

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

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

ORDER

Adopted: April 9, 2019

Released: April 9, 2019

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. By this Order, the Consumer and Government Affairs Bureau (Bureau) of the Federal Communications Commission (Commission) extends for an additional year the deadline for video relay service (VRS) provider compliance with a technical standard, the Interoperability Profile for Relay User Equipment (RUE Profile). The RUE Profile, which defines a standard interface between VRS provider services and end user devices, was incorporated by reference into the Commission’s telecommunications relay service (TRS) rules in 2017, with an original compliance date of April 27, 2018.1 In April 2018, the Bureau waived RUE Profile compliance for one year, until April 29, 2019.2 The RUE Profile has been substantially revised over the last year, and the revised version has been submitted for review under the auspices of the Internet Engineering Task Force (IETF). By extending the compliance date to April 29, 2020, we allow additional time for IETF review, for the Bureau to make a decision on adoption of the revised standard, and for VRS providers to prepare for compliance.

II. BACKGROUND

2. In the 2013 VRS Reform Order, the Commission amended its rules to codify and clarify the requirements for VRS interoperability and user device portability. These rules are intended to enable VRS users to make and receive VRS calls and point-to-point video calls irrespective of the VRS providers serving the calling and called parties, and to switch to a different default VRS provider, without changing their VRS devices or software.3 To implement the interoperability and portability requirements,

1 See Structures 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, 32 FCC Rcd 687, 689-90, 692-93, paras. 7-8, 15-16 (CGB 2017) (2017 Bureau Interoperability R&O); 47 CFR § 64.621(a)(3).

2 Structures and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 10-51 and 03-123, Order, 33 FCC Rcd 4042 (CGB 2018) (Compliance Deadline Extension Order).

3 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

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the Commission delegated rulemaking authority to CGB to adopt technical standards developed under the auspices of a voluntary, consensus standard organization.⁴ Compliance with such technical standards is a prerequisite for a VRS provider to receive compensation from the TRS Fund.⁵

3. To enable VRS providers and others to test platforms, devices, and software for compliance with interoperability and portability rules and standards, the Commission also directed the development (overseen by the Commission's Managing Director) of an interoperability testing tool, the VRS access technology reference platform (VATRP),⁶ defined as "[a] software product . . . that provides VRS functionality, including the ability to make and receive VRS and point-to-point calls, dial-around functionality, and the ability to update user registration location"⁷ For a VRS provider to continue receiving compensation after activation of the VATRP, the provider's access technologies and service platforms must be interoperable with the VATRP.⁸

4. Subsequently, interoperability standards development continued, with varying results. In January 2017, after conducting a delegated authority rulemaking, CGB amended the Commission's rules to incorporate by reference a number of technical standards on interoperability and portability, including the VRS Provider Interoperability Profile, which addresses the connection between two VRS providers, and the RUE Profile, which addresses the connection between a VRS provider and an end user device.⁹ To ensure that a provider's interoperability compliance could be tested using the VATRP software tool, the Bureau adopted the RUE Profile as the standard governing the connection of VRS provider platforms to user devices equipped with the VATRP. However, in response to VRS providers' concerns about the scope of the RUE Profile, the Bureau deferred the issue of whether to mandate broader application of that standard to other user devices.¹⁰ The Bureau set April 27, 2018, as the deadline for VRS providers' platforms to be interoperable with the VATRP in accordance with the RUE Profile.¹¹ The Commission also adopted a procedure for incorporating revised or updated versions of these standards.¹²

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and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8639, 8640, paras. 40, 42 (2013) (*2013 VRS Reform Order*).

⁴ *Id.* at 8643, para. 49. The Commission tasked the Chief Technology Officer and the Chief of the Office of Engineering and Technology with coordinating Commission support for and participation in the development of such standards and directed CGB to consult with these officers in conducting its rulemakings. *Id.* at 8642-43, paras. 48-49. CGB was also delegated rulemaking authority to incorporate as minimum TRS standards other voluntary, consensus technical standards that CGB finds will advance the purposes of section 225 of the Act. *Id.*

⁵ *Id.* at 8644, para. 51.

⁶ *Id.* at 8644-47, paras. 53-61. The VATRP is sometimes referred to as the Accessible Communications for Everyone (ACE) Application, or ACE App.

⁷ 47 CFR § 64.601(a)(47). The term "VRS access technology" means "[a]ny equipment, software, or other technology issued, leased, or provided by an Internet-based TRS provider that can be used to make and receive a VRS call." 47 CFR § 64.601(a)(46). For clarity, in this Order, we use the term "provider-distributed user device," rather than "access technology," to refer to equipment, software, or other technology issued, leased, or provided to users by a VRS provider.

