

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

In the Matter of
Misuse of Internet Protocol (IP) Captioned
Telephone Service
Telecommunications Relay Services and Speech-
to-Speech Services for Individuals with Hearing
and Speech Disabilities

CG Docket No. 13-24
CG Docket No. 03-123

REPORT AND ORDER, FURTHER NOTICE OF PROPOSED RULEMAKING, AND ORDER

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

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I. INTRODUCTION

1. The Internet Protocol Captioned Telephone Service (IP CTS) program, funded by
telephone ratepayers, helps people with hearing loss to connect with friends, family, and others by using a
captioned telephone. But for far too long, the program, like other telecommunications relay service
(TRS) programs, has been subject to unacceptable risks of waste, fraud, and abuse. In June 2018, the

Commission took steps to address recent, exponential growth in federal spending on IP CTS, reduce waste in TRS Fund expenditures, and curb harmful provider practices.<sup>1</sup> But problems remain. For example, the Commission has no systematic process for limiting program access only to those determined to be eligible to use IP CTS. Accordingly, we now expand the User Registration Database (Database) that the Commission created for the video relay service (VRS) program to encompass IP CTS, while proposing a related change in the data to be submitted for IP CTS compensation. The steps we take here will ensure that federal funds are put to their intended purpose in that providers will receive compensation only for calls made by individuals determined to be eligible to use this service.

2. We also propose a revision of IP CTS emergency call-handling procedures to simplify the processing of 911 calls, so that IP CTS users can communicate more effectively with emergency dispatchers. Pending the completion of this rulemaking, we waive certain emergency call-handling requirements that, on the current record, appear to be unnecessary, burdensome, and potentially hazardous to public safety.

3. With these actions, we expect to further improve IP CTS and better safeguard the \$892 million currently budgeted for this program.<sup>2</sup>

## II. BACKGROUND

4. IP CTS is a form of TRS that allows individuals with hearing loss to both read captions and use their residual hearing to understand a telephone conversation.<sup>3</sup> Generally, IP CTS employs two network paths: a voice connection between the parties to the call and a separate Internet connection that transmits the other party's voice from the IP CTS user's phone to a communications assistant (CA) and transmits captions from the CA back to the IP CTS user.<sup>4</sup> In the most widely used version of IP CTS, the CA then re-voices everything the hearing party says into a speech recognition program, which automatically transcribes the words into captions.<sup>5</sup> Today, five providers have certification from the Commission to provide IP CTS.<sup>6</sup> Currently, the cost of IP CTS is supported entirely by the TRS Fund, and, like other forms of Internet-based TRS, IP CTS is entirely administered by the Commission.<sup>7</sup>

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<sup>1</sup> See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Declaratory Ruling, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 33 FCC Rcd 5800 (2018) (*2018 IP CTS Reform R&O, DR, FNPRM, and NOI*).

<sup>2</sup> See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, 33 FCC Rcd 6300, 6306, para. 17 (CGB 2018) (adopting a funding proposal of \$891,947,147 for IP CTS for Fund Year 2018-19).

<sup>3</sup> See 47 CFR § 64.601(a)(17) (defining IP CTS). Captions may be displayed on a specialized IP CTS device or an off-the-shelf computer, tablet, or smartphone. The Commission approved IP CTS as a type of TRS eligible for compensation from the TRS Fund in 2007. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Internet-based Captioned Telephone Service*, Declaratory Ruling, 22 FCC Rcd 379 (2007). In 2003, the Commission approved a non-IP version of this service, called CTS, which is made available through state TRS programs and is supported jointly by the states and the TRS Fund. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, 18 FCC Rcd 16121 (2003).

<sup>4</sup> *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5802, para. 3. When an IP CTS user places or receives a call, he or she is automatically connected to a CA at the same time that the parties to the call are connected. *Id.* at 5802, para. 4.

<sup>5</sup> In a second version, the CA uses stenography to produce the captions, typing the speech content directly into captions. *Id.* at 5802, para. 4.

<sup>6</sup> The five certified IP CTS providers are CaptionCall, LLC, a wholly owned subsidiary of Sorenson Communications, Inc. (Sorenson); ClearCaptions, LLC (ClearCaptions); Hamilton Relay, Inc. (Hamilton); Mezmo

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### A. User Registration Database

5. In the *2013 VRS Reform Order*, to reduce waste, fraud, and abuse, and improve program management, the Commission directed the creation of a centralized system of user registration records, for initial application to VRS users,<sup>8</sup> and potential application to other forms of TRS.<sup>9</sup> The core function of this Database is to enable the Commission to ensure that TRS is provided only to registered users whose eligibility has been established in accordance with program rules and whose identities have been verified based on uniform criteria.<sup>10</sup>

6. In December 2017, the Commission activated the Database for VRS users.<sup>11</sup> To populate the Database, VRS providers submit for each of their registered users, the user's name, address, telephone number, social security number or tribal identification number (last four digits only), date of birth, Registered Location,<sup>12</sup> and self-certification of eligibility for VRS; and (when applicable) the dates of service initiation and termination, identity verification, and last placement of a call.<sup>13</sup> Upon receiving the data submission for a registered user, the Database administrator verifies the user's identity pursuant to uniform verification criteria.<sup>14</sup> VRS providers are prohibited from either registering or seeking compensation for service to users who do not pass the identity verification check.<sup>15</sup> In addition, there is a requirement for VRS providers to query the Database before connecting a VRS call, to confirm that a party on the video side of the call is a registered VRS user.<sup>16</sup>

7. To protect registrants' privacy, VRS providers must obtain the users' specific consent for submission of their data to the Database, after notifying the user about the data to be disclosed, the reason for disclosure, and the consequences of nondisclosure.<sup>17</sup> Furthermore, the Database administrator must

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Corporation d/b/a InnoCaption (InnoCaption), formerly Miracom USA, Inc. (Miracom USA); and Sprint Corporation (Sprint).

<sup>7</sup> *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5803, para. 4.

<sup>8</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8647-49, paras. 62-67 (2013) (*2013 VRS Reform Order*), vacated in part, *Sorenson Communications, Inc. v. FCC*, 765 F.3d 37 (D.C. Cir. 2014). VRS is a form of TRS that allows people who use sign language to communicate with voice telephone users over broadband using video equipment by having a CA relay the conversation back and forth. 47 CFR § 64.601(a)(43).

<sup>9</sup> *2013 VRS Reform Order*, 28 FCC Rcd at 8649, 8714-15, paras. 66, 251.

<sup>10</sup> *Id.* at 8651, 8653-56, paras. 72, 78-86.

<sup>11</sup> *See Video Relay Service Providers May Begin Submitting Data to the TRS User Registration Database*, Public Notice, 32 FCC Rcd 10467 (OMD CGB 2017) (*VRS Database Public Notice*).

<sup>12</sup> Currently, a "Registered Location" is defined in the Commission's rules as "the most recent information obtained by a VRS or Internet Protocol Relay Service (IP Relay) provider that identifies the physical location of an end user." *See* 47 CFR § 64.601(a)(31); *see also id.* § 9.3 (providing a similar definition for voice over Internet Protocol (VoIP) service).

<sup>13</sup> *Id.* § 64.611(a)(4).

<sup>14</sup> *See id.* § 64.615(a)(5); *2013 VRS Reform Order*, 28 FCC Rcd at 8655-56, paras. 84-86.

<sup>15</sup> 47 CFR § 64.615(a)(5)(ii), (iii).

<sup>16</sup> *Id.* § 64.615(a)(1). However, compliance with this rule is not currently required, as the per-call validation function has not yet been implemented for VRS. *See VRS Database Public Notice*, 32 FCC Rcd at 10468.

<sup>17</sup> 47 CFR § 64.611(a)(4)(i).

strictly limit access to user registration data and is subject to detailed security safeguards designed to protect proprietary and personal information contained in the database.<sup>18</sup>

8. In the *2013 VRS Reform Order*, the Commission recognized that inclusion of other forms of Internet-based TRS in the Database may be necessary to effectively oversee the nationwide TRS program. Therefore, the Commission sought comment on a proposal to apply to IP CTS (and other types of Internet-based TRS) the same Database registration, verification, and per-call validation requirements applicable to VRS.<sup>19</sup> Subsequently, in the *2013 IP CTS Reform FNPRM*, the Commission sought additional comment specifically on the application of Database registration and verification processes to IP CTS, asking commenters to point out any differences between VRS and IP CTS that might necessitate adjustment in the applicable rules.<sup>20</sup>

### **B. Emergency Call Handling Procedures**

9. The emergency call handling requirements for IP CTS apply only to certain forms of this service. For the predominantly used form of IP CTS, where the voice connection for a call is established using an ordinary wireline telephone service and there is a separate Internet connection made solely for the IP CTS user to receive captions, the telephone company or voice-over-Internet-Protocol (VoIP) service provider is responsible for delivering 911 calls and location information to emergency authorities. However, where IP CTS is configured for web and wireless access, such that the user can initiate a call by connecting to the IP CTS provider via the Internet, the IP CTS provider is responsible for handling 911 calls in accordance with section 64.605(a) of our rules.<sup>21</sup>

10. Section 64.605(a) was initially devised to address problems with 911 calling that arose in early versions of VRS and IP Relay, before the assignment of North American Numbering Plan (NANP) telephone numbers to users of those services.<sup>22</sup> Without ten-digit NANP numbers, it was difficult for

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<sup>18</sup> See *2013 VRS Reform Order*, 28 FCC Rcd at 8652-53, paras. 75-77. The security safeguards include limiting access to the database to authorized entities and then only for authorized purposes, prohibiting providers from conducting lookups in the database for marketing purposes, and granting the Managing Director security oversight and flexibility in specifying the form, structure, and other details of the database. *Id.* at 8652-53, paras. 76-77; see also *infra* paras. 20-21.

<sup>19</sup> *2013 VRS Reform Order*, 28 FCC Rcd at 8714-15, para. 251.

<sup>20</sup> *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13480, para. 129 (2013) (cited herein as *2013 IP CTS Reform Order* when referencing the Report and Order, and as *2013 IP CTS Reform FNPRM* when referencing the Further Notice of Proposed Rulemaking), *vacated in part, Sorenson Communications, Inc. and CaptionCall, LLC v. FCC*, 755 F.3d 702, 710 (D.C. Cir. 2014).

<sup>21</sup> 47 CFR § 64.605(a); see also *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Report and Order, 23 FCC Rcd 5255, 5256-57, 5263, paras. 1 n.7, 13 n.59 (2008) (*Emergency Call Handling Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Purple Communications, Inc., Request for Review of Withholding of TRS Payments*, Order, 29 FCC Rcd 13716, 13720, paras. 9-10 (CGB 2014) (*Purple 911 Order*) (discussing the application of section 64.605(a) to Purple's web- and wireless-based IP CTS); *Misuse of Internet Protocol (IP) Captioned Telephone Service et al.*, Order, 31 FCC Rcd 7023, 7024-25, paras. 2-3 (CGB 2016) (*InnoCaption Waiver Order*) (discussing application of section 64.605(a) to InnoCaption's wireless-based service).

<sup>22</sup> See *Emergency Call Handling Order*, 23 FCC Rcd at 5255-57, para. 1. With the assignment of NANP numbers to VRS and IP Relay users, 911 call handling for these services was transitioned to a more automated method, modeled on the 911 requirements for interconnected VoIP service providers. See 47 CFR § 64.605(b); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11620-22, paras. 79-86 (2008) (*First TRS Numbering Order*); see also 47 CFR § 9.5 (specifying

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VRS and IP Relay users to receive callbacks from a Public Service Answering Point (PSAP) or other emergency authority.<sup>23</sup> Among other things, section 64.605(a) requires a TRS provider covered by this rule to deliver to the PSAP the caller's name, the relay provider's name, the CA's callback number, and the CA's identification number.<sup>24</sup> In the event of disconnection, the TRS provider is required to immediately re-establish contact with the caller and the PSAP and resume handling the call.<sup>25</sup>

11. The rule thus presupposes that CAs will assume significant 911 call handling responsibilities. In the context of web- and wireless-based IP CTS, where CAs communicate with each party in only one direction, implementation of this rule has posed difficulties.<sup>26</sup> Specifically, with IP CTS, the CA hears the voice of the hearing party but does not speak to that party, and provides captions to, but does not hear, the IP CTS user.<sup>27</sup> Due to such limited, one-way communication, it is impractical to involve an IP CTS CA in collecting and forwarding caller information and in reconnecting disconnected calls.

12. In 2016, CGB granted one IP CTS provider—InnoCaption—a waiver of the rule's requirements to deliver to the PSAP the provider's name, the CA's identification number, and the CA's callback number and to immediately initiate the reconnection of disconnected calls.<sup>28</sup> The Bureau found that strict compliance with the rule would cause significant and unnecessary hardship to InnoCaption and that InnoCaption's alternative procedure, by which it assigns telephone numbers to its users and delivers that number to the PSAP with a 911 call, would provide more effective implementation of the policy underlying the rule.<sup>29</sup> Subsequently, three other IP CTS providers requested similar waivers, under similar conditions, applicable to their provision of web- and wireless-based forms of IP CTS.<sup>30</sup>

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911 call handling requirements for interconnected VoIP). However, the Commission refrained from applying this automated process for call handling to IP CTS, which raised distinct technical and regulatory issues. *First TRS Numbering Order*, 23 FCC Rcd at 11592-93, para. 1 n.5.

<sup>23</sup> See *InnoCaption Waiver Order*, 31 FCC Rcd at 7029, paras. 16-17. The rule requires that emergency calls be delivered to "an appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority." 47 CFR § 64.605(a)(2)(i). For simplicity and clarity, throughout this item we use the term "PSAP" to refer to the appropriate entity to which a 911 call should be delivered, even if that entity is not technically a "Public Service Answering Point."

<sup>24</sup> 47 CFR § 64.605(a)(2)(iii), (iv).

<sup>25</sup> *Id.* § 64.605(a)(2)(v). In addition to the obligations listed above, which we are proposing to eliminate, IP CTS providers subject to this rule must also: (1) accept and handle emergency calls and access a commercially available database that will allow the provider to determine an appropriate PSAP that corresponds to the caller's location, and to relay the call to that entity (47 CFR § 64.605(a)(2)(i)); (2) prioritize emergency calls and move them to the top of the queue (47 CFR § 64.605(a)(2)(ii)); (3) request the caller's name and location at the beginning of a call, unless the provider already has a Registered Location for the caller (47 CFR § 64.605(a)(2)(iii)); (4) deliver the caller's location to the PSAP (47 CFR § 64.605(a)(2)(iv)); and (5) protect the privacy of user information obtained for emergency calling purposes (47 CFR § 64.605(a)(2)(vi)). In this item, we do not propose to modify any of these substantive requirements.

<sup>26</sup> See, e.g., *Purple 911 Order*, 29 FCC Rcd 13716; *InnoCaption Waiver Order*, 31 FCC Rcd 7023.

<sup>27</sup> See *InnoCaption Waiver Order*, 31 FCC Rcd at 7031, para. 20 n.48. By contrast, with VRS and IP Relay, the CA communicates in both directions with each party to a call.

<sup>28</sup> 47 CFR § 64.605(a)(2)(iv)-(v).

<sup>29</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030-31, paras. 18-21.

<sup>30</sup> See *Petition of Hamilton Relay, Inc. for Waiver*, CG Docket Nos. 13-24 and 03-123 (filed Feb. 29, 2016), <https://ecfsapi.fcc.gov/file/60001524197.pdf> (Hamilton 911 Waiver Petition); *Petition of ClearCaptions, LLC for Partial Waiver of Sections 64.605(a)(2)(iv) and 64.605(a)(2)(v) of the Commission's Rules in Connection with ClearCaptions, LLC Web and Wireless Forms of Internet Protocol Captioned Telephone Service*, CG Docket Nos.

