

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

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

ORDER

Adopted: May 14, 2015

Released: May 15, 2015

By the Acting Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, the Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission (FCC or Commission), on its own motion, grants a temporary, limited waiver of the requirement for providers of Video Relay Service (VRS) to obtain from each new and existing user the last four digits of the user’s Social Security number or a Tribal identification number as part of the VRS user registration process (Social Security Number Rule) in those instances where the user does not have a Social Security or Tribal identification number. This waiver of the Social Security Number Rule, granted for a limited period of time, will become effective upon release of this Order and will remain in effect until such time as the Commission takes final action on VRS registration procedures pursuant to its open rulemakings on VRS matters.

II. BACKGROUND

2. In 2013, the Commission adopted a report and order to ensure that the VRS program¹ is as immune as possible from the waste, fraud, and abuse that threaten the long-term viability of the program as it currently operates.² To accomplish this goal, the Commission ordered, among other things, the creation of the TRS User Registration Database (TRS-URD). Once this database is

¹ Under Title IV of the ADA, the Commission must ensure that telecommunications relay services (TRS) “are available, to the extent possible and in the most efficient manner” to persons in the United States who are deaf, hard of hearing, deaf-blind, or who have speech disabilities. 47 U.S.C. § 225(b)(1); see also id., § 225(a)(3). VRS is a type of TRS that allows persons with hearing or speech disabilities to use American Sign Language (ASL) to communicate in near real time through a communications assistant (CA), via video over a broadband Internet connection. See 47 C.F.R. § 64.601(a)(27).

² Structure and Practices of the Video Relay Service Program, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8648, ¶ 63 (2013) (VRS Reform Order); see also id., ¶ 64 (“Unlawful VRS provider practices . . . undermine the key goals of Congress in enacting section 225. VRS provider practices that result in waste, fraud, and abuse threaten the sustainability of the TRS Fund and are directly linked to the efficiency and effectiveness of the TRS Fund support mechanisms upon which VRS providers rely for compensation.”).

operational, VRS providers must populate it with certain information that identifies their consumers,³ and the TRS-URD administrator will then verify the submitted data to confirm the identity of those users.⁴ Under the *VRS Reform Order*, consumers must provide to their VRS providers, among other pieces of information necessary to verify their identity, the last four digits of their Social Security numbers.⁵ For consumers living on Tribal lands who lack a Social Security number, the Commission allows an official Tribal identification card number to be provided to the VRS provider in lieu of this Social Security data.⁶ Once the TRS-URD is operational, VRS providers will provide this information to this database for verification so that these consumers may make VRS calls that are compensable from the TRS Fund.⁷

3. In a recent order the Bureau waived, in part, a requirement for all Internet Protocol Captioned Telephone Service (IP CTS)⁸ providers to obtain from each user the last four digits of the user's Social Security number as part of the user registration process.⁹ Recognizing that section 225(b)(1) of the Communications Act of 1934, as amended (the Act), requires TRS to be available to individuals "with hearing and speech disabilities in the United States,"¹⁰ the Commission found that a segment of eligible individuals without Social Security numbers, including "foreign students studying in the United States[] and residents of other countries who are visiting the United States or who have temporary visas for tourism, medical treatment, or other purposes," would be denied TRS were a waiver of this requirement not granted.¹¹ Accordingly, the Commission temporarily waived the requirement to collect Social Security numbers with respect to those individuals who lack Social Security numbers and who are able to provide alternative forms of identification for verification purposes.¹²

4. For the reasons set forth below, on our own motion, we likewise grant a temporary waiver of this requirement for VRS users who do not have Social Security or Tribal identification

³ *Id.* at 8650, ¶ 70 (requiring information such as name, address, and date of birth).

⁴ *Id.* at 8647, ¶ 62 ("The creation of a centralized TRS-URD will facilitate Commission efforts to reduce waste, fraud, and abuse and improve our ability to efficiently manage the program."), 8654, ¶ 80 (requiring "a written self-certification that the user has a hearing or speech disability that makes them eligible to use VRS"); *see also id.* at 8656, ¶ 86 (the establishment of verification criteria will be determined by the FCC's Office of Managing Director).

