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

In the Matter of	**)**	
	)	
Misuse of Internet Protocol (IP) Captioned Telephone Service	**)** **)**	CG Docket No. 13-24
	)	
Structure and Practices of the Video Relay Service Program	**)** **)**	CG Docket No. 10-51
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	**)** **)** **)** **)**	CG Docket No. 03-123
	)	
Mezmo Corporation d/b/a InnoCaption (previously InnoCaption, Inc. and Miracom USA, Inc.), Certification to Provide Internet Protocol Captioned Telephone Service (IP CTS)	**)** **)** **)** **)**	
	)	
Review of Mezmo Corporation d/b/a InnoCaption, Motion to Lift Suspension of Conditional Certification	**)** **)** **)**	

ORDER

Adopted: June 17, 2016   **Released: June 17, 2016**

By the Deputy Chief, Consumer and Governmental Affairs Bureau:

I.   INTRODUCTION

1.   In this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (FCC or Commission) lifts the suspension of the conditional certification of Mezmo Corporation, d/b/a InnoCaption (InnoCaption), to provide Internet Protocol Captioned Telephone Service (IP CTS), effective upon the release of this Order.[1] On April 7, 2015, CGB suspended InnoCaption's conditional certification because it determined that InnoCaption had failed to operate its IP CTS in compliance with the Commission's TRS emergency calling handling requirements,

---

[1] IP CTS is a form of telecommunications relay service (TRS) designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an Internet Protocol (IP) enabled device. 47 CFR § 64.601(a)(16). Initially, InnoCaption began providing service under the name "Miracom USA, Inc." The company changed its name to InnoCaption after receiving conditional certification from the Commission to provide IP CTS. Letter from George L. Lyon, Jr., Counsel, InnoCaption, Inc., to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 13-24 and 03-123 (filed Aug. 11, 2014). InnoCaption later changed its name to Mezmo Corporation but stated that the company will continue to offer IP CTS under the name of InnoCaption. Letter from Cristina Duarte, Senior Regulatory Affairs Manager, Mezmo Corp., to Marlene H. Dortch, Secretary, FCC, CG Docket No. 03-123 (filed Aug. 17, 2015). In this Order, with the exception of citations to company filings and correspondence under the other company names, the company is referred to as "InnoCaption."

from the commencement of InnoCaption's service in 2014 through the date of the *Suspension Order*.[2] In this Order, CGB grants InnoCaption's petition for a partial waiver of certain elements of the emergency call handling rule for Internet-based TRS (iTRS)[3] and, subject to such waiver, concludes that InnoCaption has satisfied the conditions set forth in the *Suspension Order* for lifting the suspension of InnoCaption's certification.[4]

II.   BACKGROUND

A.   The Commission's 911 Call Handling Requirements

2.   The Commission repeatedly has emphasized the critical importance of ensuring access to 911 emergency services, including in the specific context of TRS.[5] Under the Commission's rules, all TRS providers must be capable of handling any type of call normally provided by telecommunications carriers, including 911 calls, unless the Commission determines that it is not technologically feasible to do so.[6] Further, the Commission's TRS rules establish specific call handling requirements for the processing and routing of 911 calls by iTRS providers, including IP CTS providers that operate similarly to InnoCaption.[7] Specifically, an IP CTS provider subject to section 64.605(a) of the rules must (1) accept and handle a 911 call, (2) give it priority over other calls, (3) access, either directly or via a third party, a commercially available database that will allow the provider to determine an appropriate PSAP, statewide default answering point, or appropriate local emergency authority,[8] and to route the call to that entity; (4) request, at the beginning of the call, the user's name and the location of the emergency; and (5) deliver to the PSAP or other appropriate entity such name and location information, as well as the provider's name, the CA callback number, and the CA's identification number, at the outset of the

---

[2] *Misuse of Internet Protocol (IP) Captioned Telephone Service et al.*, Order, 30 FCC Rcd 2934 (CGB 2015) (*Suspension Order*).

