

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

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

FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: August 4, 2016

Released: August 4, 2016

Comment Date: [21 days after date of publication in the Federal Register]

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In 2013, the Federal Communications Commission (FCC or Commission) amended its rules to improve the structure, efficiency, and quality of the video relay service (VRS) program.1 Among other things, the Commission took steps to improve the effectiveness of its interoperability and portability rules, in order to improve functional equivalence and VRS availability for consumers, ease of compliance by providers, and overall efficiency in the operation of the TRS program.2 To accomplish this goal, the Commission strongly encouraged the continuation of efforts under the umbrella of an existing organization, the Session Initiation Protocol (SIP) Forum’s VRS Task Group, to develop voluntary, consensus standards to facilitate interoperability and portability. The Commission noted with favor the progress being made by the SIP Forum, and directed Commission staff to support and participate in the SIP Forum process in order to ensure the timely development of such consensus standards.3

2. The VRS Task Group of the SIP Forum and a successor group, the Relay User Equipment (RUE) Forum, have now produced interoperability and portability standards that we believe satisfy the Commission’s objectives, making it possible to achieve the improvements sought in the VRS Reform Order. This Further Notice of Proposed Rulemaking (FNPRM or Further Notice), issued by the

1 Structure and Practices of the Video Relay Service Program, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8620, para. 1 (2013) (VRS Reform Order). VRS is a type of telecommunications relay service (TRS) that allows persons with hearing or speech disabilities to use American Sign Language (ASL) to communicate in near real time through a communications assistant (CA), via video over a broadband Internet connection. See 47 C.F.R. § 64.601(a)(40). Under section 225 of the Communications Act of 1934, as amended (Act), the Commission must ensure that TRS “are available, to the extent possible and in the most efficient manner” to persons in the United States who are deaf, hard of hearing, deaf-blind, or who have speech disabilities. 47 U.S.C. § 225(b)(1); see also id., § 225(a)(3).

2 VRS Reform Order, 28 FCC Rcd at 8639-41, 8642-44, paras. 40-44, 47-52.

3 Id. at 8642, para. 48.

Consumer and Governmental Affairs Bureau (CGB or Bureau) pursuant to a delegation of authority in the *VRS Reform Order*,<sup>4</sup> proposes to incorporate those interoperability and portability standards by reference into our VRS interoperability rule,<sup>5</sup> along with a process that will readily enable revisions to this rule to reflect future amendments or changes in these standards. In addition, this Further Notice proposes guidance on implementation of the recently completed RUE Standards, including the need for a transition period for existing VRS access technologies to achieve interoperability and portability.<sup>6</sup>

## II. DISCUSSION

3. Since 2006, the Commission has required VRS providers to (i) allow VRS users to make and receive calls through any VRS provider, and to choose a different default provider, without changing the VRS access technology they use to place calls,<sup>7</sup> and (ii) ensure that VRS users can make point-to-point calls to all other VRS users, irrespective of the default provider of the calling and called party.<sup>8</sup> Providers also must ensure that videophone equipment that they distribute retains certain features when a user ports his or her ten digit VRS number to a new default provider.<sup>9</sup>

4. In order to improve the effectiveness of these interoperability and portability requirements, the *VRS Reform Order* delegated “to the Chief of CGB, after consultation with the CTO [Chief Technology Officer] and the Chief of OET [Office of Engineering and Technology], the authority to conduct rulemaking proceedings to incorporate into our rules by reference any interoperability and portability standards developed under the auspices of the SIP Forum, now or in future, or such other voluntary, consensus standard organization as may be formed to address these issues.”<sup>10</sup> The *VRS Reform Order* further provided: “Recognizing that the scope of the SIP Forum VRS Task Group charter extends beyond our current mandatory minimum standards, we also delegate to Chief of CGB, after consultation with the CTO and the Chief of OET, the authority to conduct rulemaking proceedings to incorporate into our rules by reference as new or updated mandatory minimum standards any standards or recommended standards developed by the SIP Forum (or such other voluntary, consensus standard organization as may be formed to address these issues) that the Chief of CGB finds will advance the statutory functional equivalency mandate or improve the availability of TRS, in the most efficient manner. In conducting such rulemakings, the Chief of CGB shall provide guidance on implementation, including the need for a

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<sup>4</sup> *Id.* at 8643, para. 49.