⁵ *See id.* at 8650, ¶ 70.

⁶ *Id.*, n.170.

⁷ VRS providers must provide consumers' information to the TRS-URD within 60 days after notice "from the Commission that the TRS-URD is ready to accept such information." *Id.* at 8651, ¶ 71; *see also id.* at 8656, ¶ 86 ("VRS providers shall not register individuals that do not pass the identification verification check conducted through the TRS-URD, and shall not seek compensation for calls placed by such individuals.").

⁸ Captioned Telephone Service (CTS) is a type of telecommunications relay service (TRS) that permits people who can speak, but who have difficulty hearing over the telephone, to simultaneously listen to the other party and read captions of what that party is saying. Generally, IP CTS uses a connection via the public switched telephone network (PSTN) or voice over Internet Protocol (VoIP) for the voice portion of the call, while the connection carrying the captions between the relay service provider and the relay service user occurs via the Internet. 47 C.F.R. § 64.601(a)(16); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379, 385, ¶ 14 (2007).

⁹ *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 13-24, 03-123, Order, DA 15-173, ¶¶ 1, 11 (CGB, rel. Feb. 6, 2015) (*IP CTS Social Security Waiver Order*).

¹⁰ 47 U.S.C. § 225(b)(1).

¹¹ *IP CTS Social Security Waiver Order*, ¶ 11.

¹² *Id.*, ¶¶ 11, 13-14.

numbers until such time that the Commission takes further action on VRS TRS-URD registration and verification procedures pursuant to its open rulemakings on VRS matters. We condition such waiver on a requirement that providers obtain other information or documentation, specified below, to verify the identity of the user in lieu of the last four digits of the individual's Social Security number.

II. DISCUSSION

A. Waiver Standard

5. The Commission's rules may be waived for good cause shown.¹³ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁴ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁵ Waiver of the Commission's rules is appropriate only if special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest.¹⁶

B. Application of Waiver Standard

6. We find good cause for the Commission to temporarily waive the Social Security Number Rule as this rule applies to VRS users who do not have Social Security numbers. We apply this temporary waiver to all VRS providers under the conditions set forth below.

7. Section 225(b)(1) of the Act states that in order to fulfill the purposes of section 151 of the Act "to make available to *all individuals in the United States* a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation,"¹⁷ the Commission must make TRS available, to the extent possible and in the most efficient manner, to people with hearing and speech disabilities "in the United States."¹⁸ At the time that it adopted this section, Congress explained that "[g]iven the pervasiveness of the telephone for both commercial and personal matters, the inability to utilize the telephone system fully has enormous impact on an individual's ability to integrate effectively in today's society."¹⁹ We find that limiting the use of the telephone to only VRS users in the United States with Social Security or Tribal identification numbers would deny access to this form of TRS to a segment of individuals with hearing and speech disabilities who are in the United States and who are therefore among the intended beneficiaries of TRS. This category of individuals could include, without limitation, foreign students studying in the United States and residents of other countries who are visiting the United States or who have temporary visas for tourism, medical treatment, or other purposes. Depriving such individuals of access to VRS would place an unnecessary hardship on these individuals if they are otherwise eligible to use this service and are "in the United States." We therefore conclude that good cause exists to temporarily waive the Social Security Number Rule for new and existing VRS users who do not have Social Security or Tribal identification numbers because strict compliance with this rule, as applied to this category of individuals, would be inconsistent with the public interest and the language of section 225(b)(1).

¹³ 47 C.F.R. § 1.3.

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

¹⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*); *Northeast Cellular*, 897 F.2d at 1166.

¹⁶ *Id.*

¹⁷ 47 U.S.C. § 225(b)(1) (emphasis added); *see also id.*, § 151.

¹⁸ *Id.* § 225(b)(1).

¹⁹ S. Rep. No. 116, 101st Cong., 1st Sess. 77 (1989).