[3] 47 CFR § 64.605. The term "iTRS" refers to all forms of TRS in which an individual who is deaf, hard of hearing, deaf-blind, or speech-disabled uses an Internet connection with the TRS communications assistant (CA). *See Structure and Practices of the Video Relay Service Program*, Second Report and Order and Order, 26 FCC Rcd 10898, 10899, para. 1, n.1 (2011); 47 CFR. § 64.601(a)(15) (defining "Internet-based TRS"). At present, this includes video relay service (VRS), Internet Protocol Relay Service (IP Relay), and IP CTS.

[4] *See Suspension Order*, 30 FCC Rcd at 2943, paras. 18-21.

[5] *See id*. at 2936, para. 3 & nn.9-10.

[6] 47 CFR § 64.604(a)(3)(ii).

[7] *See* 47 CFR § 64.605; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities et al.*, Report and Order, 23 FCC Rcd 5255 (2008) (*Emergency Call Handling Order*) (adopting section 64.605, later recodified as 47 CFR § 64.605(a)); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities et al.*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (*First iTRS Numbering Order*) (amending section 64.605(a) and adding section 64.605(b)). In these decisions, the Commission determined that the emergency call handling rule discussed in this order, 47 CFR § 64.605(a), should apply to those types of IP CTS in which "the call is initiated, or can be initiated, by the user contacting the provider via the Internet." *Emergency Call Handling Order*, 23 FCC Rcd at 5257, 5263, paras. 1 n.7, 13 n.59. There is another type of IP CTS, in which the IP CTS user connects directly to the called party over the public switched telephone network (PSTN). The emergency call handling rule does not apply to that type of IP CTS, because emergency 911 calls using that type of IP CTS are connected to the public safety answering point (PSAP) by the consumer's underlying telephone or voice over Internet Protocol (VoIP) service provider (i.e., not the IP CTS provider). *Id*.

[8] In this Order, the term "the PSAP" is used as shorthand to refer to the appropriate PSAP, statewide default answering point, or appropriate local emergency authority for handling the call given the caller's location.

outbound leg of the call.[9] If the call is disconnected before this information is transmitted to the PSAP, the provider must reconnect the call.[10]

B.   InnoCaption's Certification and Suspension

3.   InnoCaption makes its IP CTS available to users over wireless networks that can be accessed by mobile devices. On November 23, 2011, InnoCaption applied to the Commission for certification to become eligible for compensation from the Interstate TRS Fund (TRS Fund) as an IP CTS provider.[11] On May 13, 2014, CGB granted conditional certification to InnoCaption to provide IP CTS,[12] and InnoCaption launched its service on June 11, 2014. On September 25, 2014, after test calls conducted by the Bureau encountered a pop-up saying that 911 was not supported, the Commission notified InnoCaption that test results indicated InnoCaption was not providing any 911 service and that the TRS Fund administrator was being directed to withhold compensation payments until further notice.[13] In response to this letter and subsequent notifications, InnoCaption acknowledged that it had knowingly launched its service without offering access to 911 service and reported it had begun directing users to download a patch that it claimed would enable them to make 911 calls.[14] However, in testing done by CGB, the Bureau learned that InnoCaption's handling of 911 calls remained noncompliant following these promises.[15]

4.   Specifically, in tests conducted in January 2015, three 911 calls were routed to disconnected lines. In tests conducted in March 2015, the tester was disconnected from the PSAP on approximately 50 percent of the calls. InnoCaption provided the PSAP with a callback number in only a few instances, and on approximately half of the calls that did not disconnect, InnoCaption failed to effectively deliver to the PSAP the caller's location, as well as other information required by the call handling rule.[16]

5.   As a consequence of Innocaption's noncompliance with the Commission's emergency call handling rules, CGB suspended InnoCaption's conditional certification on April 7, 2015, citing the above test failures.[17] The *Suspension Order* set forth the following three conditions for lifting the suspension:

---

[9] 47 CFR §§ 64.605(a)(2)(i)-(iv).

[10] *Id*. § 64.605(a)(2)(v).