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### III. REPORT AND ORDER

13. We amend our rules to require the integration of IP CTS into the Database. With this measure, we will be better able to ensure accurate registration, verification and validation of IP CTS users and achieve consistency between the VRS and IP CTS programs.<sup>31</sup>

#### A. Database Registration and Verification of IP CTS Users

14. We require IP CTS providers to submit user registration information to the Database, using the same procedures for the submission of data and the verification of identities as apply to VRS providers.<sup>32</sup> By this action, which is generally supported by Consumer Groups,<sup>33</sup> while opposed by IP CTS providers,<sup>34</sup> we take further steps to ensure that TRS is made available “in the most efficient manner,”<sup>35</sup> achieve consistency among Internet-based TRS programs, and manage waste, fraud, and abuse risks.<sup>36</sup> Expanding the Database to include IP CTS is especially important in light of the ease and

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13-24 and 03-123 (filed Mar. 2, 2018), <https://ecfsapi.fcc.gov/file/10302350229816/2018-03-02%20-%20ClearCaptions%2C%20LLC%20IP%20CTS%20Web%20Wireless%20911%20Waiver%20Request.pdf> (ClearCaptions 911 Waiver Petition); Petition of Sprint Corporation for Waiver, CG Docket Nos. 13-24 and 03-123 (filed Oct. 15, 2018), <https://ecfsapi.fcc.gov/file/1015069084733/Sprint%20Waiver%20of%20IP%20CTS%20Emergency%20Calling%20Requirements%2010.15.18.pdf> (Sprint 911 Waiver Petition).

<sup>31</sup> 47 CFR § 64.601(a)(40) (describing the various functions of the Database).

<sup>32</sup> See *infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)-(3)). As a housekeeping matter, we move the existing IP CTS registration and certification requirements, currently in section 64.604(c)(9), to section 64.611, to consolidate them with the corresponding registration requirements for VRS. See *infra* Appendix B, Final Rules (removing and reserving 47 CFR § 64.609(c)(9) and adding 47 CFR § 64.611(j)(1)).

<sup>33</sup> See Hearing Loss Association of America, Telecommunications for the Deaf and Hard of Hearing, Inc., Deaf and Hard of Hearing Consumer Advocacy Network, National Association of the Deaf, Association of Late-Deafened Adults, Inc., Mill Neck Services, Inc., Cerebral Palsy and Deaf Organization, and American Association of the Deaf-Blind (collectively Consumer Groups), Comments, CG Docket Nos. 13-24 and 03-123, at 7 (filed Nov. 4, 2013) (Consumer Groups 2013 FNPRM Comments).

<sup>34</sup> See Hamilton Relay, Inc. Comments, CG Docket Nos. 13-24 and 03-123, at 10-12 (filed Nov. 4, 2013) (Hamilton 2013 FNPRM Comments); Miracom USA, Inc., Comments, CG Docket No. 03-123, at 6 (filed Oct. 23, 2013) (Miracom USA 2013 FNPRM Comments); Sorenson Communications, Inc., Comments, CG Docket Nos. 13-24 and 03-123, at 24-28 (filed Nov. 4, 2013) (Sorenson 2013 FNPRM Comments); Ultratec, Inc., Reply Comments, CG Docket Nos. 13-24 and 03-123, at 6-7 (filed Dec. 4, 2013) (Ultratec 2013 FNPRM Reply Comments).

<sup>35</sup> 47 U.S.C. § 225(b)(1).

<sup>36</sup> See generally Improper Payments Information Act of 2002, Pub. L. No. 107-300, as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA), Pub. L. No. 111-204, the Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248, and the Fraud Reduction and Data Analytics Act of 2015, Pub. L. No. 114-186, codified in 31 U.S.C. § 3321 Note (2017); see also Government Accountability Office (GAO), GAO-15-409, Report to Hon. Jeff Sessions, U.S. Senate, Telecommunications Relay Service: FCC Should Strengthen Its Management of Program to Assist Persons with Hearing or Speech Disabilities, at 21-28 (2015), <http://gao.gov/assets/670/669916.pdf> (GAO TRS Report) (recommending a comprehensive internal-control system to manage TRS program risk); GAO, GAO-11-11, Report to Congressional Requesters, Telecommunications, Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program (2010), <https://www.gao.gov/assets/320/312708.pdf> (GAO Lifeline Report) (recognizing risk assessments as a key program management tool); *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (implementing new program control and oversight measures to prevent waste, fraud, and abuse in the VRS program) (*2011 VRS Fraud Prevention Order*); *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (implementing program control measures, including registration requirements and a centralized database).

convenience of using this service—which can also facilitate its improper use—as well as the incentives and ability of providers to market this service to individuals who do not need it.<sup>37</sup> These factors may be contributing to the exponential IP CTS growth in recent years and have the potential to cause future waste in the program.<sup>38</sup> As it is currently doing for VRS, Database registration of IP CTS users will enable the administrator to conduct objective identity verification in accordance with uniform criteria, perform more effective auditing and review of IP CTS provider practices, and better substantiate the eligibility of IP CTS minutes submitted for compensation, e.g., by matching provider-submitted call detail records with records of registered and verified IP CTS users.<sup>39</sup> In addition, creating a central registry of IP CTS users will improve program management by enabling the Commission to compile and analyze aggregate data on the total number of IP CTS users; the number of IP CTS providers, devices, and phone numbers associated with each user; the pace of turnover among registered users; and other important program statistics and trends that are necessary for the Commission’s effective and efficient implementation of the program.<sup>40</sup> Therefore, we do not agree with IP CTS providers’ arguments that the Database would be redundant with providers’ maintenance of user data and would serve no useful purpose for IP CTS.<sup>41</sup>

15. We are also unpersuaded by Sorenson’s argument that the Commission should refresh the record to determine the extent of any actual waste, fraud, and abuse, obtain an updated estimate of costs, and gather more data on the VRS experience with the Database, before making a decision on integrating IP CTS into the Database.<sup>42</sup> We conclude that database registration and verification of IP CTS users is a straightforward prophylactic measure that is needed to safeguard the TRS Fund, whether or not the Commission has discovered waste, fraud, and abuse within this particular TRS program. The Commission is not required to wait for a major outbreak of fraud or abuse, such as occurred in two other TRS programs, before taking precautionary steps to prevent such harm from occurring in this program.<sup>43</sup>

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<sup>37</sup> 2018 IP CTS Reform R&O, DR, FNPRM, and NOI, 33 FCC Rcd at 5805-06, paras. 9-10.

<sup>38</sup> *Id.* at 5804-06, paras. 8-10.

<sup>39</sup> See 2013 VRS Reform Order, 28 FCC Rcd at 8648-49, para. 66 (making similar findings regarding centralizing VRS registration data); *id.* at 8655, para. 84 (noting comments that centralized verification of user identity will ensure the compensability of VRS calls handled).

<sup>40</sup> See *id.* at 8648-49, para. 66 (discussing similar benefits in the context of VRS).

<sup>41</sup> See Hamilton 2013 FNPRM Comments at 10-12; Miracom USA 2013 FNPRM Comments at 6; Sorenson 2013 FNPRM Comments at 24; Ultratec 2013 FNPRM Reply Comments at 6-8. A number of the points raised by IP CTS providers appear to reflect a misconception of the Database’s primary purposes, stated above. See, e.g., Miracom USA 2013 FNPRM Comments at 6 (stating that “centralized registration is unnecessary in order to provide call routing to the user”); Sorenson 2013 FNPRM Comments at 24 (stating “it is unclear what purpose such a database would serve” and speculating that the intended use might be “to allow a verified user to switch providers without demonstrating eligibility a second time”). Other concerns raised in the comments, to the extent they are valid, are sufficiently addressed by our decision not to require per-call validation for IP CTS. See, e.g., Sorenson 2013 FNPRM Comments at 24, 27-28 (contending that using a centralized database for per-call validation would be futile and would increase captioning delays).

<sup>42</sup> See Letter from Rebekah P. Goodheart, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 2-5 (filed Feb. 7, 2019) (Sorenson Feb. 7 *Ex Parte*).

<sup>43</sup> See, e.g., 2011 VRS Fraud Prevention Order, 26 FCC Rcd at 5549-52, paras. 4-5 (specifying numerous instances of fraud, waste, and abuse in the VRS program); *Misuse of Internet Protocol (IP) Relay Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, First Report and Order, 27 FCC Rcd 7866 (2012) (addressing misuse of IP Relay by individuals without a hearing or speech disability). As an example of the magnitude of waste, fraud, and abuse that can occur in the providers’ registration of users for TRS programs, the case of IP Relay is instructive. In 2013-14, after the Commission investigated three TRS providers’ practices in accepting user registrations for IP Relay, four of five TRS providers chose to exit the IP Relay market, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 29 FCC Rcd 16273, 16274, para. 3 (CGB

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Under IPERA, we have the authority and obligation to identify and improve programs that may be susceptible to waste, fraud, and abuse.<sup>44</sup> Sorenson has not articulated any reason why the same waste, fraud, and abuse we have identified in other TRS programs would not be a concern for IP CTS, a larger and fast-growing program. Nor do we believe it is necessary to gather additional data before proceeding. In the discussion below, we take full account of recent developments, including the activation of the Database for VRS and the resulting costs to providers, and we make a number of rule changes to take account of that experience. We also note that, while claiming that our decision is premature, Sorenson does not advocate any major change in the Database process. Rather, it recommends a number of relatively minor adjustments and clarifications of the Database rules, several of which we adopt below.

16. *Submissions to the Database.* The rules we adopt for IP CTS user data submission and verification largely parallel those in place for VRS. Although the two services differ in some respects, those differences do not warrant a substantially different approach to data submission.<sup>45</sup> Therefore, with one exception, the data that we now require IP CTS providers to submit to the Database when registering users is substantially the same data that we require for VRS providers. Specifically, we require submission of a user's full name, full residential address, telephone number, electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification or email address, or another unique identifier for the IP CTS user,<sup>46</sup> last four digits of the user's social security number or Tribal Identification number, date of birth, Registered Location (if applicable), IP CTS provider name, date of service initiation and (when applicable) termination, (for existing users only) the date on which the IP CTS user last placed an IP CTS call, and a digital copy of the user's self-certification of eligibility.<sup>47</sup>

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2014), and demand for the service declined by 75%. That is to say, 24 million minutes, or more than 75% of the IP Relay minutes submitted for compensation by TRS providers in the pre-investigation period, simply disappeared after the Commission's investigations were completed. Rather than migrating to the one remaining IP Relay provider, whose registration and verification practices were more effective at screening out illegal users, the users responsible for generating those 24 million minutes apparently stopped using IP Relay at all. While we have no reason to believe that a similar proportion of IP CTS minutes are the result of improper user registration practices, we take caution from this example of the historical vulnerability of the TRS program to waste, fraud, and abuse, particularly in light of the far greater size of the IP CTS program, which processed approximately 413 million minutes in Fund Year 2017-18.

<sup>44</sup> See *supra* note 36; see also, e.g., *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5419-20, 5421, para. 64 & nn. 85, 94 (2018) (discussing, in the context of a different Commission program, the need for, and authority to, adopt oversight measures to ensure the efficient and effective use of the funds).

<sup>45</sup> See *2013 IP CTS Reform FNPRM*, 28 FCC Rcd at 13480, para. 129 (asking commenters to "point out any differences between these types of services that might necessitate adjustment in the way that information is entered into the database"). Although VRS and IP CTS differ to some extent in terms of their technologies, network capabilities, rate mechanisms, consumer requirements, service costs, and levels of competition, see Hamilton 2013 FNPRM Comments at 11, the record does not show that these differences justify the adoption of different data submission and verification procedures for IP CTS. For example, it may be the case that "VRS and IP Relay providers effectively offer their users access to the PSTN at no cost," while "IP CTS users must purchase access to the PSTN . . . separate and apart from the service provided by the IP CTS provider," Ultratec 2013 FNPRM Reply Comments at 6-8, but this difference does not eliminate incentives for ineligible users to sign up for IP CTS, especially in light of the availability of a free captioned telephone and the ease with which the service can be used for telephone communication by individuals who do not need captions for effective communication. See *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5804-06, paras. 8-10.

<sup>46</sup> This is the only piece of information we require for IP CTS that is not currently required for VRS. See *infra* para. 27.

<sup>47</sup> See *infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(i) to specify the user data required for IP CTS); 47 CFR § 64.611(a)(4) (corresponding provision for VRS). As with VRS, when registering a user who is transferring service from another IP CTS provider, IP CTS providers shall obtain and submit a digital copy of a

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17. We also apply to IP CTS the same data submission and verification procedures used for VRS. These procedures are designed to ensure that IP CTS is used only by individuals who have registered with a provider, provided all required information, self-certified their eligibility to use the service, and had their identities verified in accordance with uniform criteria. Specifically, when the Database is ready to accept IP CTS user data, the Commission or CGB will release a public notice initiating a data submission period for uploading registration information on all current IP CTS users. As was required of VRS providers, by the end of the data submission period, IP CTS providers must have transmitted the required information to the Database, in a format prescribed by the Database administrator, for all IP CTS users in service as of the last day of the period.<sup>48</sup> After the end of the period, an IP CTS provider will not be entitled to and shall not seek TRS Fund compensation for providing captioning service to any individual whose registration information has not been submitted to the Database.<sup>49</sup> Further, an IP CTS provider shall not seek compensation for service to users who do not pass the Database identification verification check.<sup>50</sup> However, as was the case with VRS users, if a provider submits the required information for an existing IP CTS user on or before the end of the data submission period, and verification by the Database has not been completed, the provider may request compensation for minutes of use incurred by such user after the deadline while verification is being completed, and the TRS Fund administrator will provide compensation for such minutes if the user is ultimately verified, including minutes of service that occur while an appeal of a user verification failure is pending.<sup>51</sup>

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user's self-certification of eligibility if a query of the Database shows a properly executed certification has not been filed. *Infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(v)); 47 CFR § 64.611(a)(3)(vi) (corresponding provision for VRS). As with VRS, for those users who do not have a social security number or Tribal Identification number, the IP CTS provider may submit a physical or electronic copy of documentation confirming the user's identity and U.S. residence, collected from the consumer pursuant to a waiver granted by the Consumer and Governmental Affairs Bureau (CGB or Bureau) in 2015. *See Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 1093, 1098-1100, paras. 13-14 (CGB 2015) (*Social Security Number Waiver Order*). For "Registered Location," we adopt a conforming amendment to 47 CFR § 64.601(a)(31) to extend the application of this term to include IP CTS providers. *See infra* Appendix B, Final Rules. Current rules require VRS and IP Relay providers to obtain a Registered Location from each registered user before initiating service. 47 CFR § 64.605(b)(4). IP CTS providers *may* obtain a Registered Location from a user at registration. For registered users that have not provided a Registered Location, the IP CTS provider must obtain the user's location at the start of an emergency call. *See* 47 CFR § 64.605(a)(2)(iii).

<sup>48</sup> *See infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(iv)); *see also* 47 CFR § 64.611(a)(4)(ii) (corresponding provisions for VRS).

<sup>49</sup> *See infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(iv)); *see also* 47 CFR § 64.611(a)(4)(ii).

<sup>50</sup> The Commission's rules prohibit VRS providers from seeking compensation for VRS calls "placed by" a VRS user who has not passed the Database verification check. 47 CFR § 64.615(a)(5)(iii). In amending this rule provision to apply to IP CTS, we modify the language to make clear that providers may not seek compensation for calls to or from an individual until the individual has passed the Database verification check. *See infra* Appendix B, Final Rules (adding 47 CFR § 64.615(a)(5)(iv)).

<sup>51</sup> *See Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 33 FCC Rcd 2062, 2064-65, paras. 7-11 (OMD CGB 2018) (*Database Deadline Extension Order*); *see also* Sorenson Feb. 7 *Ex Parte* at 9 (requesting a clarification regarding the compensability of minutes of service that occur pending a verification appeal). Sorenson also recommends allowing users who do not have a social security number or who fail the initial identification process to rely on additional verification documents other than those listed in prior CGB orders. Sorenson Feb. 7 *Ex Parte* at 11; *see also Social Security Number Waiver Order*, 30 FCC Rcd 1093; *Structure and Practices of the Video Relay Services Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 4806 (CGB 2015). At this time, we decline to address the identity verification process at this level of detail. We note generally that the parameters of verification are set by the Database administrator under Commission staff supervision, and that waivers of Commission rules may be

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18. For users who sign up for service after the end of the data submission period, similar procedures apply, except that providers must not register, or commence providing service to, such users until after the required registration data has been submitted *and* verified by the Database.<sup>52</sup> We expect that the administrator will coordinate with IP CTS providers, as it did with VRS providers, including conducting trials and tests of procedures for submitting and verifying user registration data. We direct the Managing Director to oversee the integration of IP CTS into the Database and to determine when the Database is ready to accept the submission of IP CTS user data.