<sup>5</sup> 47 CFR § 64.621.

<sup>6</sup> See *VRS Reform Order*, 28 FCC Rcd at 8643, para. 49.

<sup>7</sup> “VRS access technology” was defined in the *VRS Reform Order* as a type of “iTRS access technology” used for VRS. “iTRS access technology” is defined as “any equipment, software, or other technology issued, leased, or provided by an Internet-based TRS provider that can be used to make or receive an Internet-based TRS call.” The *VRS Reform Order* explained that “under this definition, any software, hardware, or other technology issued, leased, or otherwise provided to VRS or IP Relay users by Internet-based TRS providers, including “provider distributed equipment” and “provider based software,” whether used alone or in conjunction with “off-the-shelf software and hardware,” would qualify as “iTRS access technology.”” See *Id.* at 8641, para. 45.

<sup>8</sup> 47 C.F.R. 64.611(e); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd. 791, 819-22, paras. 63-67 (2008) (*Second Internet-Based TRS Numbering Order*); see generally *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, 21 FCC Rcd 5442 (2006) (*VRS Interoperability Declaratory Ruling*). A point-to-point call is one where TRS equipment is used by individuals with speech or hearing disabilities to communicate directly with each other, without the assistance of an interpreter.

<sup>9</sup> See *VRS Reform Order*, 28 FCC Rcd at 8639, para. 40.

<sup>10</sup> *Id.* at 8643, para. 49.

transition period for existing VRS access technologies, complaint resolution, or other actions necessary to ensure full interoperability and portability.”<sup>11</sup>

5. In August 2015, the SIP Forum published the Video Relay Service (VRS) Provider Interoperability Profile (VRS Provider Interoperability Profile), a consensus document developed by the SIP Forum’s VRS Task Group.<sup>12</sup> The VRS Provider Interoperability Profile provides technical specifications for the interface between VRS providers and the interface between a VRS provider and the TRS Numbering Directory.<sup>13</sup> In July 2016, the Relay User Equipment Forum (RUE Forum) published a second consensus document, the Interoperability Profile for Relay User Equipment (RUE Profile) on the Internet Engineering Task Force (IETF) website.<sup>14</sup> The RUE Profile provides technical specifications that define a standard interface between a relay user’s equipment and the services offered by relay service providers.<sup>15</sup>

6. We tentatively conclude that the VRS Provider Interoperability Profile and the RUE Profile will effectively meet the Commission’s goals of ensuring interoperability and portability, as required by the *VRS Reform Order*. Specifically, these standards will enable a VRS user to place and receive calls through any VRS provider and make point-to-point calls to all other VRS users, irrespective of the default provider of the parties to the call, and without the caller having to change the VRS access technology used to make such calls. Additionally, as required by the *2013 VRS Reform Order*, these standards will support a standard data interchange format for exporting and importing private data contained in a user’s personal contacts list (also referred to as an address book) and the user’s speed dial list between the VRS user’s access technology and the access technology of other VRS providers.<sup>16</sup> In these various ways, these standards will “advance the statutory functional equivalency mandate [and] improve the availability of TRS, in the most efficient manner,” in accordance with the *VRS Reform Order*.<sup>17</sup> We further note that all current VRS providers participated in the process leading to adoption of the RUE Standards, and that all providers appear to have reached a consensus on these standards.<sup>18</sup> For all of these reasons, we tentatively conclude that the RUE Standards meet the Commission’s objective of facilitating interoperability and portability for VRS,<sup>19</sup> and should be incorporated by reference into the

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<sup>11</sup> *Id.* at 8643, para. 49.