[11] Miracom USA, Inc., Application of Miracom USA, Inc. for Certification to Provide IP Captioned Telephone Service, CG Docket No. 03-123 (filed Nov. 23, 2011). *See* 47 CFR § 64.606 (specifying rules for certification of iTRS providers).

[12] *Notice of Conditional Grant of Application of Miracom USA, Inc., for Certification as a Provider of Internet Protocol Captioned Telephone Service Eligible for Compensation from the Telecommunications Relay Services Fund*, Public Notice, 29 FCC Rcd 5105, 5106 (CGB 2014). CGB conditioned the certification on, among other things, InnoCaption's compliance with the Commission's TRS rules and orders and required that InnoCaption "report promptly any changes in the information previously provided to the Commission in its application and supplemental filings." *Suspension Order*, 30 FCC Rcd at 2935, para. 2 n.8.

[13] *Suspension Order*, 30 FCC Rcd at 2937, para. 5.

[14] *Id.* at 2937-39, paras. 6-8. InnoCaption later acknowledged that some of its users did not learn about the patch when initially implemented, and that even as late as October 27, 2014, not all of its users had downloaded the patch. *Id.* at 2939, para. 8.

[15] *Id.* at 2939, para. 9.

[16] *Id.* at 2939, 2940-41, paras. 9, 13.

[17] *Id.* at 2934, para. 1.

- *911 calling arrangements*. InnoCaption was required to implement 911 calling arrangements in compliance with the Commission's rules and submit to the Commission, within 90 days of the *Suspension Order's* release date, a detailed description of such arrangements, including test results showing that InnoCaption's 911 calls consistently were successfully completed and that the handling of such calls consistently complied in all respects with section 64.605(a) of the Commission's rules. The *Suspension Order* explained that the Commission would review this submission and conduct its own testing to verify compliance with the Commission's rules and orders.

- *Compliance plan.* InnoCaption was required to establish a comprehensive compliance plan and reporting requirements to demonstrate measures taken to ensure future compliance with the Commission's emergency call handling rule and other TRS rules, as well as other Commission orders and directives related to these rules.

- *Status reports.* Until fully satisfying these conditions, InnoCaption was required to submit a report to the Chief, Disability Rights Office, on the first day of each month, providing details on the status and progress of its efforts to comply with the 911 rules.[18]

C.   InnoCaption's Subsequent Filings

6.   Beginning on April 10, 2015, InnoCaption communicated with CGB staff on numerous occasions to describe its proposed reengineering of 911 calling arrangements, which are also described in an amendment to InnoCaption's application for certification.[19] Under the new 911 calling arrangements, as described by InnoCaption, rather than attempting to send a 911 call directly from the user's phone to the PSAP, InnoCaption proposes to route 911 calls to West Corporation's Emergency Call Relay Center (ECRC),[20] where the operator will request the user's name, location, and "captioning number," a North American Numbering Plan (NANP) telephone number that is assigned to the user and that enables the user to receive captions when receiving calls placed to that number. The callback number is also provided to the ECRC operator automatically. The ECRC operator will then transfer the call to the appropriate PSAP and provide to the PSAP the user's name, location, and call back number. The ECRC operator will not disconnect from the call until the user is connected to the PSAP and communication is initiated.[21]

7.   On September 15, 2015, InnoCaption reported that on the previous day it conducted test calls with the Fairfax County, Virginia PSAP, using the method described above, and that the tests were successful.[22] The Commission tested these same 911 calling arrangements on October, 21, 2015. On

---

[18] *Id.* at 2943, paras. 18-20.

[19] InnoCaption, Amendment to Application of Mezmo Corporation for Certification as a Provider of Internet Protocol Captioned Telephone Services, CG Docket No. 03-0123, at 2-3 (filed Jan. 20, 2016) (InnoCaption January 2016 Amendment).

[20] *See* West Corporation, ERS USA Service Guide, Version 2016.04.05 (Apr. 5, 2016) (describing the ECRC). West Corporation operates public safety communications services that were formerly marketed under the name "Intrado." *See* BusinessWire, "West Rebrands Intrado (Dec. 3, 2015), http://www.businesswire.com/news/home/20151203005185/en/West-Rebrands-Intrado.