19. *Removal of Registration Data from the Database.* As is required of VRS providers, if an IP CTS provider learns that a registered user is no longer eligible to receive service or a user makes a request to cancel service, we require the IP CTS provider to promptly request removal of such user's registration from the Database.<sup>53</sup> An IP CTS provider shall not seek TRS Fund compensation for captioning service to any individual whose registration information has been removed from the Database, or for whom the provider obtains information that the individual is not eligible to use IP CTS.<sup>54</sup>

20. *Data Privacy.* We conclude that the same privacy safeguards that currently protect Database data on VRS users also will be sufficient to protect the privacy of IP CTS users. Therefore, we reject the claims of some commenters, based on unrelated anecdotes regarding security violations affecting other consumer databases, that integrating IP CTS into the Database will create unacceptable privacy and security risks.<sup>55</sup> In setting up the Database for VRS, the Commission and the TRS Fund administrator consulted with stakeholders and adopted measures to ensure that registrants' privacy interests are fully protected. As is required of VRS providers, IP CTS providers must obtain users' prior consent to transmit to the Database the user information provided by the users to the providers, after notifying the users of the data to be submitted, the reason for disclosure, and the consequences of nondisclosure.<sup>56</sup> The Commission also has incorporated privacy by design into its data collection, limiting the information collected from providers to what is necessary to identify and verify users, and destroying the parts of such information it does not need to maintain long term.<sup>57</sup> For example, only the

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granted in appropriate circumstances. We are confident that within the bounds of the rules and orders issued by the Commission, the Database administrator will be able to establish a reasonable verification process and modify it over time, as appropriate, in light of relevant experience.

<sup>52</sup> This is the same requirement applicable to new VRS users. See 47 CFR §§ 64.611(a)(4)(iii), 64.615(a)(5)(ii). In the Further Notice, we seek comment on whether to amend the rules for verification of new IP CTS users to allow pre-verification commencement of service for a limited period. See *infra* paras. 34-35.

<sup>53</sup> See *infra* Appendix B, Final Rules (revising 47 CFR § 64.615(a)(3) to make it applicable to IP CTS).

<sup>54</sup> See *infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(3)); see also *2013 VRS Reform Order*, 28 FCC Rcd at 8652, para. 74 (corresponding requirement for VRS).

<sup>55</sup> See Sorenson 2013 FNPRM Comments at 25-27; see also Consumer Groups 2013 FNPRM Comments at 8-9 (also raising privacy concerns). The Commission currently complies with the requirements of the Privacy Act for protection of personally identifiable information collected in the Database, and the Privacy Act notice for the database encompasses all forms of TRS, including IP CTS. See <http://www.fcc.gov/encyclopedia/privacy-act-information>; Federal Communications Commission, Privacy Act System of Records, 80 Fed. Reg. 6963 (Feb. 9, 2015) (*Database System-of-Records Notice*).

<sup>56</sup> See 47 CFR § 64.611(a)(4)(i). VRS providers must keep a record of such consents. *Id.*; see also *infra* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(ii), applying the same consent requirements to IP CTS providers).

<sup>57</sup> *Database System-of-Records Notice*, 80 Fed. Reg. 6963; see also Federal Trade Commission, Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers at 27 (2012), <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-report-protecting-consumer-privacy-era-rapid-change-recommendations/120326privacyreport.pdf> (recommending companies limit data collect to that which is consistent with the context of a particular transaction or the consumer's relationship with the business, or as required or specifically authorized by law); Sorenson 2013 FNPRM Comments at 25.

last four digits of registrants' Social Security numbers are collected, and these truncated numbers are destroyed upon verification.<sup>58</sup> Further, the Database procedures strictly limit access to user registration data and include security safeguards to protect the proprietary and personal information in the database.<sup>59</sup>

21. Further, as a federal information technology system, the Database is reviewed and evaluated annually to ensure compliance with Federal Information Security Modernization Act (FISMA) requirements.<sup>60</sup> For example, under FISMA, the Commission's Chief Information Officer is responsible for carrying out assessments of information security risks; maintaining policies and procedures to minimize such risks and detecting and responding to security incidents; conducting security awareness training, testing and evaluating information security policies, procedures and practices on an annual or more frequent basis; and taking remedial action to address deficiencies.<sup>61</sup> In addition to FISMA and Privacy Act requirements, as with other databases the Commission has created to manage its programs, this database must be operated in accordance with the National Institute of Standards and Technology (NIST) guidance for secure, encrypted methods for obtaining, transmitting, storing, and disposing of program beneficiary information and certified program information.<sup>62</sup> The database also must have subscriber notification procedures in the event of a breach that are compliant with Department of Homeland Security<sup>63</sup> and guidance by the U.S. Office of Management and Budget (OMB).<sup>64</sup> For the above reasons, and because there is no record evidence demonstrating their insufficiency, we conclude that these layered privacy safeguards will be effective in protecting the personal data of registered IP CTS users—including senior citizens, whose personal data is maintained by many federal agencies.<sup>65</sup>

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<sup>58</sup> We also clarify that, as suggested by Sorenson, an IP CTS provider is not required to keep Social Security numbers and alternative documentation collected from registrants indefinitely. Sorenson Feb. 7 Ex Parte at 10-11. This sensitive data and documentation may be destroyed after the provider's next compliance audit. 47 CFR § 64.604(c)(5)(iii)(D)(6).

<sup>59</sup> See 2013 VRS Reform Order, 28 FCC Rcd at 8652-53, paras. 75-77. The security safeguards include limiting access to the database to authorized entities and then only for authorized purposes, prohibiting providers from conducting lookups in the database for marketing purposes, and granting the Managing Director security oversight and flexibility in specifying the form, structure, and other details of the database. *Id.* at 8652-53, paras. 76-77; see also 47 CFR § 64.615(a)(4) (limiting VRS provider access to the purposes provided in part 47, subpart F, and to determining whether registered user data is correct and complete); *infra* Appendix B, Final Rules (amending 47 CFR § 64.615(a)(4) to make it applicable to IP CTS providers).

<sup>60</sup> See generally 44 U.S.C. § 3551 *et seq.*

<sup>61</sup> 44 U.S.C. § 3554(b); see also *id.* § 3555 (requiring an annual independent evaluation that includes security testing). The Commission must annually report to the Office of Management and Budget, the Department of Homeland Security, and designated Congressional committees on the adequacy and effectiveness of information security policies, procedures, and practices, including the results of the annual audit. *Id.* § 3554(c).

<sup>62</sup> See, e.g., National Institute of Standards and Technology, NIST Special Publications, <http://csrc.nist.gov/publications/PubsSPs.html> (last visited Sept. 26, 2018). NIST guidance covers such topics, including but not limited to firewalls, boundary protections, protective naming conventions, adoption of secure user authentication requirements, usage restrictions, continuous monitoring, plans of actions and milestones, and proper continuity and disaster recovery plans.

<sup>63</sup> The United States Computer Emergency Readiness Team within the Department of Homeland Security issues regulations around breach. See, e.g., US-CERT, US-CERT Federal Incident Notification Guidelines, <https://www.us-cert.gov/incident-notification-guidelines> (last visited Dec. 31, 2018).

<sup>64</sup> See, e.g., OMB, M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information (2017) [https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12\\_0.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-12_0.pdf).

<sup>65</sup> See Sorenson 2013 FNPRM Comments at 26 (“Were a centralized database of IP CTS users compromised by hackers, this data would be a treasure trove for those who prey on the elderly.”).

22. *Costs.* We conclude that the costs of integrating IP CTS users into the Database will be limited, as discussed below, and that they are reasonable in light of the importance of ensuring that IP CTS is immune from the waste, fraud, and abuse that have plagued the TRS program in the past. First, as noted, the Database is already built and has been activated for VRS.<sup>66</sup> Thus, the administrator of this database already has established and tested procedures for collecting, organizing, verifying, protecting, and retrieving consumer registration data. While the database will increase in size, we expect that additional staffing and technology needs are likely to be incremental, rather than substantial, for the TRS Fund. In addition, having thoroughly prepared for the activation of the Database for VRS, the Database administrator is now well acquainted with the planning and preparation processes, including trials and tests of procedures for submitting and verifying user registration data, that necessarily precede the activation of the Database for a new service. The experience gained in populating the Database with VRS user information will enable the Commission and the Database administrator to work efficiently with IP CTS providers to integrate IP CTS user data into the database through the existing administration processes.<sup>67</sup>

23. We expect that the costs incurred by IP CTS providers will be limited as well.<sup>68</sup> Notably, IP CTS providers already have been collecting the user registration data that must be populated into the Database.<sup>69</sup> Therefore, we believe that additional expenses incurred by providers will be incurred primarily in contacting users to obtain consent for the submission of user data that already has been collected, uploading the data, and addressing any verification issues regarding such data. Further, IP CTS providers will not be requested to begin submitting user information to the database until the Managing Director determines that these processes have been effectively adapted for use by the IP CTS program and that there has been sufficient advance coordination with IP CTS providers to enable full understanding of such processes.

24. We anticipate that providers' compliance costs will be further limited because, in contrast to VRS, it appears that relatively few IP CTS users register with multiple providers.<sup>70</sup> Moreover, the absence of a per-call validation query requirement for IP CTS will substantially reduce providers'

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<sup>66</sup> *VRS Database Public Notice*, 32 FCC Rcd 10467.

<sup>67</sup> Therefore, we do not see a need to defer our decision on the integration of IP CTS into the Database pending further evaluation of the Database process. See Purple Communications Inc. Comments, CG Docket Nos. 13-24 and 03-123, at 4 (filed Nov. 4, 2013) (Purple 2013 FNPRM Comments).

<sup>68</sup> Although the *2013 IP CTS Reform FNPRM* asked for information about these costs, no commenter provides a specific estimate of these costs.

<sup>69</sup> See 47 CFR § 64.604(c)(9)(i)-(iv); *2013 IP CTS Reform Order*, 28 FCC Rcd at 13449, para. 64 (requiring IP CTS providers to collect from each new IP CTS user the user's full name, date of birth, last four digits of the consumer's social security number, address and telephone number and a self-certification of eligibility); *Social Security Number Waiver Order*, 30 FCC Rcd at 1098-1100, paras. 13-14 (granting a limited waiver to allow collection of alternative forms of identity documentation from individuals who do not have social security numbers).

<sup>70</sup> VRS providers reported that obtaining consumer consent for the submission of user registration data to the Database was an unusually resource-intensive process because many VRS consumers were confused about or did not accept the need to give consent to multiple VRS providers for the submission of personal data. *Database Deadline Extension Order*, 33 FCC Rcd at 2063-64, 2066, paras. 6, 14. Unlike with VRS and IP Relay, the Commission has not provided for the assignment of iTRS telephone numbers to IP CTS users, and there is no information in the record indicating that IP CTS users obtain multiple home telephone numbers from their telephone companies in order to subscribe to multiple IP CTS providers.

compliance costs.<sup>71</sup> Finally, IP CTS providers will benefit from the administrator's previous work in the VRS context to establish protocols, procedures, and safeguards that are now in place.<sup>72</sup>

25. For all these reasons, we conclude that IP CTS providers' one-time Database implementation costs will not be materially greater than those incurred by VRS providers.<sup>73</sup> For IP CTS, if the implementation cost per unique account identifier is the same as for VRS, IP CTS providers' one-time costs will be somewhat lower than for VRS, about \$10 million,<sup>74</sup> and their annual costs would total about \$3 million.<sup>75</sup> Even if the unit cost turns out to be somewhat higher for IP CTS—say, \$50 per unique identifier—the total implementation cost would still be in the same range as for VRS—a one-time cost of \$13.6 million and annual cost of \$3.6 million. Based on this range of estimates, the total cost of Database implementation over a three-year period is \$16-21 million.<sup>76</sup> By contrast, the total cost of IP CTS has ballooned to \$892 million budgeted for Fund Year 2018-19.<sup>77</sup> Assuming no further increase in IP CTS expenditures, these Database implementation costs represent 0.6-0.8% of the \$2.676 billion total expenditures on IP CTS in a three-year period. The rules adopted here provide needed accountability, given the marketing incentives inherent in the service. It is reasonable to conclude that these implementation costs are justified by the benefits of adding IP CTS to the Database, in light of the history of waste, fraud, and abuse in the TRS program generally,<sup>78</sup> and the fact that IP CTS is the most heavily used, fastest growing, and largest TRS program.

26. *Exogenous Cost Recovery.* Although we anticipate that providers' compliance costs will be limited, we will allow IP CTS providers to seek recovery of costs associated with implementing the Database during the interim IP CTS compensation period, in accordance with the Commission's exogenous cost recovery guidelines for VRS.<sup>79</sup> Under these guidelines, the general application of which to IP CTS is currently under consideration by the Commission, well-documented provider costs resulting

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<sup>71</sup> See *infra* para. 30.

<sup>72</sup> See, e.g., *Database Deadline Extension Order*, 33 FCC Rcd at 2064, para. 7 (describing the identity verification process developed for VRS).

<sup>73</sup> For VRS implementation of the Database, the Commission's Paperwork Reduction Act (PRA) supporting statement for 2017 estimated paperwork costs (not including per-call validation costs) of about \$11 million in one-time costs (assuming 300,000 existing users), or \$36.67 per user, and \$1.2 million in annual costs (assuming 30,000 new users per year), or \$40.00 per user. OMB Control Number 3060-1201, Video Relay Services, CG Docket Nos. 10-51 & 03-123, Supporting Statement, Item 12, parts (E)-(H), at 16-22 (2017), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=76121901> (2017 VRS PRA Supporting Statement) (estimating costs for Database implementation with respect to existing VRS users and new VRS users, as well as cost estimates relating to hearing point-to-point users and per-call validation, which are not included in the \$11 million and \$1.2 million totals). Sorenson's estimate of its total VRS implementation costs is consistent with the PRA total. Sorenson Feb. 7 *Ex Parte* at 6. The actual number of unique VRS telephone numbers registered in the Database during the 120-day initial data submission window was approximately 300,000, the same number reflected in the \$11 million PRA estimate.

<sup>74</sup> There are currently about 271,000 telephone numbers or other unique user identifiers signed up for IP CTS.  $271,000 \times \$36.67 = \$9,937,570$ .

<sup>75</sup> Approximately 72,000 new IP CTS user IDs are added annually.  $72,000 \times \$40.00 = \$2,880,000$ .

<sup>76</sup> As explained below, we are allowing one year for the initial loading of current users. Therefore, the first-year cost is covered by the "one-time" cost estimate.

<sup>77</sup> *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5801, para. 1.

<sup>78</sup> See *supra* note 43.

<sup>79</sup> See *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities Internet-based Captioned Telephone Service*, Report and Order and Order, 32 FCC Rcd 5891, 5925, para. 66 (2017); *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5845, para. 93.

from new TRS requirements are recoverable if they (1) belong to recoverable cost categories, (2) are new costs not factored into the rates for the 2018-19 and 2019-20 TRS Fund years, and (3) if unrecovered may cause a provider's current allowable-expenses-plus-operating margin to exceed its IP CTS revenues.<sup>80</sup> Database implementation costs, especially when incurred by smaller providers, may qualify for reimbursement under these guidelines, as they were not considered when the interim IP CTS compensation rates were determined.<sup>81</sup> Although the Commission has yet to determine whether the VRS exogenous cost recovery guidelines should be generally applicable to IP CTS, we will allow Database cost recovery in accordance with these guidelines during the interim compensation period in order to ensure that costs imposed by these new regulatory requirements are sufficiently addressed in provider compensation.<sup>82</sup> This interim cost recovery measure will remain in effect until June 30, 2020, the end of the interim compensation period, or until a new IP CTS compensation rate becomes effective, whichever is earlier.

### **B. Differences in the Database Rules Applicable to IP CTS and VRS**

27. We make the following changes in the Database rules to address issues that are unique to IP CTS and to apply lessons learned in activating the Database for VRS. First, in addition to supplying the information required of VRS providers, IP CTS providers must include one additional data element in their Database data submissions. Specifically, because IP CTS users' telephone numbers, unlike those of

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<sup>80</sup> *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5845, para. 93. In response to the Commission's request for comment on whether to apply the VRS exogenous cost guidelines to IP CTS, ClearCaptions emphasized the need to allow recovery of provider costs associated with implementing the Database, should the Commission take action to adopt such a requirement. ClearCaptions, LLC Comments, CG Docket Nos. 13-24 and 03-123, at 19-20 (filed Sept. 17, 2018); *see also* Letter from Tamar E. Finn, Counsel to ClearCaptions, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, PS Docket No. 18-261 and 17-239, at 2-3 (filed Feb. 8, 2019) (ClearCaptions Feb. 8 *Ex Parte* Letter) (requesting exogenous cost recovery for costs associated with Database implementation); Errata Letter from Tamar E. Finn, Counsel to ClearCaptions, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 2 (filed Feb. 1, 2019) (ClearCaptions Feb. 1 *Ex Parte* Errata Letter); Letter from David A. O'Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 1-2 (filed Feb. 7, 2019) (Hamilton Feb. 7 *Ex Parte* Letter) (supporting reimbursement for Database implementation costs); Letter from Christina O. Duarte, Director of Regulatory Affairs, MezmoCorp d/b/a InnoCaption to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 1 (filed Feb. 7, 2019) (InnoCaption Feb. 7 *Ex Parte* Letter) (supporting exogenous cost recovery for Database implementation costs).