⁸ *2013 VRS Reform Order*, 28 FCC Rcd at 8646, para. 58; 47 CFR § 64.621(b)(3).

⁹ *2017 Bureau Interoperability R&O*, 32 FCC Rcd at 689-90, 692-93, paras. 7-8, 15-16; 47 CFR § 64.621(b).

¹⁰ *2017 Bureau Interoperability R&O*, 32 FCC Rcd at 691-92, 694-95, paras. 11-14, 22-25. The interoperability rule, as amended by the *2017 Bureau Interoperability R&O*, does require that, as of October 24, 2017, without regard to whether a user device is equipped with the VATRP, VRS providers enable users to import their lists of contacts, in xCard SML format, in accordance with IETF RFC 6351. 47 CFR § 64.621(b)(2); *2017 Bureau*

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5. On May 30, 2017, Sorenson sought reconsideration of the RUE Profile requirement.¹³ Among other things, Sorenson questioned whether the VATRP was still needed to test interoperability, claimed that VRS providers' compliance costs had not been adequately considered, and challenged the Bureau's authority to adopt the RUE Profile, on the grounds that the standard had not been developed through a "voluntary consensus standard organization" process. In the alternative, Sorenson requested that the RUE Profile compliance deadline be suspended, asserting that a final version had not been released, that important details remained undefined, and that the VATRP itself remained unfinished.¹⁴

6. In April 2018, the Bureau suspended for one year the April 27, 2018 deadline for VRS provider compliance with the RUE Profile.¹⁵ Noting that the April 2018 deadline had been set based on an expectation that the VATRP would be available for provider testing well in advance of that date, and that this had not occurred, the Bureau found that a one-year suspension was necessary to allow time to complete the VATRP and allow a reasonable opportunity for VRS providers to prepare for compliance with the RUE specifications.¹⁶ Subsequently, the Commission's contractor, MITRE Corporation (MITRE), continued development of the VATRP and also undertook to update and revise the RUE Profile. In October 2018, MITRE informed the Commission that it had completed revision of the RUE Profile and would make the completed VATRP available in January 2019 for providers to test their ability to connect with it.

7. On October 17, 2018, however, the five VRS providers filed a joint ex parte letter requesting that the Bureau suspend further development of both the VATRP and the RUE Profile.¹⁷ The providers claim that the VATRP is not compliant with applicable technical standards and therefore cannot be used as a testing tool.¹⁸ In addition, they contend that the VATRP and the RUE Profile have been modified in ways that make it more difficult and costly for providers to ensure that they can connect with the VATRP and comply with the RUE Profile.¹⁹ Echoing Sorenson's earlier assertion, the VRS providers also argue that the process by which the RUE Profile has been developed and revised is not that of a voluntary consensus standard organization and that, consequently, the Bureau lacks authority to enforce the RUE Profile or adopt revisions to it.²⁰ On February 8, 2019, the VRS providers filed a joint petition generally restating these arguments and requesting that the Commission suspend indefinitely the current

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Interoperability R&O, 32 FCC Rcd at 692-93, paras. 15-16. The VRS providers have not requested any waiver of this rule provision, or of the requirement to comply with the VRS Provider Interoperability Profile, for which the compliance deadline was December 20, 2017.

¹¹ 47 CFR § 64.621(a)(3); *2017 Bureau Interoperability R&O*, 32 FCC Rcd at 691-92, paras. 11-14.

¹² *2017 Bureau Interoperability R&O*, 32 FCC Rcd at 693, para. 17.

¹³ Sorenson Communications, LLC, Petition for Partial Reconsideration, or in the Alternative, Suspension of the RUE Implementation Deadline, CG Docket Nos. 10-51 and 03-123 (filed May 30, 2017) (Sorenson Petition). *Id.* at 4-13, 18-20.

¹⁴ *Id.* at 13-17.

¹⁵ *Compliance Deadline Extension Order*, 33 FCC Rcd at 4044, para. 6.

¹⁶ *Id.* The Order did not address Sorenson's request for reconsideration, noting that the request would be addressed at a later time. *Id.* at 4043, para. 4, n.8.

¹⁷ Letter from Gabrielle Joseph, ASL Services Holdings, LLC, dba GlobalVRS, Jeff Rosen, Convo Communications, LLC, Michael Maddix, Sorenson Communications, LLC, and Gregory Hlibok, ZVRS Holding Company (collectively, VRS Providers), to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 1-2 (filed Oct. 17, 2018) (VRS Providers Oct. 17, 2018 *Ex Parte* Letter).

¹⁸ VRS Providers Oct. 17, 2018 *Ex Parte* Letter at 1.

¹⁹ *Id.* at 3.