[21] InnoCaption January 2016 Amendment at 2-3; Email from Cristina Duarte to Darryl Cooper, Attorney-Advisor, DRO, CGB, FCC (InnoCaption September 15, 2015 Email), Attach., "InnoCaption 911 Interim Solution Using Intrado ECRC" (Sep. 15, 2015) (InnoCaption 911 Solution Description).

[22] InnoCaption September 15, 2015 Email.

November 16, 2015, InnoCaption filed an amendment to its certification application, and on November 27, 2015, InnoCaption filed a Motion to Lift the Suspension.[23]

8.   On November 27, 2015, InnoCaption also filed a petition requesting a waiver of certain provisions of section 64.605(a).[24]   Specifically, InnoCaption requests a waiver of the rule's requirements to convey to the PSAP the TRS provider's name, the CA's callback number, and the CA's identification number, as well as the requirement for the provider to reestablish the call between the caller and the PSAP in the event that it is disconnected.[25]   InnoCaption claims that compliance with these requirements would cause severe hardship to InnoCaption because its service configuration does not enable InnoCaption CAs to receive communications from 911 callers, speak to PSAP operators, or reconnect disconnected calls.   According to InnoCaption, it would have to reconfigure its system and remove existing security measures designed to prevent calls from being directed to particular CAs, and such reconfiguration "would significantly deplete InnoCaption's limited financial resources and drastically prolong [the suspension of InnoCaption's service]."[26]   InnoCaption also contends that its proposed calling arrangements will serve the underlying purposes of the emergency call handling rule because they provide a means to re-connect disconnected emergency calls and actually enable emergency officials to reconnect with users more efficiently than by calling back via InnoCaption's CA.   Providing the PSAP with the caller's own captioning phone number, in lieu of the callback information required by the rule, InnoCaption states, will "save time and lives" by enabling "emergency officials to bypass the middle-man and directly callback InnoCaption users" and thereby "dispatch emergency personnel to the emergency as quickly as possible."[27]

III.   DISCUSSION

9.   For the reasons discussed below, we find that InnoCaption has demonstrated compliance with each of the above conditions set forth in the *Suspension Order* and therefore grant its motion to lift the suspension of its conditional certification.

A.   911 Calling Arrangements

10.   We conclude that InnoCaption has met the first condition of the *Suspension Order* by demonstrating compliance with the emergency call handling rule, except for certain provisions, for which a waiver is granted.

1.   InnoCaption's Ability to Comply with Non-Waived Provisions of the 911 Call Handling Rule

11.   Based on the information InnoCaption has provided to the Commission and the tests of its 911 calling arrangements conducted by the Bureau, we find that InnoCaption has demonstrated its ability to accept and handle a 911 call, access the data needed to connect a caller to the appropriate local PSAP, obtain the caller's name, location, and call-back number, and deliver this information to the PSAP.[28]   In addition, as discussed further below, in lieu of certain other elements of the rule, InnoCaption has demonstrated that its emergency call handling procedures provide the PSAP all information needed for the PSAP to call the user back if the call is disconnected.   InnoCaption's request for waiver of the

---

[23] InnoCaption, Motion to Lift the Suspension of InnoCaption's Conditional Certification, CG Docket Nos. 13-24, 10-51, 03-123) (filed Nov. 27, 2015).

[24] InnoCaption, Petition for Waiver of 911 Call Handling Rule, CG Docket No. 03-123 (filed Nov. 27, 2015) (InnoCaption Waiver Petition).

[25] *Id*. at 2-3; *see* 47 CFR § (a)(2)(iv)-(v).

[26] InnoCaption Waiver Petition at 2-3.

[27] *Id*. at 2-3.

[28] *See* 47 CFR § 64.605(a)(2)(i), (iii), (iv).

requirements to deliver to the PSAP the provider's name and the CA's callback and identification numbers and, in the event of disconnection, to reestablish contact with the TRS user or the PSAP and resume handling the call, are addressed in section III.A.2 below.