<sup>81</sup> *See* InnoCaption Feb. 7 *Ex Parte* Letter at 1 (asserting that Database implementation costs will have a greater impact on small service providers); ClearCaptions Feb. 8 *Ex Parte* Letter at 2 (claiming Database implementation costs will disproportionately impact the smallest IP CTS providers).

<sup>82</sup> *See Sorenson Communications, Inc. v. FCC*, 765 F.3d 37, 50 (D.C. Cir. 2014) (under the Administrative Procedures Act, when adopting new speed-of-answer requirement for VRS providers, the Commission is required to consider the cost of compliance). As in the past, Providers seeking compensation for their actual reasonable costs of complying with implementation of the Database must submit to the TRS Fund administrator a reasonably detailed explanation of those costs incurred. *See First TRS Numbering Order*, 23 FCC Rcd at 11626-27, paras. 98-100; ClearCaptions Feb. 8 *Ex Parte* Letter at 3, App. A. Submitted costs may include additional costs incurred by a provider that directly relate to Database implementation, including costs incurred in: (1) developing, installing, and maintaining information systems needed for data formatting and transmission in accordance with Database specifications; (2) contacting users to obtain consent for the submission of user data or additional data required for Database verification, or (3) other activity necessitated by the Database requirements. Costs incurred in each calendar quarter should be submitted no later than the last day of the subsequent quarter. The provider should include documentation showing that these costs were not included in prior annual cost projections and that inability to obtain reimbursement for such costs will cause a provider's allowable-expenses-plus-operating margin for the current year to exceed its IP CTS revenues. The TRS Fund administrator, and if appropriate the Commission, will review submitted costs and may request additional supporting documentation to verify the expenses claimed, and may also disallow unreasonable costs.

VRS users, are not assigned specifically for IP CTS use and are not always the most effective means to access a user's account information,<sup>83</sup> providers currently use other identifiers to uniquely identify each IP CTS account. For users with landline display phones dedicated to IP CTS, providers maintain records of the electronic serial numbers of IP CTS devices and provide such serial numbers in the call detail records they submit for payment.<sup>84</sup> To identify users that access IP CTS via web and wireless applications, where no device is supplied to the user, providers assign an individual log-in ID and include this information in call detail records submitted for payment. Accordingly, because the record indicates that telephone numbers alone do not uniquely identify IP CTS users,<sup>85</sup> we amend our rules to provide that for IP CTS, the "necessary information for each registered user"<sup>86</sup> submitted to the Database shall include a unique account identifier, such as the electronic serial number of any device provided to the user, the user's log-in ID, or an email address.<sup>87</sup>

28. Second, for registered users of IP CTS who are minors, we amend our rules to clarify that the self-certification of eligibility must be signed on behalf of the minor by the minor user's parent or legal guardian, and, in addition to submitting all the registration data required for other users, the provider must include the name and (if different) address of that parent or legal guardian.

29. Third, for IP CTS, we will allow a one-year data submission period, which is longer than the 120 days (including extensions) that were allowed for VRS.<sup>88</sup> We make this change because the IP CTS user population appears to be larger than the number of VRS users<sup>89</sup> and has a disproportionate number of senior citizens,<sup>90</sup> many of whom are more likely to require assistance from family members or

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<sup>83</sup> Sorenson 2013 FNPRM Comments at 27-28 (stating that IP CTS numbers are assigned by telecommunications carriers and are not unique to a single user).

<sup>84</sup> See, e.g., Letter from David A. O'Connor, Counsel to Hamilton Relay, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24, 10-51, and 03-123, at 3, Attach. at 21, 24-25 (filed Jan. 16, 2015) (discussing and attaching Rolka Loube's TRS Fund filing instructions for monthly compensation requests).

<sup>85</sup> Sorenson 2013 FNPRM Comments at 27-28.

<sup>86</sup> 2013 VRS Reform Order, 28 FCC Rcd at 8714, para. 251.

<sup>87</sup> See Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(i)). Because providers already submit electronic serial numbers to Rolka for the most common form of IP CTS (wireline IP CTS with a dedicated phone) and maintain unique account identifiers for other forms of IP CTS, codifying this requirement effectuates our proposal to "require each [Internet-based TRS] provider to populate the [Database] with the necessary information for each registered user." 2013 VRS Reform Order, 28 FCC Rcd at 8714, para. 251; see also 2013 IP CTS Reform FNPRM, 28 FCC Rcd at 13480, para. 128 (describing the Database capabilities for VRS to include a capability to "receive and process registration information provided by VRS providers *sufficient to identify unique VRS users*") (emphasis added); *id.* at 13480, para. 129 (seeking comment on, among other things, "any differences between VRS and IP CTS that might necessitate adjustment in the way that information is entered into the database").

<sup>88</sup> See Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(iv)). Although the Commission's rules allowed only 60 days for this period for VRS, by waiver, this period was extended for additional periods, to a total of 120 days. See 47 CFR § 64.611(a)(4)(ii), (iii); *Database Deadline Extension Order*, 33 FCC Rcd at 2062, para. 1; *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 33 FCC Rcd 2987, 2987, para. 1 (OMD CGB 2018).

<sup>89</sup> This appears to be the case in light of the higher total usage of IP CTS. See, e.g., Rolka Loube, *Interstate TRS Fund Payment Formula and Fund Size Estimate*, CG Docket Nos. 03-123 and 10-51, Attach. at Exh. 2 (filed May 4, 2018) (2018 TRS Rate Report) (projecting 425.8 million minutes of demand for IP CTS compared to 109.8 million minutes of demand for VRS in Fund Year 2018-19 (July 1, 2018-June 30, 2019)).

<sup>90</sup> See 2018 IP CTS Reform R&O, DR, FNPRM, and NOI, 33 FCC Rcd at 5863, para. 139 (noting that most IP CTS users are predominantly seniors); Consumer Groups 2013 FNPRM Comments at 10 (stating that many IP CTS users are elderly and over 80 years old); Letter from John T. Nakahata, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 1 (filed Aug. 22, 2013) (Sorenson Aug. 22, 2013 *Ex*

(continued....)

others in providing written consent for the submission of information to the Database,<sup>91</sup> and in providing supplemental information to the extent it is needed to complete verification.<sup>92</sup> We conclude, therefore, that a one-year window will provide an ample period of time within which to complete the data submission process, and we do not anticipate extending it. In the event that a provider is experiencing unusual difficulty in collecting user consents or otherwise preparing to comply, and finds that it needs to seek a waiver of the deadline, we expect that the provider will make such a request, with a detailed showing and justification, no later than 120 days before the end of the data submission period.

30. Fourth, we do not apply to IP CTS the per-call validation requirement of section 64.615(a) of the rules, whereby VRS providers must query the Database at the beginning of each call to confirm that a party on the video side of the call is a registered VRS user.<sup>93</sup> Unlike in VRS, there is no dial-around calling in IP CTS, and so there is less need to have a provider query a central database in order to validate an IP CTS call made by a user who is not registered with that provider.<sup>94</sup> Further, because IP CTS providers usually do not assign telephone numbers to registered users and often do not

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*Parte*) (“the average CaptionCall customer is 74 years old, and more than a third of CaptionCall’s customers are over 80 years old”); *see also* Letter from John T. Nakahata, Counsel to CaptionCall, LLC and Sorenson Communications, LLC, to David Schmidt, TRS Fund Program Coordinator, FCC, CG Docket No. 13-24, Attach. at 3 (filed Dec. 21, 2017) (Sorenson Dec. 21, 2017 *Ex Parte*); Sorenson and CaptionCall Paperwork Reduction Act Comments, CG Docket Nos. 13-24 and 03-123, at 8 (filed Nov. 25, 2013) (Sorenson 2013 Paperwork Reduction Act Comments) (both noting that IP CTS users are mostly elderly).

<sup>91</sup> *See* Appendix B, Final Rules (adding 47 CFR § 64.611(j)(2)(ii), requiring IP CTS providers to obtain registered users’ consent to submit data to the Database); 47 CFR §64.611(a)(4)(i) (corresponding provision for VRS providers).

<sup>92</sup> *See Database Deadline Extension Order* 33 FCC Rcd at 2063-64, para. 6, n.12 (noting that, during the 60-day period for submission of VRS user data to the Database, VRS providers had to re-contact some users to collect supplemental information where the initial data submission proved insufficient to pass the Database’s automated verification process). In addition, we recognize that, as a practical matter, VRS providers had substantially more than four months within which to obtain user consents and otherwise prepare for VRS implementation before the data submission window actually opened. Sorenson Feb. 7 *Ex Parte* at 8-9. On the other hand, as noted above, the aspect of VRS implementation that appeared to cause the most difficulty for providers—the need for consumers registered with multiple providers to provide consent for data submissions by each provider—is unlikely to loom as large for IP CTS, because the use of multiple accounts is less prevalent. *See supra* para. 24. In addition, as also noted above, *supra* para. 18, we expect that the Administrator will coordinate with IP CTS providers, as it did with VRS providers, including conducting trials and tests of procedures for submitting and verifying user registration data. Therefore, as a practical matter, providers will have substantially more than a year to collect user consents and otherwise prepare to comply. Accordingly, we set the data submission period at one year, rather than the two years recently suggested by Sorenson. Sorenson Feb. 7 *Ex Parte* at 8-9.

<sup>93</sup> *See* 47 CFR § 64.615(a)(1) (requiring VRS providers to query the Database at the beginning of each call to confirm that a party on the video side of the call is a registered VRS user). As noted earlier (*supra* note 16), VRS providers are not yet required to comply with the VRS per-call validation rule, as the necessary Database function has not yet been implemented for VRS. *See VRS Database Public Notice*, 32 FCC Rcd at 10468. In 2017, the Commission proposed to amend section 64.615(a)(1) to require that VRS providers query either the Database or the TRS Numbering Directory, as directed by the Commission or the TRS Fund Administrator. *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking and Order, 32 FCC Rcd 2436, 2485, paras. 127-28 (2017).

<sup>94</sup> Under the VRS interoperability rule, a VRS provider chosen by a user as his or her default provider has an obligation to allow its registered users to place calls through other providers. 47 CFR § 64.621(a)(1), (2). When a dial-around call is placed, the VRS provider dialed by the user has no means to verify the registered status of the user, other than by accessing an external database such as the Database. By contrast, IP CTS providers are not subject to the VRS interoperability rule and have no obligation to allow dial-around calling via other IP CTS providers.



control the connection of calls, a requirement to query the Database for each call could pose practical difficulties for IP CTS that are not present for VRS.<sup>95</sup>

31. Under the rules we adopt in this Report and Order, an IP CTS provider is not entitled to and shall not seek compensation for service to, users whose registration data has not been submitted to the Database, has not passed the Database identification verification check, or has been removed from the Database.<sup>96</sup> Thus, as a matter of maintaining compliance with these requirements, it will be in the interest of an IP CTS provider, before requesting compensation for any call, to check its own records and take any other steps it deems necessary to confirm that the user's registration data was submitted to and entered in (and not removed from) the Database prior to the call. We do not find that there is a need to dictate the specific timing or procedure by which an IP CTS provider confirms compliance with these rules.<sup>97</sup> Accordingly, IP CTS providers will not be required to send a specific call validation query to the Database or the TRS Numbering Directory at the beginning of each call.<sup>98</sup>

32. Fifth, we adopt an exception to the registration and verification requirements, to allow IP CTS providers to be compensated for captioning calls for users whose data has not been entered in the Database when such calls are made to or from temporary, public devices set up in emergency shelters. As we stated in adopting an analogous exception in the *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, we take this step to ensure that users with hearing loss will continue to have access to telephone communications devices during and in the aftermath of natural disasters and other emergencies.<sup>99</sup> However, IP CTS providers must register such devices in the Database before commencing service to such devices, by providing all information reasonably requested by the Database administrator, including the telephone number and location of the device. When service for such a device is initiated and terminated, the IP CTS provider must transmit the dates of activation and termination.<sup>100</sup> Before requesting Fund compensation for calls involving such a device, the provider must check its own records to validate that the device was registered with the Database prior to the call.

#### IV. FURTHER NOTICE OF PROPOSED RULEMAKING

##### A. Supporting Data for IP CTS Compensation Requests

33. To facilitate compensation of providers by the TRS Fund administrator, we propose to amend our rule specifying the data accompanying compensation requests by TRS providers,<sup>101</sup> to

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<sup>95</sup> See, e.g., Hamilton 2013 FNPRM Comments at 11; Sorenson 2013 FNPRM Comments at 24, 27-28 (arguing that, where the IP CTS provider cannot control the connection of calls, a delay in call validation could cause the user to lose captions at the beginning of the call).

<sup>96</sup> See *supra* paras. 16-17. Moreover, the existing rules prohibit IP CTS providers from billing the TRS Fund for unregistered users. 47 CFR § 64.604(c)(9)(i) (IP CTS providers must obtain registration information from a consumer before requesting compensation from the TRS Fund for service provided to the consumer); *id.* § 64.604(c)(9)(xi) (IP CTS providers "shall not receive compensation for minutes of IP CTS use generated on or after February 24, 2015, by any IP CTS user who has not been registered"); see also *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5826, paras. 45-46 (adopting a prohibition against IP CTS providers engaging in practices that the provider knows or has reason to know will cause or encourage TRS use by unregistered users).

<sup>97</sup> In instances where an IP CTS provider is unsure whether its own records regarding a user's Database registration are consistent with those of the Database itself, the provider may query the Database for confirmation. See *infra* Appendix B, Final Rules (revising 47 CFR § 64.615(a)(4) to make it applicable to IP CTS providers).

<sup>98</sup> 47 CFR § 64.615(a)(1).

<sup>99</sup> *2018 IP CTS Reform R&O, DR, FNPRM, and NOI*, 33 FCC Rcd at 5827, para. 46 (exempting emergency shelter devices from the prohibition on providing IP CTS to unregistered users).

<sup>100</sup> See *id.*

<sup>101</sup> 47 CFR § 64.604(c)(5)(iii)(D)(2).

expressly state that IP CTS providers must submit a unique account identifier, such as the electronic serial number of the user's device, the user's log-in ID, or the user's email address, to the TRS Fund administrator in monthly call detail records submitted for compensation. As we explained in the Report and Order, IP CTS users' telephone numbers, unlike those of VRS users, are not assigned specifically for IP CTS use and are not always the most effective means to access a user's account information.<sup>102</sup> Therefore, IP CTS providers currently use other identifiers to uniquely identify each IP CTS account, such as electronic serial numbers of IP CTS devices, log-in IDs, or email addresses. Further, we have amended our rules in the accompanying Report and Order to require IP CTS providers to include that device number—and for those forms of IP CTS where an electronic serial number is not available, the user's log-in ID, email address, or other unique account identifier—in their data submissions to the Database. We believe amending our rules to expressly provide that the same information be included in call detail records will enable the Fund administrator to more efficiently verify compensation requests, by matching call data with the corresponding user data in the Database. We also believe that the costs of collecting and providing this information as part of compensation requests will be minimal, especially because IP CTS providers are already providing an electronic serial number in call detail records for the vast majority of calls.<sup>103</sup> We seek comment on these assumptions and on the costs and benefits of adopting this proposal. We also seek comment on whether other changes are warranted in the data elements required with IP CTS providers' compensation requests.

#### **B. Providing Service to New and Porting Users Pending Database Verification**

34. To eliminate unnecessary inconvenience to IP CTS registrants, without a significant increase in the risk of waste, fraud, and abuse, we propose to allow IP CTS providers to provide service to new and porting users for up to two weeks pending the completion of identity verification by the Database administrator. A petition is pending before the Commission to address this issue for VRS registrants and Sorenson has urged that we adopt this approach for IP CTS.<sup>104</sup> We believe this change is needed to ensure that service to new and porting IP CTS users can be commenced efficiently and without undue delay or disruption of service, in order to facilitate competition and ensure the functional equivalence of this service.<sup>105</sup> Compensation for calls placed or received by the user during this period would be paid only if the user's identity is ultimately verified.