8. We condition the grant of this waiver on a requirement that VRS providers obtain a physical or electronic copy of at least one of the following documents confirming the identity of an individual who does not have Social Security or Tribal identification numbers for the purpose of registering for VRS:

- (1) an unexpired driver's license;
- (2) a birth certificate;
- (3) a current income statement from an employer, paycheck stub, or W-2;
- (4) the prior year's state, federal or Tribal tax return;
- (5) a Certificate of Naturalization or Certificate of U.S. Citizenship;
- (6) an unexpired Permanent Resident Card or unexpired Permanent Resident Alien Card;
- (7) an unexpired United States government, military, or state issued ID;
- (8) an employer provided work ID or employee ID;
- (9) an unexpired passport;
- (10) an unexpired health insurance card;
- (11) military discharge documentation;
- (12) government assistance program documents which include the individual's name and date of birth; and
- (13) an unemployment/worker's compensation statement of benefits.²⁰

9. In addition, for those VRS consumers who cannot provide either the last four digits of a Social Security number or a Tribal identification number, we require, as a condition of the waiver, that each provider collect information showing that such VRS consumers are residing in the United States.²¹ To clarify, such documentation is in addition to the documentation required above to verify the user's identity. Where a document is included in both lists, however, the same document may be used for both purposes:

- (1) an unexpired driver's license;
- (2) a utility bill;
- (3) a current income statement from an employer, paycheck stub, or W-2;
- (4) the prior year's state, federal, or Tribal tax return;
- (5) a current mortgage or lease statement;²²
- (6) an unexpired United States government or state issued ID;
- (7) government assistance program documents which include the name and address of the individual;
- (8) a retirement/pension statement of benefits; and
- (9) an unemployment/workers' compensation statement of benefits.²³

²⁰ All of these documents are accepted to verify *the identity* of Lifeline subscribers who otherwise cannot be verified by the National Lifeline Accountability Database (NLAD). See Universal Service Administrative Company (USAC), NLAD Dispute Resolution – Lifeline Program, <<http://usac.org/li/tools/nlad/nlad-dispute-resolution.aspx>> (last visited Jan. 7, 2015). We conclude that, based on their use in the Lifeline program, these documents will assist in the verification of VRS users who cannot provide the last four digits of a Social Security number.

²¹ See 47 U.S.C. § 225(b)(1) (requiring the Commission to ensure that TRS is available to individuals “in the United States” who are deaf, hard of hearing, deaf-blind or have speech disabilities).

²² This may include an agreement that enables residence in a school dormitory.

²³ All of these documents are accepted to verify *the address* of Lifeline subscribers whose addresses otherwise cannot be verified by the NLAD. See USAC, NLAD Dispute Resolution – Lifeline Program, <<http://usac.org/li/tools/nlad/nlad-dispute-resolution.aspx>> (last visited Jan. 7, 2015). We conclude that, based on (continued...)

10. We will not make the waiver granted by this order permanent at this time. The Commission has an open rulemaking proceeding on the registration requirements for iTRS users and on the types of information that should be submitted to the TRS-URD.²⁴ This rulemaking will allow the Commission to determine the extent to which VRS consumers' Social Security or Tribal identification numbers will be required in the future, including the extent to which they will be used by the TRS-URD to verify such users. Accordingly, we grant a temporary waiver only until such time as the Commission takes final action on VRS consumer registration and verification procedures pursuant to its open rulemaking proceedings on such matters.

11. In summary, we find good cause to temporarily waive the Social Security Number Rule as it applies to VRS users who do not have Social Security or Tribal identification numbers, because without the requested waiver, VRS would be unavailable to several classes of individuals who are eligible to use it. This waiver is conditioned on the provider's collection of alternative documentation as listed above, which will limit the risk of fraud, waste, and abuse in the VRS program.

III. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i) and 4(j) and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j) and 225, and sections 0.141, 0.361 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361 and 1.3, this Order IS ADOPTED.

13. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief
Consumer and Governmental Affairs Bureau

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their use in the Lifeline program, these documents will assist in the verification of VRS users who do not provide the last four digits of their Social Security numbers.

²⁴ *VRS Reform Order*, 28 FCC Rcd at 8650, ¶ 70 (requiring providers to provide identifying information, including a consumer's name, address, and date of birth), 8714-15, ¶¶ 250-55 (seeking comment on possible modifications of iTRS registration requirements in connection with expanded use of the TRS-URD to maintain information regarding other forms of iTRS).