12. As described by InnoCaption, each of its IP CTS users is assigned a ten-digit NANP telephone number, which enables the user to receive captioned calls placed to that number. When an InnoCaption user dials 911, the call is routed to West Corporation's ECRC, where the operator obtains the user's name, location, and assigned NANP number, which will serve as a callback number in the event of disconnection. In the event the 911 caller does not know his or her callback number or location, or is unable to speak, the ECRC operator can obtain the callback number from the caller ID shown on the operator's console. The ECRC operator will transfer the call to the local PSAP and provide to the PSAP the user's name, location, and callback number. The ECRC operator will not disconnect from the call until the user is connected to the PSAP and communication is initiated.[29]

13. On October 21, 2015, Commission staff conducted multiple tests of InnoCaption's 911 procedures. Staff from West Corporation and the District of Columbia PSAP (DC PSAP) (which was the appropriate local PSAP for the calls) participated in the tests, by conference call, and gave Commission staff feedback on call connectivity and information provided.[30] When a DC PSAP 911 call taker received a call from the CGB tester and West Corporation, the DC PSAP enabled Commission staff to hear what the 911 call taker heard. All tests assessed whether InnoCaption's alternative call handling arrangements successfully delivered the user's telephone number, in lieu of transmitting the information for which InnoCaption requests a waiver, and were otherwise effective in delivering 911 calls and the required information to the appropriate PSAP. In each test, Commission and DC PSAP staff observed that InnoCaption successfully routed the call to the appropriate PSAP and transmitted the caller's name, location of the emergency, and callback number.[31] Therefore, we conclude that, with the exception of those provisions for which a waiver is granted, InnoCaption is able to handle 911 calls in accordance with section 64.605(a) of the Commission's rules.[32]

2. Rule Waiver

14. The Commission's rules may be waived for good cause shown.[33] The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.[34] The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[35] Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule and if such a deviation will serve the public interest.[36] Moreover, in demonstrating whether a waiver is warranted, the burden of proof rests with the petitioner.[37]

15. The requirements for which a waiver is requested require the iTRS provider to (1) send the PSAP the provider's name and a callback number and identification number for the CA handling 911 call, and (2) initiate the reconnection of a 911 call if one or both legs are disconnected. The purpose of

---

[29] InnoCaption January 2016 Amendment at 2-3; InnoCaption 911 Solution Description.

[30] CGB, OMD, and PSHSB staff observed the October 21 tests.

[31] *See* InnoCaption Waiver Petition at 2.

[32] *See Suspension Order*, 20 FCC Rcd at 2943, para.18.

[33] 47 CFR § 1.3.

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

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

[36] *Northeast Cellular*, 897 F.2d at 1166.

[37] *Tucson Radio, Inc. v. FCC*, 452 F.2d 1380, 1382 (D.C. Cir. 1971).

these requirements is to ensure that a 911 call using iTRS can be reconnected in the event of a disconnection.[38] We find that a waiver will serve the public interest because InnoCaption's alternative measures to enable reconnection of disconnected 911 calls render strict compliance unnecessary – and indeed will achieve "more effective implementation"[39] of the policy underlying the provisions. In light of this finding, strict compliance would impose an unnecessary hardship on InnoCaption.[40]

16.   In considering whether to waive the reconnection provisions, we recognize that the circumstances presented by InnoCaption's request are very different from those prevailing when the emergency call handling requirements were proposed and adopted. When the Commission initially proposed the emergency call handling requirements contained in section 64.605(a) of the rules, VRS and IP Relay were the only two forms of iTRS in existence, and these forms of iTRS had not yet been integrated into the ten-digit numbering plan for telephone service.[41] The Commission adopted the section 64.605(a) requirements to serve as interim rules pending the implementation of ten-digit numbering for iTRS.[42]