35. Experience with VRS user registration has shown that identity verification for most users is completed within hours of data submission to the Database, but for some users, verification can take longer, e.g., due to technical problems or because the user's identity cannot be verified without the submission of additional information.<sup>106</sup> Under the proposed rule change, a consumer would not be subjected to a delay in commencement of service as a result of verification issues that are often beyond the consumer's control.<sup>107</sup> We believe that any resulting risk of waste, fraud, or abuse is minimal

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<sup>102</sup> See *supra* para. 27.

<sup>103</sup> See *supra* para. 27.

<sup>104</sup> See Sorenson Feb. 7 *Ex Parte* at 10, citing ASL Services Holdings, LLC, et al., Joint Petition of VRS Providers for a Waiver, CG Docket Nos. 10-51 and 03-123 (filed June 20, 2018) (VRS Providers Petition).

<sup>105</sup> For the provision of IP CTS in configurations where (1) a user initiates an IP CTS call by connecting to the IP CTS provider via the Internet—i.e., generally web and wireless-based forms—and (2) the IP CTS provider assigns the user a NANP telephone number, the IP CTS provider could assign a telephone number and begin service to a new or porting user immediately after registration. For porting users, the number assigned could be a temporary number, if the user does not wish to port his or her permanent number until after identity verification is completed. See VRS Providers Petition at 11.

<sup>106</sup> Sorenson Feb. 7 *Ex Parte* at 10; VRS Providers Petition at 7-8.

<sup>107</sup> See Sorenson Feb. 7 *Ex Parte* at 10; VRS Providers Petition at 8.

because, under the proposal, no compensation may be requested or paid until the user's identity has been successfully verified.<sup>108</sup> We seek comment on the costs and benefits of this proposal.

### C. IP CTS Emergency Call Handling Requirements

36. We propose to amend the Commission's rules to simplify the handling of 911 calls placed by IP CTS users who initiate calls via the Internet—generally, web- and wireless-based IP CTS—by eliminating any need for IP CTS providers to involve their CAs in 911 call handling and to collect and transmit unnecessary information.<sup>109</sup> We also seek comment on whether any changes are needed in the scope of the 911 call handling rule applicable to IP CTS. If so, we seek comment on whether and how such changes would affect the 911 responsibilities of such underlying service providers.

37. The current rule requires an IP CTS provider, among other things, to transmit the caller's name, the relay provider's name, the CA's callback number, and the CA's identification number, and to initiate the reconnection of disconnected calls.<sup>110</sup> These requirements, which were devised to address problems that arose in early versions of VRS and IP Relay, have posed significant implementation issues for providers of web and wireless based IP CTS, largely due to the limited communication capabilities of IP CTS CAs.<sup>111</sup> Further, in light of CGB's prior determination in the *InnoCaption Waiver Order*, we believe that the alternative approach proposed below would provide more effective implementation of the policy underlying the rule.<sup>112</sup>

38. First, we propose to eliminate the current requirements for an IP CTS provider to deliver to the PSAP the name of the caller, the name of the provider, and an identification number and callback

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<sup>108</sup> See Sorenson Feb. 7 *Ex Parte* at 10; VRS Providers Petition at 6, 9-10, 12-13.

<sup>109</sup> Emergency calling requirements for TRS providers are currently found in sections 64.604(a)(4) and 64.605 of the Commission's rules. 47 CFR §§ 64.604(a)(4), 64.605. The 911 call-handling requirements of section 64.605(a) apply only to those forms of IP CTS where a call is initiated, or can be initiated, by the user contacting the provider via the Internet. They have no application to the most common form of IP CTS, where the consumer uses an ordinary wireline voice service connection—which is otherwise subject to 911 obligations—to place a voice call to the called party and separately contacts the IP CTS provider via broadband to receive captions. See *Emergency Call Handling Order*, 23 FCC Rcd at 5256-57, para. 1 n.7. In the latter case, there is no need for the relay provider to play a role in call setup. *Id.* The Commission recently proposed a general consolidation of its 911 rules in Part 9. *Implementing Kari's Law and Section 506 of RAY BAUM'S Act; Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems*, Notice of Proposed Rulemaking, PS Docket Nos. 18-261 and 17-239, FCC 18-132, at 36-38, paras. 103-09 (September 26, 2018) (*MLTS 911 and Dispatchable Location NPRM*). To the extent that rule amendments are adopted in this proceeding regarding IP CTS provider's 911 responsibilities, they will be codified in the appropriate part of the rules, to conform to any changes made in these respective proceedings.

<sup>110</sup> 47 CFR § 64.605(a)(2)(iv), (v). The rule also contains specific requirements regarding the determination of the caller's location, the routing of a 911 call to the appropriate PSAP based on that location, and the transmission of location information to the PSAP. 47 CFR § 64.605(a)(2)(i), (iii), (iv). This FNPRM does not propose any change in such requirements. In the *MLTS 911 and Dispatchable Location NPRM*, the Commission has sought comment on whether various categories of service providers, including TRS providers, can develop the means to provide updated dispatchable location, including, among other things, the feasibility of having TRS devices or networks support the automatic provision of real-time dispatchable location without requiring registration or manual location updates by the end user. *MLTS 911 and Dispatchable Location NPRM* at 27, para. 80. The Commission also proposed to allow TRS providers flexibility in implementing dispatchable location solutions, and to fall back to Registered Location options when real-time dispatchable location is not feasible. *Id.* at 27-28, para. 81. We expect that issues regarding location determination by IP CTS providers, as well as other TRS providers, will be addressed in that docket, and accordingly, we do not invite comment on those issues here.

<sup>111</sup> See *supra* paras. 10-11.

<sup>112</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030-31, paras. 18-21.

number for the CA handling the call.<sup>113</sup> Instead, we propose to require an IP CTS provider to provide a telephone number to the PSAP that enables the PSAP to call the user back directly, while ensuring that the user receives captions on the callback. This proposed change would decrease the time and cost associated with responding to emergencies reported by web- and wireless-based IP CTS users by relieving both IP CTS providers and PSAPs of the need to collect, transmit, and review information that appears to be unnecessary for handling a 911 call.

39. Second, we propose to remove the current requirement for an IP CTS provider to initiate the reconnection of a disconnected 911 call. IP CTS CAs generally do not have the capability to connect calls. Accordingly, to comply with the reconnection requirement, IP CTS providers have either configured a unique setup for 911 calls or have used a complicated work-around.<sup>114</sup> Further, we believe that the provider's assignment to users of an IP CTS-specific telephone number that is transmitted to the PSAP with an emergency call will render it unnecessary for the IP CTS provider to be involved in reconnecting disconnected 911 calls.<sup>115</sup>

40. We believe these amendments are likely to save precious time during an emergency. Less time will be wasted in obtaining unnecessary information from callers, and 911 call takers will be able to reconnect with the caller more rapidly rather than waiting for the TRS provider to reestablish the call.<sup>116</sup> We also believe that implementing this proposal will impose minimal costs—and may actually produce net cost savings, given the elimination of unnecessary CA involvement in call set-up and the reduced amount of information that an IP CTS provider will need to collect and transmit during an IP CTS call.<sup>117</sup> Multiple IP CTS providers have sought waivers of the Commission rules to implement the changes we propose, suggesting that in their evaluation, the benefits of the proposal outweigh the costs.<sup>118</sup> We seek comment on these proposals and our underlying assumptions. We also seek comment on the length of time that would be needed for IP CTS providers to come into compliance with the modified rule.

41. *Technical Feasibility of Assigning NANP Numbers.* To implement our proposal, IP CTS providers must be able to provide their web- or wireless-based users with NANP telephone numbers that enable the users to receive captioned callbacks from a 911 PSAP. Although the record suggests that the assignment of such NANP numbers for the purpose of receiving IP CTS calls is feasible,<sup>119</sup> we seek comment on whether providing such telephone numbers poses any technical, administrative, legal, or other challenges for IP CTS providers generally and how such issues could be resolved.

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<sup>113</sup> See 47 CFR § 64.605(a)(2)(iv).

<sup>114</sup> See Hamilton 911 Waiver Petition at 3-4; ClearCaptions 911 Waiver Petition at 4; Sprint 911 Waiver Petition at 2-3; see also *InnoCaption Waiver Order*, 31 FCC Rcd at 7031, para. 20.

<sup>115</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030, para. 19.

<sup>116</sup> See *Id.* This may also avoid confusion, as in most circumstances the PSAP is better positioned to determine whether a callback is needed and to initiate such a call.

<sup>117</sup> See, e.g., *InnoCaption Waiver Order*, 31 FCC Rcd at 7030, para. 18 (finding that InnoCaption's provision of a user-assigned callback number enables the PSAP to call the user back directly, rather than directly involving the CA and the TRS provider in reconnection of the call, and makes it unnecessary to transmit the additional reconnection information specified by the rule); *id.* at 7031, para. 20 (finding that requiring InnoCaption to configure its 911 arrangements so that its CAs can initiate and receive 911 callbacks would impose an unnecessary burden, requiring investment in additional CA communications capabilities, as well as training, which would be used solely for 911 calls).

<sup>118</sup> *InnoCaption Waiver Order*, 31 FCC Rcd 7023; Hamilton 911 Waiver Petition; ClearCaptions 911 Waiver Petition; Sprint 911 Waiver Petition.

<sup>119</sup> See, e.g., *InnoCaption Waiver Order*, 31 FCC Rcd at 7028, para. 12 (noting that InnoCaption assigns a ten-digit NANP telephone number to each of its IP CTS users).

42. *Scope of the Rule.* We also seek comment on how to define the category of IP CTS providers that would be subject to the proposed 911 call handling rule. Should we continue to define this class as “providers of forms of IP CTS that allow users to initiate calls by contacting the provider over the Internet,” in accordance with the *Emergency Call Handling Order*?<sup>120</sup> Are there alternative formulations that would be more appropriate? For example, should we define this provider class as “IP CTS providers that provide the voice connection, as well as captions, for an IP CTS call”? To the extent that the current definition is changed to narrow (or expand) the category of IP CTS providers covered by section 64.605, how would that affect the 911 obligations of other service providers—such as the underlying carriers that transmit IP CTS calls—and what are the costs and benefits of such a shift in responsibility for 911 calls?

43. Or, as Sorenson has argued, should an IP CTS provider that provides a voice connection, e.g., through either a voice over Internet Protocol or commercial mobile radio service, be deemed a VoIP or CMRS reseller subject to the emergency call handling rules applicable to such resellers?<sup>121</sup> We note that, to the extent that an IP CTS provider is deemed to be a VoIP or CMRS reseller, the provider’s 911 location determination obligations are likely to be affected. For example, if an IP CTS provider is deemed a VoIP reseller, the provider would be required to determine a 911 caller’s location by means of the caller’s Registered Location,<sup>122</sup> rather than by asking the caller for his or her location before routing the call to a PSAP, as provided for in section 64.605(a).<sup>123</sup> Similarly, an IP CTS provider that is deemed a CMRS reseller would be required to determine a 911 caller’s location in accordance with section 20.18.<sup>124</sup> In the event that an IP CTS provider is deemed to be a VoIP or CMRS reseller, what rule modifications, if any, would be necessary to maintain the IP CTS provider’s obligation to provide captions—and to give such calls priority over other captioned calls<sup>125</sup>—for 911 calls initiated by its registered users, as well as for callbacks by the 911 PSAP?

## V. ORDER ON EMERGENCY CALL HANDLING REQUIREMENTS

44. In response to several petitions by IP CTS providers, we grant a temporary, partial waiver of the emergency call-handling requirements of sections 64.605(a)(2)(iv) and (v) of the Commission’s rules. This waiver applies only to the provision of IP CTS in configurations where (1) a user initiates an IP CTS call by connecting to the IP CTS provider via the Internet—i.e., generally web and wireless-based forms—and (2) the IP CTS provider assigns the user a NANP telephone number that the provider can transmit with a 911 call and that enables a PSAP, designated statewide default answering point, or appropriate local emergency authority to call the user back via IP CTS.<sup>126</sup> In 2016, CGB granted

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<sup>120</sup> See *infra* Appendix C, Proposed Rules (proposing to add 47 CFR § 64.605(a)(3)); *Emergency Call Handling Order*, 23 FCC Rcd at 5256-57, para. 1 n.7.

<sup>121</sup> See Letter from John T. Nakahata, Counsel to CaptionCall, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123, at 2 (filed Apr. 16, 2018) (Sorenson 911 Letter); 47 CFR §§ 9.5, 20.18; see also *MLTS 911 and Dispatchable Location NPRM* at 36-38, paras. 103-09 (proposing to consolidate these rules and revise their location determination provisions).

<sup>122</sup> 47 CFR § 9.5.

<sup>123</sup> Given the limited capabilities of IP CTS CAs, discussed, above, one possible approach to obtaining the caller’s location under section 64.605(a) is described in the *InnoCaption Waiver Order*. Emergency IP CTS calls are routed to a national call center operated by a Wireline 911 Network Provider, where an operator requests the 911 caller’s location, transfers the call to the appropriate PSAP, and delivers the location and other required information to the PSAP. See *InnoCaption Waiver Order*, 31 FCC Rcd at 7028, para. 12.

<sup>124</sup> 47 CFR § 20.18.

<sup>125</sup> See 47 C.F.R. § 64.605(a)(2)(ii) (requiring an Internet-based TRS provider to “implement a system that ensures that the provider answers an incoming emergency call before other non-emergency calls”).

<sup>126</sup> For simplicity and clarity, in this Order we use the term “PSAP” to refer to any of these entities to which a 911 call is connected, even if that entity is not technically a “Public Service Answering Point.”

InnoCaption a partial waiver of these requirements, finding that strict compliance with the rule would cause significant and unnecessary hardship and that compliance with the above conditions would provide more effective implementation of the policy underlying the rule.<sup>127</sup> Subsequently, three other IP CTS providers requested similar waivers.<sup>128</sup>

45. *Waiver Standard.* A Commission rule may be waived for “good cause shown.”<sup>129</sup> In particular, a waiver is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.<sup>130</sup> In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>131</sup> Such a waiver 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.<sup>132</sup> In demonstrating whether a waiver is warranted, the burden of proof rests with the petitioner.<sup>133</sup>

46. *Discussion.* In the context of the specific forms of IP CTS described above, we find that there are special circumstances and good cause for a temporary waiver of the emergency call-handling rule’s requirements to deliver to a PSAP the name of the relay provider, the CA’s callback number, and the CA’s identification number and to immediately reconnect a disconnected 911 call. This waiver is applicable to any IP CTS provider that assigns the user—and delivers to the PSAP with a 911 call—a telephone number that enables the PSAP to call the user back directly, while ensuring that the user receives captions when called back.

47. As explained in the *InnoCaption Waiver Order*, the circumstances in which IP CTS providers must comply with the emergency call handling rule are different from those considered by the Commission when the rule was adopted.<sup>134</sup> These requirements were initially devised to address problems with 911 calling that arose in early versions of VRS and IP Relay, before the assignment of

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<sup>127</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030-31, paras. 18-21.

<sup>128</sup> See Hamilton 911 Waiver Petition; ClearCaptions 911 Waiver Petition; Sprint 911 Waiver Petition; see also CaptionCall, LLC, Petition for Declaratory Ruling, or, in the Alternative, Waiver with Respect to 47 C.F.R. § 64.605(a), and for Clarification with Respect to 47 C.F.R. § 64.605(a), CG Docket Nos. 13-24 and 03-123, (filed May 18, 2015) (Sorenson 911 Petition). In this petition Sorenson requests different relief from the other petitioners, in order to address compliance issues that it raises regarding the determination of a caller’s location. Specifically, Sorenson requests clarification, or in the alternative, a waiver, to confirm that its compliance with the interconnected VoIP emergency call routing rules, 47 CFR § 9.5, is sufficient to satisfy the TRS emergency call-handling rule, i.e., to confirm that Sorenson may rely on the caller’s Registered Location to identify a 911 caller’s location and route 911 calls to the appropriate PSAP. Sorenson 911 Petition at 7-12. We believe the Commission’s current rules are clear that an IP CTS provider may rely on Registered Location data to route 911 calls and find no need to issue a declaratory ruling or, in the alternative, grant the requested waiver. See 47 CFR § 64.605(a)(2)(iii) (requiring an Internet-based TRS provider to request a caller’s name and location at the beginning of a call “unless the Internet-based TRS provider already has, or has access to, a Registered Location for the caller”). In the Further Notice, we invite comment on the broader issue raised by Sorenson’s petition regarding the proper scope of application of the TRS emergency call handling rules to IP CTS providers. In addition, as noted in the Further Notice, we expect that any further changes in the rules governing location determination will be decided in the MLTS/Location proceeding. See *supra* note 110.