²⁰ *Id.* at 3-4.

deadline for VRS provider compliance with the RUE Profile.²¹ Further, the VRS providers assert that, in any event, there is insufficient time before the April 29 implementation deadline for the VRS providers to prepare to comply with the updated RUE Profile and ensure interoperability with the VATRP.²²

8. Subsequently, various consumer advocacy groups, as well as VRS-related technical organizations and individual experts who have been active in addressing VRS interoperability problems, filed *ex parte* letters regarding the VRS providers' petition.²³ While some of these parties oppose any further delay, others support a deferral of the RUE Profile compliance date.²⁴ None supports calling a halt to further development of the RUE Profile.

III. DISCUSSION

9. *Suspension Standard.* Compliance deadlines may be suspended, amended, or waived, for "good cause shown."²⁵ In particular, suspension of a compliance deadline for a rule is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.²⁶ In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁷ Suspension of a compliance deadline is appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest and will not undermine the policy underlying the rule.²⁸

10. We find there are special circumstances and good cause to extend the RUE Profile compliance deadline. First, the RUE Profile has been revised over the last year, and the revised version has yet to be incorporated into the Commission's rules.²⁹ Second, the VATRP has also been modified, and a final version of the modified VATRP was not made available to VRS providers until January 2019, possibly leaving insufficient time for the providers to conduct testing to ensure that they can connect with the VATRP in compliance with the revised RUE Profile. Third, the record indicates that these changes in the RUE Profile and VATRP may increase the time and cost incurred by providers to prepare for

²¹ Petition of ASL Services Holdings, LLC dba GlobalVRS, CSDVRS, LLC dba ZVRS, Convo Communications, LLC, Purple Communications, Inc., and Sorenson Communications, LLC for Suspension of the Rue Profile and Video Access Technology Reference Platform Implementation Deadline, CG Docket No. 10-51 and 03-123 (filed Feb. 8, 2019), [https://ecfsapi.fcc.gov/file/10208235450041/Joint%20Provider%20Pet%20for%20Suspension%20of%20RUE%20Deadline%20v7\(final\).pdf](https://ecfsapi.fcc.gov/file/10208235450041/Joint%20Provider%20Pet%20for%20Suspension%20of%20RUE%20Deadline%20v7(final).pdf) (VRS Providers Petition). The VRS providers also request that the Commission pause the development of the VATRP and RUE Profile. *Id.* at 2.

²² *Id.* at 7-9. The VRS providers also assert that it would create security and safety risks if the VATRP was released to the public. *Id.* at 9-11. In addition, the VRS providers point out that the Commission has not yet adopted the revised version of the RUE Profile in accordance with the procedure adopted in the *2017 Bureau Interoperability R&O*. VRS Providers Petition at 4-7.

²³ See Letter from Henning Schulzrinne, Columbia University, Brian Rosen, and Paul Kyzivat, to Marlene H. Dortch, CG Docket Nos. 10-51 and 03-123 (filed Mar. 19, 2019) (Schulzrinne, Rosen, Kyzivat Mar. 19, 2019 *Ex Parte* Letter); Letter from Gerard Buckley and Gary Behm, National Technical Institute for the Deaf, Rochester Institute of Technology, to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123 (filed Mar. 20, 2019) (RIT-NTID Mar. 20, 2019 *Ex Parte* Letter); Letter from Claude L. Stout, Telecommunications for the Deaf and Hard of Hearing, Inc., Howard Rosenblum and Zainab Alkebsi, National Association of the Deaf, René G. Pellerin, American Association of the DeafBlind, Nancy B. Rarus, Deaf Seniors of America, Mark Hill, Cerebral Palsy and Deaf Organization, Melvin A. Walker and Neal P. Tucker, Registry of Interpreters for the Deaf, Inc., Dr. Donald Ammons, Gallaudet University Alumni Associations, Barbara Kelley, Hearing Loss Association of America, John Gournaris, Ph.D., American Deafness and Rehabilitation, Robert H. Loftur-Thun, Northern Virginia Resource Center for Deaf and Hard of Hearing Persons, Christian Vogler, Ph.D., Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing, to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 1 (filed Mar. 22, 2019) (Consumer Groups-RERC Mar. 22, 2019 *Ex Parte* Letter).

compliance.³⁰ The record is contested as to the extent of the resulting burden on providers, as well as the appropriate allocation of responsibility for it. Nevertheless, in light of the short time remaining, the need to complete the Bureau's evaluation of the revised standard, the hardship that strict enforcement of the compliance deadline would cause to all VRS providers, and the lack of any evidence that an extension will pose an imminent risk of non-interoperability among VRS providers, we find good cause for extension of the waiver previously granted.³¹