17.   The reconnection provisions of the rule were adopted because, without ten-digit NANP numbers, it had been very difficult to enable IP Relay and VRS users to receive incoming calls – including callbacks from a PSAP after disconnection of a 911 call.[43] To address this problem, the reconnection provisions required the iTRS provider and CA who initially handled a 911 call to be actively involved in reconnecting a disconnected 911 call. First, the Commission required the iTRS provider, at the outset of a 911 call, to convey to the PSAP the TRS provider's name, CA's callback number, and the CA's identification number so that, if a 911 call was disconnected, the PSAP could re-establish contact "with the CA," who could then reconnect the PSAP with the user.[44] Second, the Commission required the iTRS provider itself to reconnect a 911 call upon disconnection of one or both legs of the call.[45]

---

[38] *Emergency Call Handling Order*, 23 FCC Rcd at 5257, 5265-66, paras. 2, 16. Accordingly, we refer to them in this Order as "the reconnection provisions."

[39] *WAIT Radio*, 418 F.2d at 1159.

[40] This waiver determination is based on the particular circumstances of InnoCaption's provision of IP CTS and does not affect the obligations of other IP CTS providers. Other IP CTS providers may have different call handling procedures and otherwise present different circumstances than InnoCaption's.

[41] *See Emergency Call Handling Order*, 23 FCC Rcd at 5257, 5259-63, paras. 1, 8-12. IP CTS was authorized in January 2007, after the completion of the comment cycle on the proposed interim emergency call handling rule but before the adoption of the *Emergency Call Handling Order. Id*.; *see also 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). While finding that the rule should apply to certain types of IP CTS, the Commission did not discuss in detail the manner in which the rules would be implemented for IP CTS. *Emergency Call Handling Order*, 23 FCC Rcd at 5257, para. 1 n.7.

[42] *Emergency Call Handling Order*, 23 FCC Rcd at 5257, para. 1.

[43] *See First iTRS Numbering Order*, 23 FCC Rcd at 11594, paras. 4-5. Generally, unless the destination party had a proxy number given out by a provider (a practice of some VRS providers), the only way to call an iTRS user was to learn the destination party's IP address, a difficult task since these numbers rarely remained static. *See id*. As IP addresses are "dynamic" (i.e., subject to change each time a connection is established) and proxy numbers were only available to the iTRS provider that generated the number (*id*., para. 5), it was deemed necessary to require measures to ensure that a disconnected 911 call using iTRS was reconnected via the same iTRS provider – and the same CA – that handled the initial 911 call. *Emergency Call Handling Order*, 23 FCC Rcd at 5265-66, para. 16.

[44] *Emergency Call Handling Order*, 23 FCC Rcd at 5265, para. 16.

[45] In June 2008, the Commission adopted ten-digit numbering and revised the emergency call handling rules for VRS and IP Relay providers. *First iTRS Numbering Order*. Among other things, these revisions added section 64.605(b) to the rules, which began requiring VRS and IP Relay providers to transmit the telephone number – known as the ANI, or automatic number identification – of the *caller*, rather than the telephone number of the

18.   InnoCaption's circumstances are different from those that led the Commission to adopt these requirements. Most significantly, according to InnoCaption's description of its service configuration, a ten-digit NANP number is assigned to each IP CTS user, and the provision of this number to the PSAP will enable the PSAP to call the user back directly, rather than directly involving the CA in reconnection of the call. Our October 2015 tests of InnoCaption's proposed 911 solution indicated that InnoCaption is able to deliver this alternative callback number as well as the caller's name and the location of the emergency. Therefore, if it becomes necessary to reconnect a disconnected 911 call, the PSAP will not need the reconnection information required by section 64.605(a)(2)(iv). While the provider's name, CA callback number, and CA identification number may be necessary for a PSAP to locate a caller and reconnect a call where the TRS user has not been assigned a ten-digit number that can receive captioned calls, in the circumstances presented by InnoCaption, where a ten-digit phone number has been assigned to each user, these three pieces of information appear to be no longer necessary to achieve the rule's objectives. In addition, because the PSAP will have all the information necessary to reconnect to the user directly, it appears not to be necessary for the TRS provider to initiate reconnection of the call, as required by section 64.605(a)(2)(v). In summary, by making it possible for the PSAP to respond to disconnected 911 calls by calling the user directly, the alternative procedures described by InnoCaption will achieve the essential objective of the reconnection provisions of the Commission's IP CTS call handling rules.