<sup>129</sup> 47 CFR § 1.3.

<sup>130</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>131</sup> *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.

<sup>132</sup> *Northeast Cellular*, 897 F.2d at 1166; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-128 (D.C. Cir. 2008).

<sup>133</sup> *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

<sup>134</sup> *InnoCaptions Waiver Order*, 31 FCC Rcd at 7029, para. 16.

NANP numbers to users of those services,<sup>135</sup> and were designed to ensure that, if disconnected during a 911 call, VRS and IP Relay users could be reconnected with the PSAP.<sup>136</sup> For example, providers were required to deliver “the CA’s callback number” to the PSAP.<sup>137</sup> In adopting the rules, however, the Commission did not discuss the manner in which they would be implemented for IP CTS—a service that was not authorized until after the close of the comment cycle in the emergency calling proceeding<sup>138</sup>—other than to state that the requirements would apply to IP CTS “only in circumstances where the call is initiated, or can be initiated, by the user contacting the provider via the Internet.”<sup>139</sup> As explained below, we find persuasive the claims of the petitioners that the application of these requirements to their provision of IP CTS under such circumstances raise the same kinds of compliance burdens, unnecessary procedures, and public safety risks that are described in the *InnoCaption Waiver Order* and that provided good cause for the Bureau to grant a waiver to InnoCaption.<sup>140</sup>

48. It is apparent that implementation of sections 64.605(a)(2)(iv) and (v) in the IP CTS context poses major challenges that are not present in the VRS and IP Relay context. In requiring delivery to the PSAP of “the CA’s callback number” and “the CA’s identification number,” the rules presume that CAs can play a central role in reconnecting disconnected calls. This approach is feasible in the VRS and IP Relay context, where the CA is able to participate in call setup and communicates in both directions with both users. With IP CTS, however, the CA is not part of the call stream,<sup>141</sup> and the CA’s communication with the parties to an IP CTS call is in only one direction. As explained above, the CA hears the voice of the hearing party but does not speak to that party, and provides captions to, but does not hear, the IP CTS user.<sup>142</sup> As a result, it is impractical to involve an IP CTS CA in collecting and forwarding caller information or in reconnecting disconnected calls. To comply with this requirement, IP CTS providers have either configured a unique setup for 911 calls or used a complicated work-around.<sup>143</sup> According to Hamilton, while it has managed to comply with the rule’s reconnection provision, compliance is difficult “because it is not always apparent whether an emergency call has simply ended and disconnected in the normal course, or whether it has been prematurely disconnected.”<sup>144</sup>

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<sup>135</sup> Prior to December 31, 2008, none of these service providers assigned NANP telephone numbers to users. See *Emergency Call Handling Order*, 23 FCC Rcd at 5256-57, 5259-63, paras. 1, 8-12.

<sup>136</sup> See *InnoCaptions Waiver Order*, 31 FCC Rcd at 7029, paras. 16-17.

<sup>137</sup> 47 CFR §§ 64.605(a)(2)(iv). Because NANP numbers are now assigned to VRS and IP Relay users, VRS and IP Relay providers are no longer subject to this requirement. They are now required, in most cases, to route 911 calls to PSAPs via the Wireline E911 Network, and to transmit the caller’s VRS or IP Relay telephone number to the PSAP, via automatic number identification (ANI). See 47 CFR §§ 64.605(b)(2)(ii). Currently, VRS and IP Relay providers are only required to deliver “the CA’s callback number” in those cases where the call cannot be routed to the PSAP via the Wireline E911 Network, either because the caller’s Registered Location is not “in a geographic area served by a Wireline E911 Network,” or because the Registered Location is not “available to the provider handling the call.” See 47 CFR §§ 64.605(a)(1), (b)(1). IP CTS providers, however, are still subject to a requirement to transmit a callback number for the CA handling the call. 47 CFR § 64.605(a)(2)(iv).

<sup>138</sup> *InnoCaptions Waiver Order*, 31 FCC Rcd at 7029, para. 16 n.41.

<sup>139</sup> *Emergency Call Handling Order*, 23 FCC Rcd at 5263, para. 13 n.59.

<sup>140</sup> See *InnoCaptions Waiver Order*, 31 FCC Rcd at 7030-31, paras. 18-21.

<sup>141</sup> Sorenson 911 Petition at 2.

<sup>142</sup> *Supra* para. 11; see also *InnoCaptions Waiver Order*, 31 FCC Rcd at 7031, para. 20, n.48; Sorenson 911 Petition at 2-3.

<sup>143</sup> See Hamilton 911 Waiver Petition at 3-4; ClearCaptions 911 Waiver Petition at 4; Sprint 911 Waiver Petition at 2-3; see also *InnoCaption Waiver Order*, 31 FCC Rcd at 7031, para. 20.

<sup>144</sup> Hamilton 911 Waiver Petition at 4.

Consequently, the CA is burdened with making a subjective determination whether an emergency call was disconnected intentionally or inadvertently.

49. We are persuaded that the requirements at issue and the burdens they impose on IP CTS providers are rendered unnecessary if an IP CTS provider assigns users a ten-digit NANP telephone number that enables a captioned callback from the PSAP. We agree with petitioners that PSAPs are generally interested in receiving the location of the emergency and the IP CTS user's callback number, and that where an IP CTS provider has assigned a NANP number to the user for captioning purposes, it is able to directly pass such information to the PSAP.<sup>145</sup> The additional information required by the rule—and the requirement for the provider to initiate reconnection of calls—are not needed in the IP CTS context if an IP CTS provider assigns the user a ten-digit NANP telephone number that is used specifically for captioning and has the ability to deliver that callback number to the PSAP with a 911 call. The PSAP is able to call back an Internet-based TRS user directly, and the TRS provider does not need to initiate reconnection of the call.<sup>146</sup>

50. As we found in *InnoCaption's* case, strict compliance by IP CTS providers with the current emergency call-handling requirements appears likely to increase public safety risks, especially where the assignment of a NANP number to the user has made other options available. Spending time providing unnecessary information to the PSAP—i.e., the name of the relay provider, the CA's callback number, and the CA's identification number—can consume valuable time during a 911 call and delay the dispatch of first responders.<sup>147</sup> In addition, the requirement for a TRS provider to initiate the reestablishment of a disconnected call gives responsibility to the TRS provider and its CAs for a decision that is more appropriately made by the 911 caller or the PSAP—either of whom is likely to be better informed about the emergency needs of the situation, and either of whom can call back the other directly if a NANP number is assigned to the user.<sup>148</sup> As explained in the *InnoCaption Waiver Order*, waiving the rule where the provider can transmit a user-assigned telephone number that enables the PSAP to call back the IP CTS user directly, rather than having the provider's CA attempt to reestablish the call, may save precious seconds during an emergency and may also avoid confusion in the callback.<sup>149</sup>

51. Finally, granting this waiver will ensure that the Commission is not impairing the development of improved technology.<sup>150</sup> For example, ClearCaptions indicates that it has been preparing to launch its next generation web and wireless application, and without a waiver it would need to reconfigure its 911 call handling arrangement to comply with the less efficient and unnecessary provider-initiated callback requirement.<sup>151</sup>

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<sup>145</sup> Hamilton 911 Waiver Petition at 3; ClearCaption 911 Waiver Petition at 4; Sorenson 911 Waiver Petition at 4-5; Sprint 911 Waiver Petition at 2.

<sup>146</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030, para. 18 (finding that *InnoCaption's* provision of a user-assigned callback number enables the PSAP to call the user back directly, rather than directly involving the CA and the TRS provider in reconnection of the call, and makes it unnecessary to transmit the additional reconnection information specified by the rule).

<sup>147</sup> See *InnoCaption Waiver Order*, 31 FCC Rcd at 7030, para. 19; Hamilton 911 Waiver Petition at 3; Sprint 911 Waiver Petition at 2.

<sup>148</sup> Hamilton 911 Waiver Petition at 4; Sprint 911 Waiver Petition at 2-3.

<sup>149</sup> *InnoCaption Waiver Order*, 31 FCC Rcd at 7030, para. 19.

<sup>150</sup> 47 U.S.C. § 225(d)(2).

<sup>151</sup> ClearCaptions 911 Waiver Petition at 4; see also *InnoCaption Waiver Order*, 31 FCC Rcd at 7031, para. 20 (finding that requiring *InnoCaption* to configure its 911 arrangements so that its CAs can initiate and receive 911 callbacks would impose an unnecessary burden, requiring investment in additional CA communications capabilities, as well as training, which would be used solely for 911 calls).



52. We grant this waiver on a temporary basis, pending resolution of these issues in a rulemaking, to any IP CTS provider that provides IP CTS in a configuration where a user can initiate an IP CTS call by connecting to the IP CTS provider via the Internet, provided the user is assigned a NANP telephone number that the IP CTS provider can transmit with a 911 call and that enables a PSAP to call the user back via IP CTS. Granting this waiver is appropriate because, as indicated above, the following special circumstances are present: (1) the emergency call handling rule was adopted without taking full account of its impact on a newly authorized service, IP CTS;<sup>152</sup> (2) waiver will assist providers in bringing new technologies to the market;<sup>153</sup> (3) waiver is likely to better achieve the rule's underlying purposes;<sup>154</sup> (4) only a relatively minor portion of the rule is waived;<sup>155</sup> (5) the waiver will not undermine the policy underlying the rule;<sup>156</sup> (6) the waiver will be effective only until an ongoing rulemaking is decided, and (7) similarly situated parties will be treated alike.<sup>157</sup>

53. Accordingly, pursuant to section 1.3 of the Commission's rules, we grant partial waiver for IP CTS providers of the provisions of sections 64.605(a)(2)(iv) and (v) of the Commission's rules requiring TRS providers to (1) deliver to PSAPs at the outset of an emergency call the name of the relay provider, the CA's callback number, and the CA's identification number; and (2) immediately reestablish a disconnected emergency call, conditional on the provider assigning its registered users NANP telephone numbers that enable the PSAP to call the user back directly (while ensuring that the user receives captions when called back), and delivering the user's NANP number to the PSAP with a 911 call. These waivers shall expire on the effective date of a Commission decision addressing the proposed rule amendments on this issue in the accompanying Further Notice.<sup>158</sup>

## VI. PROCEDURAL ISSUES

54. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>159</sup> the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is set forth in Appendix D.

55. *Initial Regulatory Flexibility Analysis.* As required by the RFA, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this document.<sup>160</sup> The IRFA is set forth in Appendix E. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small

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<sup>152</sup> *Supra* paras. 10-11.

<sup>153</sup> *Supra* para. 51.

<sup>154</sup> *Supra* para. 50.

<sup>155</sup> The rule's key requirements regarding location determination, prompt routing of emergency calls, and transmission of location information will remain undisturbed, and the transmission of callback information will be improved.

<sup>156</sup> *Supra* para. 49.

<sup>157</sup> On our own motion, we make this waiver applicable to other IP CTS providers, such as Sorenson, to the extent that such providers satisfy the waiver conditions.

<sup>158</sup> *Supra* Part IV.C.

<sup>159</sup> 5 U.S.C. § 601 *et seq.*

<sup>160</sup> *See id.* § 603.

Business Administration.<sup>161</sup> In addition, the Further Notice and IRFA (or summaries thereof) will be published in the *Federal Register*.<sup>162</sup>

56. *Paperwork Reduction Act Analysis.* The Report and Order adopts new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).<sup>163</sup> The new information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA.<sup>164</sup> Prior to submission to OMB, the Commission will publish a notice in the *Federal Register* seeking public comment on the new information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, that notice will also seek comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.<sup>165</sup>

57. The Further Notice seeks comment on proposed rule amendments that may result in new or modified information collection requirements. If the Commission adopts any new or modified information collection requirements, the Commission will publish another notice in the *Federal Register* inviting the public to comment on the requirements, as required by the PRA.<sup>166</sup> In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.<sup>167</sup>

58. *Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules,<sup>168</sup> interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).<sup>169</sup>

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
  - Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
  - Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

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<sup>161</sup> See *id.* § 603(a).

<sup>162</sup> *Id.*

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

<sup>164</sup> 44 U.S.C. § 3507(d).

<sup>165</sup> Pub. L. No. 107-198, 116 Stat. 729 (2002); 44 U.S.C. § 3506(c)(4).

<sup>166</sup> 44 U.S.C. §§ 3501-3520.

<sup>167</sup> *Id.* § 3506(c)(4).

<sup>168</sup> 47 CFR §§ 1.415, 1.419.

<sup>169</sup> See FCC, Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (May 1, 1998).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington, DC 20554.

59. *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

60. *Ex Parte Rules.* The proceeding this Further Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>170</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

## VII. ORDERING CLAUSES

61. Accordingly, IT IS ORDERED that, pursuant to sections 201 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201, 225, the foregoing Report and Order and Further Notice of Proposed Rulemaking, ARE ADOPTED, and the Commission’s rules are hereby AMENDED as set forth in Appendix B.

62. IT IS FURTHER ORDERED that this Report and Order SHALL BE EFFECTIVE 30 days after publication of a summary in the Federal Register. Section 64.611(j)(2) and sections 64.615(a)(3) and (a)(5) contain new or modified information collection requirements that require review by OMB under the PRA. The Commission directs the Consumer and Governmental Affairs Bureau to announce the compliance date of those information collections in a document published in the Federal Register after the Commission receives OMB approval, and directs the Bureau to cause Sections 64.611(k) and 64.615(c) to be revised accordingly.

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

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

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<sup>170</sup> 47 CFR § 1.1200 *et seq.*

65. IT IS FURTHER ORDERED that the petitions for waiver of ClearCaptions, Hamilton, and Sprint are granted in part and that sections 64.605(a)(2)(iv) and (v) of the Commission's rules, 47 CFR § 64.605(a)(2)(iv), (v), are waived to the extent indicated herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****LIST OF COMMENTING PARTIES****Comments**

California Public Utilities Commission and the People of the State of California (California)  
Florida Public Service Commission (Florida)  
Hamilton Relay, Inc. (Hamilton)  
Hearing Loss Association of America (HLAA), Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), National Association of the Deaf (NAD), Association of Late-Deafened Adults, Inc. (ALDA), Mill Neck Services, Inc., Cerebral Palsy and Deaf Organization (CPADO), American Association of the Deaf-Blind (AADB)  
Independent Telephone & Telecommunications Alliance (ITTA)  
Kentucky Public Service Commission (Kentucky)  
Miracom USA, Inc. (Miracom)  
National Association for State Relay Administration (NASRA)  
National Association of Regulatory Utility Commissioners (NARUC)  
Nebraska Public Service Commission (Nebraska)  
Public Service Commission of the District of Columbia (DC)  
Purple Communications, Inc. (Purple), now doing business as ClearCaptions  
Sorenson Communications, Inc. and CaptionCall, LLC (Sorenson)  
Sorenson Paperwork Reduction Act Comments

**Reply Comments**

Arizona Commission for the Deaf and the Hard of Hearing (ACDHH)  
California  
Hamilton  
Public Service Commission of the State of Missouri (Missouri)  
Sorenson  
South Carolina Office of Regulatory Staff (South Carolina)  
Sprint Corporation (Sprint)  
Ultratec, Inc. (Ultratec)

**APPENDIX B**  
**FINAL RULES**

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

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

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401-1473, unless otherwise noted.

2. Amend section 64.601 by revising paragraphs (a)(30) and (a)(31) to read as follows:

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

(a) \* \* \*

(30) *Registered Internet-based TRS user.* An individual who has registered with a VRS, IP Relay, or IP CTS provider as described in § 64.611.

(31) *Registered Location.* The most recent information obtained by a VRS, IP Relay, or IP CTS provider that identifies the physical location of an end user.

