wireless.fcc.gov/uls>. For the purposes of this FRFA, consistent with Commission practice for wireless services, the Commission estimates the number of licensees based on the number of unique FCC Registration Numbers.

<sup>82</sup> See Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-301823A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf).

<sup>83</sup> See *id.*

<sup>84</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "515210 Cable and Other Subscription Programming," <https://www.census.gov/naics/?input=515210&year=2017&details=515210>.

<sup>85</sup> See 13 CFR § 121.201, NAICS Code 515210.

<sup>86</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab & Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 515210, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=515210&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>87</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>88</sup> 47 CFR § 76.901(e). The Commission determined that this size standard equates approximately to a size standard of \$100 million or less in annual revenues. *Implementation of Sections of the 1992 Cable Act: Rate Regulation*, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 (1995).

<sup>89</sup> The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on August 15, 2015. See FCC, *Cable Operations and Licensing System (COALS)*, [www.fcc.gov/coals](http://www.fcc.gov/coals) (last visited Oct. 25, 2016).



operators nationwide are small under the 400,000-subscriber size standard.<sup>90</sup> In addition, under the Commission's rate regulation rules, a "small system" is a cable system serving 15,000 or fewer subscribers.<sup>91</sup> Commission records show 4,600 cable systems nationwide.<sup>92</sup> Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.<sup>93</sup> Thus, under this standard as well, we estimate that most cable systems are small entities.

23. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."<sup>94</sup> As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States.<sup>95</sup> Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.<sup>96</sup> Based on available data, we find that all but five cable operators are small entities under this size standard.<sup>97</sup> We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.<sup>98</sup> Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

24. *All Other Telecommunications.* The "All Other Telecommunications" category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>99</sup> 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.<sup>100</sup> Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also

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<sup>90</sup> S&P Global Market Intelligence, *Top Cable MSOs as of 12/2019*, <https://platform.marketintelligence.spglobal.com/> (Dec 2019). The five cable operators all had more than 400,000 basic cable subscribers.

<sup>91</sup> 47 CFR § 76.901(c).

<sup>92</sup> *See supra* n.89.

<sup>93</sup> *Id.*

<sup>94</sup> 47 U.S.C. § 543(m)(2); *see also* 47 CFR § 76.901(e).

<sup>95</sup> S&P Global Market Intelligence, *U.S. Cable Subscriber Highlights, Basic Subscribers(actual) 2019, U.S. Cable MSO Industry Total, see also U.S. Multichannel Industry Benchmarks, U.S. Cable Industry Benchmarks, Basic Subscribers 2019Y*, <https://platform.marketintelligence.spglobal.com>.

<sup>96</sup> 47 CFR § 76.901(e).

<sup>97</sup> S&P Global Market Intelligence, *Top Cable MSOs as of 12/2019*, <https://platform.marketintelligence.spglobal.com>. The five cable operators all had more than 486,460 basic cable subscribers.

<sup>98</sup> The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission's rules. *See* 47 CFR § 76.910(b).

<sup>99</sup> *See* U.S. Census Bureau, *2017 NAICS Definition, "517919 All Other Telecommunications"*, <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>100</sup> *Id.*

included in this industry.<sup>101</sup> The SBA has developed a small business size standard for “All Other Telecommunications”, which consists of all such firms with annual receipts of \$35 million or less.<sup>102</sup> For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year.<sup>103</sup> Of those firms, a total of 1,400 had annual receipts less than \$25 million and 15 firms had annual receipts of \$25 million to \$49,999,999.<sup>104</sup> Thus, the Commission estimates that the majority of “All Other Telecommunications” firms potentially affected by our action can be considered small.

25. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.<sup>105</sup> Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.<sup>106</sup> The SBA has established a small business size standard for this industry of 1,250 employees or less.<sup>107</sup> U.S. Census Bureau data for 2012 show that 841 establishments operated in this industry in that year.<sup>108</sup> Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees.<sup>109</sup> Based on this data, we conclude that a majority of manufacturers in this industry are small.

26. *Semiconductor and Related Device Manufacturing.* This industry comprises establishments primarily engaged in manufacturing semiconductors and related solid state devices.<sup>110</sup> Examples of products made by these establishments are integrated circuits, memory chips, microprocessors, diodes, transistors, solar cells and other optoelectronic devices.<sup>111</sup> The SBA has developed a small business size standard for Semiconductor and Related Device Manufacturing, which consists of all such companies having 1,250 or fewer employees.<sup>112</sup> U.S. Census Bureau data for 2012

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<sup>101</sup> *Id.*

<sup>102</sup> See 13 CFR § 121.201, NAICS Code 517919.