<sup>12</sup> SIP Forum, US Video Relay Service (VRS) Provider Interoperability Profile, Version 15, SIP Forum Document Number: VRS US Providers Profile TWG-6-0.15 (Sept. 23, 2015) (Provider Interoperability Profile), [http://www.sipforum.org/component/option.com\\_docman/task\\_cat\\_view/gid.160/Itemid.75/](http://www.sipforum.org/component/option.com_docman/task_cat_view/gid.160/Itemid.75/); see also Letter from Richard Shockey, Chairman of the Board of Directors, SIP Forum, and Marc Robins, President and Management Director, SIP Forum (filed Oct. 29, 2015). The VRS Task Group is described at <http://www.sipforum.org/content/view/404/291/> (last visited July 28, 2016).

<sup>13</sup> Provider Interoperability Profile, § 4.

<sup>14</sup> Interoperability Profile for Relay User Equipment, draft-vrs-rue-dispatch-00 (July 20, 2016) (RUE Profile), <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>.

<sup>15</sup> RUE Profile, § 2.

<sup>16</sup> See *VRS Reform Order*, 28 FCC Rcd at 8643, para. 50.

<sup>17</sup> See *Id.* at 8643, para. 49.

<sup>18</sup> All the VRS providers have joined in periodic FCC filings describing their progress in developing these specifications. See Letter from Gabrielle Joseph, Vice President, ASL Holdings, et al., to Marlene Dortch, FCC Secretary (filed Jan. 8, 2015); Letter from Gabrielle Joseph, Vice President, ASL Holdings, et al., to Marlene Dortch, FCC Secretary (filed June 26, 2015); Letter from Gabrielle Joseph, Vice President, ASL Holdings, et al., to Marlene Dortch, FCC Secretary (filed May 19, 2016).

<sup>19</sup> See *VRS Reform Order*, 28 FCC Rcd at 8642, para. 48.

Commission's rules. We seek comment on this tentative conclusion and our rationale. We also seek comment on whether any modified version of the RUE Standards that results from the continued work of the RUE Forum, which is published subsequent to the release of this FNPRM and during the pendency of this proceeding, should be adopted in lieu of the versions of the RUE Standards discussed above.

7. We also propose to follow, in the future, a procedure that permits amendments or changes to the RUE Standards to be incorporated into our rules in a timely and efficient manner. We believe that a voluntary, consensus standards process that results in amendments or changes to RUE Standards will, as is the case for the standards proposed for incorporation herein, allow for widespread participation by the affected parties, and in particular VRS providers. In the event of such amendments or changes, we will issue a public notice seeking comment on such modifications, followed by an order incorporating into the VRS rules amendments or changes by reference if justified based on the resulting record. When such revised standards are completed and accepted by the Bureau, a second public notice will be issued containing information on how to access the modified standards and establishing an implementation schedule. To facilitate ready access to such standards, we further propose that the Commission make them available to the public online. We believe that this process will allow interested parties to have the opportunity to participate in the standards-setting process, comment on the inclusion of such standards in the Commission's rules, and receive notice about the implementation of any amendments or changes to the standards. The Bureau seeks comment on this approach and on any alternatives.

8. As to the timing of the implementation of the recently developed RUE Standards, we believe that insofar as all current VRS providers participated in developing these standards and had an opportunity to debate the various technical issues over a period of several years, as a practical matter, all providers have become familiar with the content of the standards, have had ample opportunity to incorporate the standards into their software development processes, and have had sufficient opportunity to familiarize their suppliers with any necessary design changes. We therefore propose that the rule amendment incorporating the RUE Standards into section 64.621 of the Commission's rules shall become effective 60 days after publication in the Federal Register of the amended rule. The Bureau seeks comment on this proposed implementation schedule. To the extent that any commenter seeks a later effective date, we request that such commenter describe the specific products or features and functions for which a later effective date is needed and the reasons why compliance is not achievable at an earlier date.