\* \* \* \* \*

3. Amend section 64.604 by removing and reserving paragraph (c)(9) to read as follows:

**§ 64.604 Mandatory minimum standards.**

\* \* \* \* \*

(c) \* \* \*

(9) [Reserved]

\* \* \* \* \*

4. Amend section 64.611 by revising paragraph (a)(4), adding and reserving paragraphs (h) and (i), and adding paragraphs (j) and (k) to read as follows:

**§ 64.611 Internet-based TRS registration.**

(a) \* \* \*

(4) *TRS User Registration Database Information Requirements for VRS.* Each VRS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered Internet-based TRS users: full name; address; ten-digit telephone number assigned in the TRS numbering directory; last four digits of the social security number or Tribal Identification number, if the registered Internet-based TRS user is a member of a Tribal nation and does not have a social security number; date of birth; Registered Location; VRS provider name and dates of service initiation and termination; a digital copy of the user's self-certification of eligibility for VRS and the date obtained by the provider; the date on which the user's identification was verified; and (for existing users only) the date on which the registered Internet-based TRS user last placed a point-to-point or relay call.

\* \* \* \* \*

(h) [Reserved]

(i) [Reserved]

(j) (1) *IP CTS Registration and Certification Requirements.*

(i) IP CTS providers must first obtain the following registration information from each consumer prior to requesting compensation from the TRS Fund for service provided to the consumer: The consumer's full

name, date of birth, last four digits of the consumer's social security number, full residential address, and telephone number.

(ii) [Reserved]

(iii) [Reserved]

(iv) *Self-certification prior to August 28, 2014.* IP CTS providers, in order to be eligible to receive compensation from the TRS Fund for providing IP CTS, also must first obtain a written certification from the consumer, and if obtained prior to August 28, 2014, such written certification shall attest that the consumer needs IP CTS to communicate in a manner that is functionally equivalent to the ability of a hearing individual to communicate using voice communication services. The certification must include the consumer's certification that:

(A) The consumer has a hearing loss that necessitates IP CTS to communicate in a manner that is functionally equivalent to communication by conventional voice telephone users;

(B) The consumer understands that the captioning service is provided by a live communications assistant; and

(C) The consumer understands that the cost of IP CTS is funded by the TRS Fund.

(v) *Self-certification on or after August 28, 2014.* IP CTS providers must also first obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, a written certification from the consumer, and if obtained on or after August 28, 2014, such certification shall state that:

(A) The consumer has a hearing loss that necessitates use of captioned telephone service;

(B) The consumer understands that the captioning on captioned telephone service is provided by a live communications assistant who listens to the other party on the line and provides the text on the captioned phone;

(C) The consumer understands that the cost of captioning each Internet protocol captioned telephone call is funded through a federal program; and

(D) The consumer will not permit, to the best of the consumer's ability, persons who have not registered to use Internet protocol captioned telephone service to make captioned telephone calls on the consumer's registered IP captioned telephone service or device.

(vi) The certification required by paragraphs (j)(1)(iv) and (v) of this section must be made on a form separate from any other agreement or form, and must include a separate consumer signature specific to the certification. Beginning on August 28, 2014, such certification shall be made under penalty of perjury. For purposes of this rule, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(vii) *Third-party certification prior to August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75 and the consumer was registered in accordance with the requirements of paragraph (j)(1) of this section prior to August 28, 2014, the IP CTS provider must also obtain from each consumer prior to requesting compensation from the TRS Fund for the consumer, written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(viii) To comply with paragraph (j)(1)(vii) of this section, the independent professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and may include, but are not limited to, community-based social service providers, hearing

related professionals, vocational rehabilitation counselors, occupational therapists, social workers, educators, audiologists, speech pathologists, hearing instrument specialists, and doctors, nurses and other medical or health professionals;

(B) Provide his or her name, title, and contact information, including address, telephone number, and e-mail address; and

(C) Certify in writing that the IP CTS user is an individual with hearing loss who needs IP CTS to communicate in a manner that is functionally equivalent to telephone service experienced by individuals without hearing disabilities.

(ix) *Third-party certification on or after August 28, 2014.* Where IP CTS equipment is or has been obtained by a consumer from an IP CTS provider, directly or indirectly, at no charge or for less than \$75, the consumer (in cases where the equipment was obtained directly from the IP CTS provider) has not subsequently paid \$75 to the IP CTS provider for the equipment prior to the date the consumer is registered to use IP CTS, and the consumer is registered in accordance with the requirements of paragraph (j)(1) of this section on or after August 28, 2014, the IP CTS provider must also, prior to requesting compensation from the TRS Fund for service to the consumer, obtain from each consumer written certification provided and signed by an independent third-party professional, except as provided in paragraph (j)(1)(xi) of this section.

(x) To comply with paragraph (j)(1)(ix) of this section, the independent third-party professional providing certification must:

(A) Be qualified to evaluate an individual's hearing loss in accordance with applicable professional standards, and must be either a physician, audiologist, or other hearing related professional. Such professional shall not have been referred to the IP CTS user, either directly or indirectly, by any provider of TRS or any officer, director, partner, employee, agent, subcontractor, or sponsoring organization or entity (collectively "affiliate") of any TRS provider. Nor shall the third party professional making such certification have any business, family or social relationship with the TRS provider or any affiliate of the TRS provider from which the consumer is receiving or will receive service.

(B) Provide his or her name, title, and contact information, including address, telephone number, and e-mail address.

(C) Certify in writing, under penalty of perjury, that the IP CTS user is an individual with hearing loss that necessitates use of captioned telephone service and that the third party professional understands that the captioning on captioned telephone service is provided by a live communications assistant and is funded through a federal program.

(xi) In instances where the consumer has obtained IP CTS equipment from a local, state, or federal governmental program, the consumer may present documentation to the IP CTS provider demonstrating that the equipment was obtained through one of these programs, in lieu of providing an independent, third-party certification under paragraphs (j)(1)(vii) and (ix) of this section.

(xii) Each IP CTS provider shall maintain records of any registration and certification information for a period of at least five years after the consumer ceases to obtain service from the provider and shall maintain the confidentiality of such registration and certification information, and may not disclose such registration and certification information or the content of such registration and certification information except as required by law or regulation.

(xiii) [Reserved]

(2) *TRS User Registration Database Information for IP CTS.* (i) Each IP CTS Provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered IP CTS users:



- (A) full name;
- (B) full residential address;
- (C) telephone number;
- (D) a unique identifier such as the electronic serial number (ESN) of the user's IP CTS device, the user's log-in identification, or the user's email address;
- (E) the last four digits of the user's social security number or Tribal Identification number (or alternative documentation, if such documentation is permitted by and has been collected pursuant to *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 30 FCC Rcd 1093 (CGB 2015));
- (F) date of birth;
- (G) Registered Location (if applicable);
- (H) IP CTS provider name;
- (I) date of service initiation and (when applicable) termination;
- (J) a digital copy of the user's self-certification of eligibility for IP CTS and the date obtained by the provider; and
- (K) (for existing users only) the date on which the IP CTS user last placed an IP CTS call.
- (ii) Each IP CTS provider shall obtain, from each new and existing registered IP CTS user, consent to transmit the registered IP CTS user's information to the TRS User Registration Database. Prior to obtaining such consent, the IP CTS provider shall describe to the registered IP CTS user, using clear, easily understood language, the specific information obtained by the IP CTS provider from the user that is to be transmitted, and inform the user that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered IP CTS user being denied service. IP CTS providers shall keep a record of affirmative acknowledgment of such consent by every registered IP CTS user.
- (iii) *Registration of Emergency Shelter Devices.* An IP CTS provider may seek and receive TRS Fund compensation for the provision of captioning service to users of a temporary, public IP CTS device set up in an emergency shelter, provided that, before commencing service to such a device, the IP CTS provider collects, maintains in its registration records, and submits to the TRS User Registration Database all information reasonably requested by the administrator, including the telephone number and location of the device. IP CTS providers shall remove the device's registration information from the Database when service for such a device is terminated.
- (iv) By the date of initiation of service to an IP CTS user or device, or one year after notice from the Commission that the TRS User Registration Database is ready to accept such information, whichever is later, IP CTS providers shall submit to the TRS User Registration Database the registration information required by paragraph (j)(2)(i) or (iii) of this section. Calls from or to registered IP CTS users or devices whose registration information has not been populated in the TRS User Registration Database by the applicable date shall not be compensable, and an IP CTS provider shall not seek TRS Fund compensation for such calls.
- (v) When registering a user who is transferring service from another IP CTS provider, IP CTS providers shall obtain and submit a digital copy of a user's self-certification of eligibility if a query of the TRS User Registration Database shows a properly executed certification has not been filed.

(3) An IP CTS provider shall not seek TRS Fund compensation for providing captioning service to any individual or device if the registration information for such individual or device has been removed from the TRS User Registration Database, or if the provider obtains information that the individual or device is not eligible to receive IP CTS.

(k) *Compliance date.* Paragraph (j)(2) of this section contains new or modified information-collection and recordkeeping requirements adopted in FCC 19-11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising this paragraph accordingly.

5. Amend section 64.615 by revising paragraphs (a)(3), (a)(4), and (a)(5) and adding paragraph (c) to read as follows:

**§ 64.615 TRS User Registration Database and administrator.**

(a) \* \* \*

(3) *Data integrity.* (i) Each VRS and IP CTS provider shall request that the administrator of the TRS User Registration Database remove from the TRS User Registration Database user information for any registered user or hearing point-to-point user:

(A) Who informs its default VRS provider or its IP CTS provider that it no longer wants use of a ten-digit number for TRS or (in the case of a hearing point-to-point video user) for point-to-point video service; or

(B) For whom the provider obtains information that the user is not eligible to use the service.

(ii) The administrator of the TRS User Registration Database shall remove the data of:

(A) Any VRS user that has neither placed nor received a VRS or point-to-point call in a one-year period; and

(B) Any user for which a VRS or IP CTS provider makes a request under paragraph (a)(3)(i) of this section.

(4) A VRS or IP CTS provider may query the TRS User Registration Database only for the purposes provided in this subpart, and to determine whether information with respect to its registered users already in the database is correct and complete.

(5) *User verification.* (i) The TRS User Registration Database shall have the capability of performing an identification verification check when a VRS provider, IP CTS provider, or other party submits a query to the database about an existing or potential user.

(ii) VRS and IP CTS providers shall not register individuals who do not pass the identification verification check conducted through the TRS User Registration Database.

(iii) VRS providers shall not seek compensation for calls placed by individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

(iv) IP CTS providers shall not seek compensation for calls placed to or from individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

\* \* \* \* \*

(c) *Compliance date.* Paragraphs (a)(3) and (a)(5) of this section contain new or modified information-collection and recordkeeping requirements adopted in FCC 19-11. Compliance with these information-collection and recordkeeping requirements will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising this paragraph accordingly.

**APPENDIX C**  
**PROPOSED RULES**

The Federal Communications Commission proposes to amend Title 47 of the Code of Federal Regulations as follows:

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

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

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, 1401-1473, unless otherwise noted.

2. Amend section 64.604 by:

(i) redesignating paragraphs (c)(5)(iii)(D)(5)-(7) as paragraphs (c)(5)(iii)(D)(6)-(8); and

(ii) adding new paragraph (c)(5)(iii)(D)(5) to read as follows:

**§ 64.604 Mandatory minimum standards.**

\* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(D) \* \* \*

*(5) Additional call data required from Internet protocol captioned telephone service providers.* In addition to the data required by paragraph (c)(5)(iii)(D)(2) and (3) of this section, Internet protocol captioned telephone service providers seeking compensation from the Fund shall submit a unique account identifier identifying the user receiving captions for a call, such as the electronic serial number of the Internet protocol captioned telephone service device, the user's log-in identification, or the user's email address.

\* \* \* \* \*

3. Amend section 64.605 by revising paragraph (a)(1) and adding paragraph (a)(3) to read as follows:

**§ 64.605 Emergency calling requirements.**

*(a) Additional emergency calling requirements applicable to Internet-based TRS providers.* (1) As of December 31, 2008, the requirements of paragraphs (a)(2)(i) and (a)(2)(iv) of this section shall not apply to providers of VRS and IP Relay to which paragraph (b) of this section applies. As of the effective date of paragraph (a)(3) of this section, the requirements of paragraph (a)(2)(iv) and (v) of this section shall not apply to any provider of IP CTS.

\* \* \* \* \*

(3) Providers of forms of IP CTS that allow users to initiate calls by contacting the provider over the Internet shall deliver to the PSAP, designated statewide default answering point, or appropriate local emergency authority, at the outset of an emergency call, the location of the emergency, and a telephone number that is assigned to the caller and that enables the PSAP, designated statewide default answering point, or appropriate local emergency authority to call the 911 caller back directly, while ensuring that the caller receives captions on the callback.

4. Amend section 64.611 by revising paragraph (j)(2)(iv) to read as follows:

**§ 64.611 Internet-based TRS registration.**

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

(iv) By the date of initiation of service to an IP CTS user or device, or one year after notice from the Commission that the TRS User Registration Database is ready to accept such information, whichever is later, IP CTS providers shall submit to the TRS User Registration Database the registration information required by paragraph (j)(2)(i) or (iii) of this section. Calls from or to registered IP CTS users or devices whose registration information has not been populated in the TRS User Registration Database by the applicable date shall not be compensable, and an IP CTS provider shall not seek TRS Fund compensation for such calls, *provided however*, that after the applicable date, IP CTS providers may provide service to new users for up to two weeks after the user's registration information has been populated in the TRS User Registration Database while the TRS User Registration Database user verification process is pending and will seek TRS Fund compensation for such calls that are otherwise compensable only if the new user is ultimately verified as eligible to use IP CTS by the TRS User Registration Database administrator.

\* \* \* \* \*

## APPENDIX D

## FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980<sup>1</sup> as amended (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the Further Notice of Proposed Rulemaking.<sup>2</sup> The Commission sought written public comment on the proposals in the *2013 IP CTS Reform FNPRM*, including comment on the IRFA.<sup>3</sup> No comments were received in response to the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>4</sup> A copy of the Report and Order, and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>5</sup>

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

2. The Report and Order adopts rule changes to facilitate the Commission's efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the Internet Protocol Captioned Telephone Service (IP CTS) program by requiring IP CTS providers to (1) submit IP CTS user registration information to the telecommunications relay service (TRS) User Registration Database (Database) so that the Database administrator can verify IP CTS users; and (2) obtain and keep affirmative acknowledgement by every registered IP CTS user of the user's consent to the IP CTS provider to transmit such registration information to the Database.

3. The Report and Order also adopts rule changes providing that TRS Fund compensation may be paid only for IP CTS provided to users whose registration data has been submitted to and verified by the Database administrator; and that, when users are no longer eligible for or request cancellation of service, the IP CTS provider must remove the user's information from its database and notify the Database administrator of such removal.

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

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

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

5. 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>6</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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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> *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, 13507-13, App. D (2013) (*2013 IP CTS Reform FNPRM*).

<sup>3</sup> *2013 IP CTS Reform FNPRM*, 28 FCC Rcd at 13491, 13507-13, para. 158, App. D.

<sup>4</sup> See 5 U.S.C. § 604.

<sup>5</sup> See *id.* § 604(b).

<sup>6</sup> *Id.* § 604(a)(3).

**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 rule changes.<sup>7</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>8</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>9</sup> A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>10</sup>

7. The rules adopted in the Report and Order will affect obligations of IP CTS providers. These services can be included within the broad economic category of All Other Telecommunications.

8. *All Other Telecommunications.* “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or Voice over Internet Protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.<sup>11</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.<sup>12</sup> For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.<sup>13</sup> Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

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

9. The rules on submitting user registration data to the Database will require IP CTS providers to submit information that they are currently required to collect from IP CTS users. IP CTS providers will also be required to obtain and keep affirmative acknowledgement by every registered IP CTS user of the user’s consent to the IP CTS provider to transmit such registration information to the Database. The Commission has primarily aligned these reporting and recordkeeping requirements with similar requirements currently applicable to video relay service (VRS) providers. However, the

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<sup>7</sup> *Id.* § 603(b)(3).

<sup>8</sup> *Id.* § 601(6).

<sup>9</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). The statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” *Id.*

<sup>10</sup> 15 U.S.C. § 632.

<sup>11</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>12</sup> 13 CFR § 121.201; NAICS Code 517919.

<sup>13</sup>

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

Commission makes one addition to the Database registration requirements to require that unique account identifiers, such as the electronic serial numbers of user devices, users' log-in identifications, or email addresses, be included in the user registration information submitted to the Database administrator. Also, before commencing service to temporary, public IP CTS devices set up in emergency shelters, IP CTS providers must provide all information reasonably requested by the Database administrator, including the telephone number and location of the device, and an indication that the device is located in a public emergency shelter.