19.   Significantly, it also appears that InnoCaption's proposed alternative 911 call handling arrangement will provide "*more* effective implementation" of the policy underlying the reconnection provisions, in the particular circumstances of InnoCaption's IP CTS operations, than if strict compliance were required.[46] As InnoCaption points out, reconnecting a call directly, rather than having to first dial a number to reach a CA at the captioning call center, may save precious seconds during an emergency because it will enable "emergency officials to bypass the middleman and directly call back InnoCaption users."[47] Similarly, providing the PSAP with information that it does not need, due to the specific manner in which InnoCaption has implemented IP CTS, may unnecessarily add time to the call, potentially delaying the dispatch of first responders and the delivery of critical assistance to the caller. Further, in the circumstances described by InnoCaption, strict compliance with the requirement for the TRS provider to initiate reconnection could lead to confusion if, for example, InnoCaption were to attempt to reconnect a 911 call at the same time that the PSAP is calling the user back directly. InnoCaption's proposed arrangements also ensure that the PSAP operator that received the call initially is involved in the callback and that the PSAP's expert judgment can be used to determine whether and when to reconnect any given call.

(Continued from previous page)

provider, to the PSAP. 47 CFR § 64.605(b). However, because of the very different manner in which IP CTS calls were processed, this June 2008 *First iTRS Numbering Order* did not similarly amend the 911 call handling rules for IP CTS providers. *See First iTRS Numbering Order*, 23 FCC Rcd at 11592-93, para. 1 n.5. The Commission explained that "IP CTS raises distinct technical and regulatory issues." *Id*. Further, as the Commission recognized in the *Emergency Call Handling Order*, IP CTS operations, including call setup practices, can vary significantly from one IP CTS provider to another. *Emergency Call Handling Order*, 23 FCC Rcd at 5257, para. 1 n.7.

[46] *WAIT Radio*, 418 F.2d at 1159 (emphasis added).

[47] InnoCaption Waiver Petition at 3. In the *Emergency Call Handling Order*, the Commission recognized the inefficiency of the 911 call set-up process employed in the TTY-based form of TRS, whereby "emergency calls . . . are connected through a CA, who must place a second, or outbound, call to the appropriate PSAP." *Emergency Call Handling Order*, 23 FCC Rcd at 5258, para. 4. The Commission noted that "[b]ecause the use of [TTY-based] TRS (which requires two separate calls) in an emergency situation represents a less efficient method of accessing emergency services, the Commission has encouraged TRS users to access emergency services directly (by dialing 911 as a text-to-text, TTY-to-TTY call), rather than making emergency calls through a TRS provider." *Id*. InnoCaption's proposed reconnection method would eliminate the inefficiency inherent in placing two separate calls.

20.   Finally, we find reasonable InnoCaption's claim that strict compliance with the reconnection provisions would cause a significant and unnecessary hardship to InnoCaption by requiring it to reconfigure its 911 arrangements so that its CAs can initiate and receive 911 callbacks. On IP CTS calls, unlike VRS and IP Relay, the CA is only involved in one side of the conversation – that of the individual whose voice the CA is converting into captions.[48] In addition, outside the 911 context, an IP CTS CA does not need to have the capability to set up calls.[49] Enabling the CA to receive calls from the PSAP and to initiate reconnection of 911 calls would thus require the provision of additional communications capabilities, as well as training, for InnoCaption's CAs. Therefore, we conclude that requiring InnoCaption to comply with the reconnection provisions, rather than implementing the alternative arrangement described above, would impose an unnecessary burden. While InnoCaption would be required to invest in additional CA training and to establish additional CA communications capabilities that would be used solely for 911 calls, the use of these capabilities would appear to offer little additional benefit while increasing the likelihood of confusion and delay in the delivery of emergency assistance.