11. As a further step in the Commission's evaluation process, the revised version of the standard has been submitted for review by the Internet Engineering Task Force (IETF).³² We find that further review by the IETF, a highly regarded standards body, may assist the Bureau's evaluation of the revised standard, enabling a more effective implementation of the policy underlying the interoperability rule.³³ Accordingly, we find good cause to extend the suspension of the RUE Profile compliance deadline for one year, or until April 29, 2020. We expect that this extension will allow a sufficient opportunity for review of the standard under the auspices of the IETF, which may result in further revision of the standard, or at a minimum, useful feedback to Commission staff on technical aspects of the standard.³⁴ As a result, the Bureau may be better able to determine, in consultation with the CTO and Chief, OET, whether to consider the process of revising the standard "complete" for purposes of seeking public comment on it, and better able to decide on its incorporation into the interoperability rule.³⁵ In addition, this extension will provide additional time for VRS providers to prepare for compliance.³⁶

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²⁴ See Schulzrinne, Rosen, Kyzivat Mar. 19, 2019 *Ex Parte* Letter at 1-2 (opposing any delay in RUE Profile implementation or VATRP development); RIT-NTID Mar. 20, 2019 *Ex Parte* Letter at 1-2 (supporting a delay in the RUE Profile compliance deadline, but opposing cessation of VATRP and RUE Profile development); Consumer Groups-RERC Mar. 22, 2019 *Ex Parte* Letter at 1 (urging continued development of the VATRP and RUE Profile once concerns about process and direction have been addressed).

²⁵ 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown).

²⁶ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

²⁸ *Northeast Cellular*, 897 F.2d at 1166.

²⁹ The procedure adopted in the *2017 Bureau Interoperability R&O* provides that, prior to such incorporation, the Bureau will issue a public notice seeking comment on the revised standard. *2017 Bureau Interoperability R&O*, 32 FCC Rcd at 693, para. 17. This public notice has not yet been issued, although informal comments on the revisions have been provided by VRS providers and others via *ex parte* submissions. *See supra* paras. 7-8.

IV. PROCEDURAL MATTERS

12. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to: fcc504@fcc.gov, or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

V. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 225, and sections 0.141, 0.361, and 1.3 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, the compliance deadline in section 64.621(a)(3) of the Commission's rules, 47 CFR § 64.621(a)(3), as adopted in the *2017 Bureau Interoperability Order*, 32 FCC Rcd 687 (2017), IS SUSPENDED until April 29, 2020.

14. IT IS FURTHER ORDERED that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Patrick Webre,
Chief
Consumer and Governmental Affairs Bureau

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³⁰ See VRS Providers Petition at 7; *see also* Letter from VRS Providers, to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 3-4 (filed Nov. 2, 2018); Letter from VRS Providers to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 3-4 (filed Nov. 21, 2018); Letter from VRS Providers to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 1-2 (filed Dec. 19, 2018); Letter from Julie A. Veach, Sorenson Communications, LLC to Michael Carowitz, FCC, CG Docket Nos. 10-51 and 03-123, at 2-3 (filed Mar. 4, 2019); Letter from VRS Providers to Marlene H. Dortch, FCC, CG Docket Nos. 10-51 and 03-123, at 1-2 (filed Mar. 18, 2019); *Compliance Deadline Extension Order*, 33 FCC Rcd at 4044, para. 6 (noting that the original compliance deadline was set based on the assumption that the VATRP would be available to support interoperability testing well before the compliance date).

³¹ In light of the revisions that have been made to the RUE Profile and VATRP, and the need to evaluate those revisions, we see little benefit in enforcing the compliance deadline with respect to the version of the RUE Profile currently incorporated into the rule.

³² See Internet Engineering Task Force (IETF), *Datatracker, Interoperability Profile for Relay User Equipment*, <https://datatracker.ietf.org/doc/draft-rosen-rue/> (last visited Mar. 29, 2019).

³³ See *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166. We note that review by the IETF, a voluntary, consensus standards organization, may also help resolve the concerns raised by VRS providers regarding the process by which the RUE Profile standard has been developed. *See supra* paras. 5, 7. This Order does not render a decision on the VRS providers' process claims.

³⁴ See *2013 VRS Reform Order*, 28 FCC Rcd at 8642, para. 48 (directing the CTO and OET, in consultation with CGB, to coordinate Commission support of and participation in the standards development process).

³⁵ See *id.* at 8643, para. 49 (directing CGB to consult with the CTO and OET regarding incorporation of technical standards into the rules).

³⁶ Although we do not conclude that one year of advance testing is necessarily required, as the VRS providers contend (*see* VRS Providers Petition at 8-9), a one-year extension is appropriate due to the need to finalize a standard.