10. In addition, IP CTS providers are required to keep their registration databases current and notify the Database administrator of any users removed from their databases.

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

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>14</sup>

12. The rules requiring IP CTS providers to submit registration data to the Database will have only a minimal effect on small entities because the required data is already maintained by the providers. The increased burdens of obtaining consent from IP CTS users to submit the data to the Database, the retention of such information, and the submission process itself are minor as compared to the benefit of having the Database administrator verify the IP CTS users and relieving IP CTS providers of that obligation. Moreover, the order permits providers to seek reimbursement from the Interstate TRS Fund for exogenous costs associated with the submission of registration data to the Database until such time as the Commission adopts rates that take into consideration the costs associated with such submissions. The rules also require providers to notify the Database administrator of any users removed from their databases. These requirements are similar to the requirements placed on VRS providers.

13. Compared to the initial proposal, which also would have required IP CTS providers to validate each call by querying the Database, these requirements are more narrowly tailored to help the Commission identify and evaluate risks, monitor compliance with program rules, and minimize waste, fraud, and abuse in the IP CTS program and will not be burdensome because providers are already required to keep their databases current.

**G. Report to Congress**

14. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.<sup>15</sup> In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

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<sup>14</sup> 5 U.S.C. § 603(b).

<sup>15</sup> *See id.* § 801(a)(1)(A).

**APPENDIX E****INITIAL REGULATORY FLEXIBILITY ANALYSIS**

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the FNPRM provided in the item. The Commission will send a copy of the entire FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the FNPRM and the IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

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

2. In the FNPRM, the Commission proposes to require that a unique account identifier, such as the electronic serial number of an end user's device, a user's log-in identification, or an email address, be included in call detail records (CDRs) submitted for TRS Fund compensation. Such information will facilitate compensation of providers by the TRS Fund administrator. The Commission also proposes to permit IP CTS providers to provide service to new users, after the deadline for submission of user registration information to the TRS User Registration Database (Database), for up to two weeks after the user's registration information has been populated in the Database while the Database user verification process is pending, and to collect TRS Fund compensation for calls that are otherwise compensable only if the TRS user is ultimately verified as eligible to use IP CTS by the Database administrator.

3. In addition, for forms of IP CTS that allow users to initiate calls by contacting the provider over the Internet, the Commission proposes to update the rules governing the handling of IP CTS calls to 911 emergency services.<sup>4</sup> Specifically, in lieu of the current requirements to deliver to the PSAP the name of the caller, the name of the provider, and an identification number and callback number for the CA handling the call, and to initiate the reconnection of disconnected 911 calls, we propose to require a provider to provide a telephone number to the PSAP that enables the PSAP to call the user back via IP CTS, so that the user receives captions. This approach will be more consistent with the Commission's rules for 911 call handling by VRS, IP Relay, and VoIP service providers and will likely save IP CTS users precious time during an emergency.

**B. Legal Basis**

4. The authority for this proposed rulemaking is contained in sections 1 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 225.

**C. Description and Estimate of the Number of Small Entities Impacted**

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.<sup>5</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business,"

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§601-612, was 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> See 5 U.S.C. § 603(a).

<sup>3</sup> See *id.*

<sup>4</sup> For forms of IP CTS where the user subscribes to a telephone or VoIP service for the voice portion of the call, the telephone or VoIP service provider is responsible for the delivery of the 911 call to the emergency call taker.

<sup>5</sup> 5 U.S.C. § 603(b)(3).



“small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has 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>

6. The rules proposed in the FNPRM will affect obligations of IP CTS providers. These services can be included within the broad economic category of All Other Telecommunications.

7. *All Other Telecommunications.* “All Other Telecommunications” is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or VoIP services via client-supplied telecommunications connections are also included in this industry.<sup>9</sup> The SBA has developed a small business size standard for “All Other Telecommunications,” which consists of all such firms with gross annual receipts of \$32.5 million or less.<sup>10</sup> For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than \$25 million.<sup>11</sup> Thus, a majority of “All Other Telecommunications” firms potentially affected by the rules adopted can be considered small.

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

8. The proposed revisions to the call data reporting requirements would require IP CTS providers to maintain records of unique account identifiers, such as the electronic serial numbers of user devices, users’ log-in identifications, or user email addresses and provide that information to the TRS Fund administrator when seeking compensation for calls. The proposed revision regarding when IP CTS providers may commence service to new users would permit IP CTS providers to provide service to new users at the provider’s own risk for up to two weeks while the Database verification process is pending.

9. The proposed changes to the rules governing the handling of IP CTS calls to 911 emergency services would require IP CTS providers to deliver a user’s assigned telephone number to an emergency authority when 911 is dialed.

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<sup>6</sup> *Id.* § 601(6).

<sup>7</sup> *Id.* § 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> 15 U.S.C. § 632.

<sup>9</sup> <http://www.census.gov/cgi-bin/sssd/naics/naicsrch>.

<sup>10</sup> 13 CFR § 121.201; NAICS Code 517919.

<sup>11</sup>

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

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

10. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>12</sup>

11. If the Commission adopts the proposed revisions to the call data collection requirements, it would require IP CTS providers to provide unique account identifiers, such as electronic serial numbers of user devices, users' log-in identification, or user email addresses, to the TRS Fund administrator when seeking compensation for calls. This requirement is narrowly tailored to help the Commission identify and evaluate risks, monitoring compliance with program rules, and minimize waste, fraud, and abuse in the IP CTS program. We believe that the requirement will not be burdensome because providers already have a record of such unique account identifiers. Thus, we believe that adding this information to already existing call data requirements will have a minimal effect on small entities.

12. If the Commission adopts the proposed revision permitting IP CTS providers to commence service to new users at the provider's own risk for up to two weeks while the Database verification process is pending, it would afford providers additional flexibility on when to commence service. The rule change is designed to avoid possible burdens on small businesses because the provision of service prior to verification by the Database Administrator at the provider's own risk is optional, and providers also have the option to wait to provide service to the user until after the user is verified by the Database Administrator.

13. If the Commission adopts the proposed changes to the rules governing the handling of IP CTS calls to 911 emergency services for those forms of IP CTS that allow users to initiate calls by contacting the provider over the Internet, we believe it would reduce the burden on IP CTS providers, including small entities, to manually collect and retain information from IP CTS users at the start of an emergency call. This transition could impose implementation costs on providers, but we believe the benefits to the transition would outweigh any such costs. Specifically, during an emergency less time would be wasted in obtaining information from callers that is no longer necessary, and 911 call takers would be able to reconnect with the caller more rapidly. In addition to saving time during a 911 call, adoption of the rules could also result in net cost savings due to the reduced amount of information that an IP CTS provider would need to collect and transmit during an IP CTS call. We also believe that IP CTS providers would prefer this approach as evidenced by their requests to implement emergency call handling in accordance with the Commission's proposal.

14. Finally, the FNPRM seeks comment from all interested parties. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the FNPRM. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the FNPRM, in reaching its final conclusions and taking action in this proceeding.

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

15. None.

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<sup>12</sup> 5 U.S.C. § 603(b).

**STATEMENT OF  
CHAIRMAN AJIT PAI**

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

In 1952, Bell Labs achieved a breakthrough in communications technology. It created a machine called “Audrey,” which was short for “Automatic Digit Recognition.” Audrey could recognize the voice of a person who spoke a number from zero to nine. More than 60 years later, voice recognition software is pervasive in our society. Many of our smartphones, homes, TV remotes, and other devices recognize our voices and perform a series of commands at the drop of a hat. I know that firsthand, as my kids enjoy asking Alexa to play music every morning (current favorite: “Celebration” by Kool & the Gang, which to my ears is an improvement from having JoJo Siwa on a continuous loop). These voice recognition technologies can also be used to transfer voice to text and help individuals with hearing loss communicate and better participate in daily life.

This technological innovation extends to FCC’s Internet Protocol Captioned Telephone Service (IP CTS). This program allows individuals with hearing loss to both read captions and use their residual hearing to understand a phone conversation. As I was pleased to highlight last June, IP CTS has had a profoundly positive impact on the lives of many Americans affected by hearing loss. And it has grown significantly in recent years—annual IP CTS minutes of use have gone up more than 12-fold from 2011 to 2017, and IP CTS now represents almost 80% of the total minutes compensated by the Telecommunications Relay Service (TRS) Fund.

Today, the FCC is building on the important IP CTS reforms we made in June 2018 to promote improvements in two basic areas: accountability and public safety.

First, we improve program accountability by integrating IP CTS into the User Registration Database and aligning IP CTS data submission and verification rules with those that currently apply to the Video Relay Service (VRS). This will make the program more sustainable and financially responsible by ensuring that providers are compensated only for calls made by individuals who are in fact eligible to use this service. In addition, in the *Further Notice of Proposed Rulemaking*, we propose to require IP CTS providers to include a unique user account identifier in monthly call detail records submitted for TRS Fund compensation. This will enable the Fund administrator to more efficiently match call data with user data in the Database.

Second, to promote public safety, we propose to better safeguard the lives of IP CTS users who place 911 calls over the Internet. We would do this by eliminating the need for IP CTS providers to involve Communications Assistants—those who provide captions to the IP CTS user—in handling 911 calls, which currently can cost precious time during an emergency. In addition, we grant a temporary, partial waiver of the Commission’s rules on emergency call-handling in order to enable an emergency authority to quickly call an IP CTS user back via IP CTS. These are simple but significant steps that will greatly aid consumers in times of need.

Today’s results would not be possible without the work of Karen Peltz Strauss (now retired), Bob Aldrich, Eliot Greenwald, and Michael Scott of the Consumer and Governmental Affairs Bureau; Giulia McHenry, Emily Talaga, and Chuck Needy of the Office of Economics and Analytics; Richard Mallen, Bill Richardson, Malena Barzilai, Anjali Singh, and David Horowitz of the Office of the General Counsel; David Schmidt, Andy Mulitz, Leo Wong, and Leslie Smith of the Office of the Managing Director; Sharon Lee of the Enforcement Bureau; David Furth of the Public Safety and Homeland Security Bureau; and Belford Lawson of Office of Communications Business Opportunities. My thanks to each of you.

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

In directing the Commission to establish the Telecommunications Relay Service (TRS) program, Congress explicitly instructed the Commission to ensure that such services would be available to hearing- and speech-impaired Americans “in the most efficient manner.”<sup>1</sup> As such, I have repeatedly supported efforts to efficiently target spending to what is *necessary* to level the playing field for those individuals and respond to substantial growth in the TRS program in general, and the IP CTS program in particular. For example, I have advocated taking account of new technologies and applications that may serve as replacement communications services for certain users and exploring the use of reverse auctions to replace costly rate regulation. These important efforts would help to lessen burdens on ratepayers to the TRS fund, and I hope to work with my colleagues to implement these changes.

Ensuring efficiency in the program also requires a strong response to waste, fraud, and abuse. I therefore fully support the Chairman’s plan to incorporate IP CTS users into the existing User Registration Database to help ensure that that providers are only compensated for calls made by eligible individuals. I also thank staff for responding to my request to add data on the costs and benefits of integrating IP CTS users into the Database. Quantifying such data is integral to ensuring efficiency in the program.

I vote to approve.

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<sup>1</sup> 47 U.S.C. § 225(b)(1).

**STATEMENT OF  
COMMISSIONER BRENDAN CARR**

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

For the many Americans with hearing loss, IP CTS enables them to stay in touch with friends and family, call for help in an emergency, and otherwise communicate in ways that many of us take for granted. It does so by allowing callers with hearing loss to read, in real-time, captions that display the audio of their phone calls. It's a service that's funded through the FCC's telecommunications relay service program and, in most cases, it relies on operators that help to generate the captions.

I've had the chance to visit with these operators, including at a call center in Nevada. Many of them told me they were drawn to this line of work because of a family member with hearing loss and their desire to help other Americans that rely on the service to communicate.

Given the significant role IP CTS plays in the hearing loss community, it is incumbent on the FCC to ensure that program dollars are available for those who need it and that we stop any abuses in the system. And this Commission is taking steps in the right direction. Last June, for instance, we adopted several program reforms and sought comment on updating the IP CTS program. At the time, I urged the Commission to focus its efforts on two areas in particular: First, on preventing limited dollars from going towards calls for which the parties do not need captions; and second, on ensuring that IP CTS users have reliable access to 911 in an emergency.

With today's decision, we're taking action on both fronts. By requiring IP CTS providers to perform more stringent eligibility checks, we will better target support to individuals with hearing loss. And by simplifying the 911 call handling process, we enable more reliable emergency responses for those with hearing loss.

These are good steps and I look forward to continuing to work with my colleagues, as well as IP CTS providers and members of the hearing loss community, to make sure we're doing all we can to make communications accessible for all Americans.

Thank you to the staff of the Consumer and Governmental Affairs Bureau for your work on this item. It has my support.

**STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123

Tucked in a corner of northeast Washington is a small coffee outpost of a national chain. It's quiet inside. You could hear a pin drop. But it's also revolutionary. That's because it is the first signing coffee store designed for and staffed by those who are deaf and hard of hearing. And it's bustling. I know. I spent time there earlier this week with advocates for the deaf and hard of hearing. Sitting together, with tall, steaming cups between us, we discussed the promise of new technologies, the power of inclusive policies, and the economic possibilities of bringing the hard of hearing deeper into the mainstream of American life.

The National Institutes of Health reports that over 37 million adults have some trouble hearing. They are your friends, your relatives, and your neighbors. An increasing number are veterans who were exposed to explosives during their service. I suspect every one of them would marvel at the coffee shop I visited. But more importantly, they would benefit from technologies like the one we take steps to improve today. IP Captioned Telephone Service is a form of telecommunications relay service that makes it possible for individuals with hearing loss to read captions and use any residual hearing to understand a telephone conversation. I am hopeful that our decision today will improve program management, and that our rulemaking will simplify emergency calling for those who use this service in the future. But above all, I want to see this service—and so many others used by those with disabilities—improved as time and technology advances. Because we need the fuller participation of those with disabilities in our coffee shops, our communities, and our country.

Today's effort has my full support.

**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

Re: *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket No. 13-24;  
*Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order, Further Notice of Proposed Rulemaking, and Order

We rely on our phones for nearly every aspect of our lives. Whether it's connecting with a loved one, asking the city about the next trash pickup or just ordering pizza – every American relies on his or her phone to stay connected. Even as the digital revolution continues to transform our society, we still value the simple act of making or receiving a telephone call.

Congress has charged the FCC with ensuring that hearing and speech-impaired Americans can perform this essential task through the Telecommunications Relay Service. The variation of TRS we've discussed today, IP CTS, has become so popular that it now represents almost 80% of TRS minutes, at a cost of \$892 million per year. One reason for IP CTS's popularity is that it doesn't require any special equipment – you only need an ordinary phone and a computer or other web-enabled device to make and receive calls with captioning features like enlarged or colored text, different fonts, and so on. IP CTS and the other TRS programs allow millions of Americans, including hearing-impaired seniors and disabled veterans, to stay in touch with their families and communities.

Because the TRS programs provide such an important service, every dollar spent needs to help those who need the program most. As a long-time enforcement official, I deeply appreciate the Commission's responsibility as a steward of these funds and the need to make sure that they are used only as intended. Where we lack adequate safeguards, we must change our policies. And where parties have engaged in waste, fraud, or abuse, we should prosecute them to the full extent of the law. Notably, today's item applies a registration requirement to IP CTS users that will foreclose opportunities for abuse, protect the TRS fund's solvency and identify bad actors.

I am particularly pleased that this item will generate data that will allow us to more effectively manage the TRS program. Through the registration requirement, the Commission will not only know the total number of IP CTS users, but also the providers, devices and numbers associated with each user, as well as how rapidly or slowly users change providers. Given the size of all the federal funds administered by the Commission and the important public mission they serve, having such timely, granular and accurate data can only strengthen our ability to deliver these funds where they will do the most good.

Following publication of the draft version of this item, advocates for the hearing-disabled community requested that the Commission clarify that an IP CTS provider would receive compensation for service to an IP CTS user during the pendency of his or her verification appeal. I joined with Commissioner Rosenworcel in supporting this clarification, and I appreciate Chairman Pai's willingness to modify the item accordingly.

My thanks to the staff of the Consumer and Governmental Affairs Bureau for your important work on this item.