<sup>103</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 517919, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517919&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>104</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>105</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,” <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>106</sup> *Id.*

<sup>107</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>108</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1231SG2, *Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2012*, NAICS Code 334220, <https://data.census.gov/cedsci/table?text=EC1231SG2&n=334220&tid=ECNSIZE2012.EC1231SG2&hidePreview=false>.

<sup>109</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>110</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “334413 Semiconductor and Related Device Manufacturing,” <https://www.census.gov/naics/?input=334413&year=2017&details=334413..>

<sup>111</sup> *Id.*

<sup>112</sup> See 13 CFR § 121.201, NAICS Code 334413.

show that there were 862 establishments that operated that year.<sup>113</sup> Of this total, 843 operated with fewer than 1,000 employees.<sup>114</sup> Thus, under this size standard, the majority of firms in this industry can be considered small.

27. *Software Publishers.* This industry comprises establishments primarily engaged in computer software publishing or publishing and reproduction.<sup>115</sup> Establishments in this industry carry out operations necessary for producing and distributing computer software, such as designing, providing documentation, assisting in installation, and providing support services to software purchasers.<sup>116</sup> These establishments may design, develop, and publish, or publish only.<sup>117</sup> The SBA has established a size standard for this industry of annual receipts of \$41.5 million or less per year.<sup>118</sup> U.S. Census data for 2012 indicates that 5,079 firms operated for the entire year.<sup>119</sup> Of that number 4,691 firms had annual receipts of less than \$25 million and 166 firms had annual receipts of \$25,000,000 to \$49,999,999.<sup>120</sup> Based on this data, we conclude that a majority of firms in this industry are small.

28. *Internet Service Providers (Broadband).* Broadband Internet service providers include wired (e.g., cable, DSL) and VoIP service providers using their own operated wired telecommunications infrastructure fall in the category of Wired Telecommunication Carriers.<sup>121</sup> Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.<sup>122</sup> The SBA size standard for this category classifies a business as small if it has 1,500 or fewer employees.<sup>123</sup> U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.<sup>124</sup> Of this total, 3,083 operated with fewer than

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<sup>113</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1231SG2, *Manufacturing: Summary Series: General Summary: Industry Statistics for Subsectors and Industries by Employment Size: 2012*, NAICS Code 334413, <https://data.census.gov/cedsci/table?text=EC1231SG2&n=334413&tid=ECNSIZE2012.EC1231SG2&hidePreview=false>.

<sup>114</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>115</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “511210 Software Publishers”, <https://www.census.gov/naics/?input=511210&year=2017&details=511210>.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> See 13 CFR § 121.201, NAICS Code 511210.

<sup>119</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 511210, <https://data.census.gov/cedsci/table?y=2012&n=511210&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>120</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>121</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517311 Wired Telecommunications Carriers”, <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>122</sup> *Id.*

<sup>123</sup> See 13 CFR § 121.201, NAICS Code 517311 (previously 517110).

<sup>124</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ5, *Information: Subject Series - Estab & Firm Size: Employment Size of Firms for the U.S.: 2012*, NAICS Code 517110, <https://data.census.gov/cedsci/table?text=EC1251SSSZ5&n=517110&tid=ECNSIZE2012.EC1251SSSZ5&hidePreview=false>.

1,000 employees.<sup>125</sup> Consequently, under this size standard the majority of firms in this industry can be considered small.

29. *Internet Service Providers (Non-Broadband)*. Internet access service providers such as Dial-up Internet service providers, VoIP service providers using client-supplied telecommunications connections and Internet service providers using client-supplied telecommunications connections (e.g., dial-up ISPs) fall in the category of All Other Telecommunications.<sup>126</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 \$35 million or less.<sup>127</sup> For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year.<sup>128</sup> Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.<sup>129</sup> Consequently, under this size standard a majority of firms in this industry can be considered small

30. *All Other Information Services*. The U.S. Census Bureau has determined that this category “comprises establishments primarily engaged in providing other information services (except news syndicates, libraries, archives, Internet publishing and broadcasting, and Web search portals).”<sup>130</sup> The SBA has developed a small business size standard for this category, which consists of all such firms with annual receipts of \$30 million or less.<sup>131</sup> U.S. Census Bureau data for 2012 show that there were 512 firms that operated for the entire year.<sup>132</sup> Of those firms, a total of 498 had annual receipts less than \$25 million and 7 firms had annual receipts of \$25 million to \$49,999,999.<sup>133</sup> Consequently, we estimate that the majority of these firms are small entities that may be affected by our action.