21.   In summary, InnoCaption has demonstrated and the Bureau's testing has confirmed that its 911 call handling procedures can protect the public safety by effectively delivering 911 calls to the appropriate PSAP with the necessary information to respond to those calls. Further, InnoCaption has shown that its alternative method of enabling reconnection of 911 calls will achieve "*more* effective implementation" of the policy underlying the reconnection provisions and that strict compliance with those provisions would cause unnecessary hardship. We therefore conclude that good cause has been shown to grant InnoCaption's partial waiver of (1) section 64.605(a)(iv), to the extent this rule requires the delivery to the PSAP of the CA's identification number, the CA's call back number, and the name of the provider; and (2) the requirement under section 64.605(a)(2)(v) to reconnect 911 calls that have been disconnected between an InnoCaption caller and a PSAP.[50] This waiver is conditioned on InnoCaption's continuing ability to provide the user's callback number to PSAPs in the manner it describes.

22.   For these reasons, we conclude that InnoCaption has demonstrated compliance with the first condition of the *Suspension Order*. However, because InnoCaption has not described how it will comply with section 64.605(a)(2)(ii), which requires iTRS providers to give priority to 911 calls over all other calls,[51] we require InnoCaption, as a specific condition of the conditional certification reinstated herein, to submit to CGB, within 30 days of issuance of this order, a narrative detailing how InnoCaption will comply with this rule.[52]

B.   Consent Decree

23.   On September 24, 2015, InnoCaption satisfied the second condition of the *Suspension Order* by entering into a consent decree with the Enforcement Bureau (EB) wherein: (1) EB found that InnoCaption was unable to handle 911 calls from June 11, 2014 through March 16, 2015;[53] (2)

---

[48] With VRS and IP Relay, the CA communicates in both directions with each party to a call. With IP CTS, by contrast, the hearing party receives voice communications from the IP CTS user without assistance from the CA. The IP CTS CA hears the voice of the hearing party but does not speak to that party, and the CA provides captions to the IP CTS user but does not receive communications from the user.

[49] With VRS and IP Relay, by contrast, the CA can assist users in dialing calls.

[50] *See* 47 CFR § 64.605(a)(iv)-(v).

[51] *See id*. § 64.605(a)(2)(ii); *see also Emergency Call Handling Order*, 23 FCC Rcd at 5266, para. 17.

[52] The consent decree that InnoCaption entered into with EB requires InnoCaption to file compliance reports with the Commission that include reporting of testing of emergency call handling requirements, including testing of 911 call prioritization. *See InnoCaption, Inc.,* Order, 30 FCC Rcd 10101, 10109-11, Attach. paras. 16 (Additional Compliance Measures), 18 (Compliance Reports) (EB 2015) (*Consent Decree*).

[53] *Id.* at 10105-06, Attach. paras. 5-8.

InnoCaption admitted that it was not entitled to TRS Fund compensation for that time period;[54] and (3) InnoCaption agreed to adopt a compliance plan to "ensure future compliance with the Communications Laws and the terms and conditions" of the *Consent Decree*.[55]

24. As a condition of our reinstatement of InnoCaption's conditional certification, InnoCaption must continue to comply with the *Consent Decree*.

C. Status Reports to DRO

25. Finally, we find that InnoCaption has satisfied the third condition of the *Suspension Order* by timely apprising DRO of its progress in implementing a compliant 911 calling system. Specifically, since the issuance of the *Suspension Order*, InnoCaption has sent DRO documents on at least a weekly basis to keep it apprised of InnoCaption's progress to comply with the 911 rules.

IV. ORDERING CLAUSES

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

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

FEDERAL COMMUNICATIONS COMMISSION

Karen Peltz Strauss
Deputy Chief
Consumer and Governmental Affairs Bureau

---

[54] *See id.* at 10107, para. 13 (Admissions).

[55] *Id.* at 10108-11, para. 16 (Compliance Plan).