#### **E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

31. This Second Report and Order modifies the Commission’s rules to require covered text providers to support text messaging to 988. It concludes that text-to-988 functionality will greatly improve consumer access to the Lifeline, particularly for at-risk populations and thereby save lives. The final rules adopted in this Second Report and Order require CMRS providers and interconnected text messaging service providers to route texts sent to 988 to the 10-digit Lifeline number, presently 1-800-

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<sup>125</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>126</sup> See U.S. Census Bureau, *2017 NAICS Definition, “517919 All Other Telecommunications”*, <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>127</sup> See 13 CFR § 121.201, NAICS Code 517919.

<sup>128</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 517919, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517919&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>129</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>130</sup> See U.S. Census Bureau, *2017 NAICS Definition, “519190 All Other Information Services”*, <https://www.census.gov/naics/?input=519190&year=2017&details=519190>.

<sup>131</sup> See 13 CFR § 121.201, NAICS Code 519190.

<sup>132</sup> See U.S. Census Bureau, *2012 Economic Census of the United States*, Table ID: EC1251SSSZ4, *Information: Subject Series - Estab and Firm Size: Receipts Size of Firms for the U.S.: 2012*, NAICS Code 519190, <https://data.census.gov/cedsci/table?text=EC1251SSSZ4&n=517919&tid=ECNSIZE2012.EC1251SSSZ4&hidePreview=false>.

<sup>133</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

273-8255 (TALK). The Second Report and Order (1) establishes a definition that sets the outer bound of text messages sent to 988 that covered text providers may be required to support; (2) directs the Wireline Competition Bureau (Bureau) to identify text formats within the scope of that definition that the Lifeline can receive and thus covered text providers must support by routing to the 10-digit Lifeline number; and (3) requires CMRS providers that offer SMS to allow access by any other covered text provider to the capabilities necessary for transmission of 988 text messages originating on such other covered text providers' application services.

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

32. 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 and reporting requirements under the rules for such 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 such small entities.<sup>134</sup>

33. In this Second Report and Order, the Commission adopts a uniform implementation deadline for all covered text providers to route covered 988 text messages to 988 to the Lifeline's 10-digit number by July 16, 2022.<sup>135</sup> The Commission believes that applying the same rules equally to all entities in this context is necessary to alleviate potential consumer confusion from adopting different rules, at different times, for different covered text providers. However, the Commission does not believe that the actions in this Second Report and Order will overly burden small carriers or providers. Further, the Commission believes that by its actions, all entities, including small carriers or providers, will benefit from reduced costs. For example, the Commission believes that adopting our proposal to require all covered text providers to bear their own costs to implement text-to-988 will avoid any unnecessary administrative costs.<sup>136</sup> Further, the Commission provides covered text provider flexibility in how they support texting to 988, allowing them to choose the most effective method for doing so.<sup>137</sup>

**G. Report to Congress**

34. The Commission will send a copy of the Second Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>138</sup> In addition, the Commission will send a copy of the Second Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Second Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>139</sup>

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<sup>134</sup> 5 U.S.C. § 603(c)(1)-(4).

<sup>135</sup> See *supra* para. 40.

<sup>136</sup> See *supra* para 49.

<sup>137</sup> See *supra* paras. 43-45.

<sup>138</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>139</sup> See 5 U.S.C. § 604(b).

**STATEMENT OF  
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order (November 18, 2021).

Suicide is all too common in this country, particularly among young people in at-risk communities. Over the last two decades, the rate of suicide for young girls has tripled. We have seen similar increases in suicide from Black youth and we know LGBTQ youth are nearly five times as likely to attempt suicide as their heterosexual peers. Plus, young people who are deaf or hard of hearing are far more likely than their hearing peers to contemplate ending their own lives.

These truths are painful. Because these young people deserve a future. They deserve support. And that support should be simple to access. Today we help make that possible. We were already on course to make the National Suicide Prevention Lifeline an easy-to-remember three-digit code—988—available nationwide on July 16, 2022. But to date the plan had been to make this code available only for traditional voice calls. We change that here and now. We require carriers to route 988 texts to the Lifeline, too. We do this because we know that millions of us, but especially young people and those with disabilities, are more likely to text than call when they are in crisis. The bottom line is it shouldn't matter if you make a voice call or send a text message because we should connect people in crisis to the resources they need, no matter how they communicate.

It is important to note the critical role of the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration and the Department of Veterans Affairs in this effort. They oversee the Lifeline and the Veterans Crisis Line, both of which are available 24 hours a day, every day of the year. So until July 16, 2022, please call the Lifeline at 1-800-273-8255 if you need immediate help. Service members, Veterans, and their families may reach the Veterans Crisis Line by calling 1-800-273-8255 and pressing 1 or by texting 838255. I am grateful to these agencies for their feedback and support and want them to know we will continue to work with our federal partners to make the transition to 988 a success.

I also want to express my gratitude to the staff for their work on this issue, including Pam Arluk, Allison Baker, Emily Caditz, Elizabeth Cuttner, Jesse Goodwin, Heather Hendrickson, Dan Kahn, Melissa Kirkel, Jaime McCoy, Kris Monteith, Zach Ross, and Michelle Sclater of the Wireline Competition Bureau; Robert Aldrich, Diane Burstein, Eliot Greenwald, Mika Savir, Michael Scott, Suzy Rosen Singleton, Richard Smith, Kristi Thornton, and Bill Wallace of the Consumer and Governmental Affairs Bureau; Brenda Boykin, Ken Carlberg, John Evanoff, David Furth, Rasoul Safavian, and Rachel Wehr of the Public Safety and Homeland Security Bureau; Garnet Hanly, George Leris, Susannah Larson, Catherine Schroeder, Thuy Tran, and Matthew Warner of the Wireless Telecommunications Bureau; Patrick Brogan, Stacy Jordan, Eugene Kiselev, Eric Ralph, and Emily Talaga of the Office of Economics and Analytics; and Terry Cavanaugh, Doug Klein, Rick Mallen, Linda Oliver, Paula Silberthau, and Anjali Singh of the Office of General Counsel.

**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

Re: *Implementation of the National Suicide Hotline Improvement Act of 2018*, WC Docket No. 18-336, Report and Order (November 18, 2021).

For many of the populations most at risk for suicide, including young people, minority communities, veterans, and people with disabilities, texting is a crucial way to communicate. I am pleased to approve today's decision because Text-to-988 will save lives in vulnerable and underserved communities by taking advantage of this vital communications channel.

The actions we take today are urgent. Centers for Disease Control data shows that serious psychological distress, major depression, and suicidal thoughts and attempts among adolescents and young adults have increased significantly in recent years.<sup>1</sup> The suicide death rate among people 10 to 24 years old for the years 2016 to 2018 was a staggering 47.1 percent higher than the 2007 to 2009 rate.<sup>2</sup> Death by suicide among Veterans has also rapidly increased.<sup>3</sup> LGBTQ+ youth are nearly five times as likely to have attempted suicide compared to heterosexual youth.<sup>4</sup> Additionally, during the COVID-19 lockdown, suicide rates among Black people doubled.<sup>5</sup> Studies also found an increased risk of suicide among deaf and hard of hearing people when compared to those without hearing loss.<sup>6</sup>

The free and confidential emotional support provided by the National Suicide Prevention Lifeline can make all the difference for people in distress, and three-digit texting to 988 will remove barriers to accessing that help. Nearly 95 percent of teens have access to a smartphone.<sup>7</sup> Research indicates young people prefer communicating by text and are more likely to forgo psychological support when talking in person or over the phone.<sup>8</sup> And the ability to text to the Lifeline will present significant benefits to disabled communities who may have difficulties calling the Lifeline, including the deaf, hard of hearing, deafblind, and people who have speech disabilities.

Access to the Lifeline can't wait. With substantial support among commenters, today's decision will require covered providers to implement texting to 988 by July 16, 2022—the same deadline we have set for three-digit dialing to the Lifeline. This uniform deadline will help to prevent confusion and facilitate unified outreach campaigns. I thank the many individuals and organizations, including the staff of the Wireline Competition Bureau, who are hard at work making text-to-988 widely available as soon as possible. This is life-saving work.

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<sup>1</sup> See *supra* para. 12.

<sup>2</sup> *Id.*

<sup>3</sup> See *supra* para. 13.

<sup>4</sup> *Id.*

<sup>5</sup> See *supra* n. 2 (citing Denise Mann, *Pandemic Tied to Higher Suicide Rate in Blacks, Lowered Rate in Whites: Study*, U.S. News & World Report (Dec. 17, 2020), <https://www.usnews.com/news/health-news/articles/2020-12-17/pandemic-tied-to-higher-suicide-rate-in-blacks-lowered-rate-in-whites-study>).

<sup>6</sup> See *supra* para. 14.

<sup>7</sup> See *supra* n. 238.

<sup>8</sup> *Id.*