9. As the Commission contemplated in the *VRS Reform Order*, once incorporated into our rules, compliance with the RUE Standards "shall be a prerequisite for compensation from the Fund. No VRS provider shall be compensated for minutes of use generated by non-standards compliant VRS access technologies or otherwise generated in a manner inconsistent with our rules. If a provider cannot reliably separate minutes of use generated through standards compliant VRS access technologies from those generated through non-standards compliant VRS access technologies, the provider will not receive compensation for any of the minutes."<sup>20</sup>

10. The Office of Federal Register (OFR) recently revised its regulations to require that agencies must discuss in the preamble of a proposed rule ways that the materials the agency proposes to incorporate by reference are reasonably available to interested parties or how it worked to make those materials reasonably available to interested parties. In addition, the preamble of the proposed rule must summarize the material.<sup>21</sup> In accordance with OFR's requirements, the discussion in the following two paragraphs summarize and indicate the availability of the VRS Provider Interoperability Profile and the RUE Profile.

11. The US Video Relay Service (VRS) Provider Interoperability Profile, Version 15, SIP Forum

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<sup>20</sup> *Id.* at 8644, para. 51.

<sup>21</sup> 1 CFR § 51.5(a).

Document Number: VRS US Providers Profile TWG-6-0.15 (Sept. 23, 2015) (VRS Provider Interoperability Profile), is available from SIP Forum LLC, 733 Turnpike Street, Suite 192, North Andover, MA 01845 USA, (203) 829-6307, at [http://www.sipforum.org/component/option,com\\_docman/task,cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option,com_docman/task,cat_view/gid,160/Itemid,75/). The Provider Interoperability Profile provides technical specifications for the interface between VRS providers and the interface between a VRS provider and the TRS Numbering Directory.

12. The Interoperability Profile for Relay User Equipment, draft-vrs-rue-dispatch-00 (July 20, 2016) (RUE Profile), is available from IETF Secretariat, 5177 Brandin Court, Fremont, CA 94538, 510-492-4080, at <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>. The RUE Profile provides technical specifications that define a standard interface between a relay user's equipment and the services offered by relay service providers.

### III. PROCEDURAL ISSUES

#### A. Paperwork Reduction Act Analysis

13. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

#### B. Initial Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act of 1980, 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>22</sup> The IRFA is set forth in Appendix B. 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 of Proposed Rulemaking provided on or before the dates indicated on the first page of this FNPRM. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>23</sup> In addition, the FNPRM and IRFA (or summaries thereof) will be published in the Federal Register.<sup>24</sup>

#### C. Comments

15. *Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the date indicated on the first page of this document. Because all current VRS providers participated in developing the RUE Standards, had an opportunity to debate the various technical issues over a period of several years, and all providers are familiar with the content of the standards, we find that a 21 day comment period without a reply comment period is reasonable and will provide sufficient opportunity to participate in the rulemaking proceeding as required by section 553(c) of the Administrative Procedures Act.<sup>25</sup> Moreover, to the extent that parties wish to respond to the comments of other parties or otherwise add to the record, parties may continue to participate in the proceeding after the formal comment period ends pursuant to the Commission's *ex parte* rules for "permit-but-disclose" proceedings.<sup>26</sup> Pursuant to section 1.3 of the Commission's rules,<sup>27</sup> on our

<sup>22</sup> *See* 5 U.S.C. § 603.

<sup>23</sup> *See id.* § 603(a).

<sup>24</sup> *Id.*

<sup>25</sup> 5 U.S.C. § 553(c); *see also* 47 CFR § 1.415(b) (requiring a reasonable time for submission of comments).

<sup>26</sup> *See* para. 18, *infra*.

own motion for good cause shown, we therefore waive section 1.415(c) of the Commission's rules.<sup>28</sup>

16. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Because the entities directly affected by the implementation of these standards participated in their voluntary and consensual development, and because we seek to realize full interoperability and portability for VRS beneficiaries as soon as practicable, we are waiving any requirements for reply comments.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- 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 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

17. *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), 202-418-0432 (tty).

18. *Ex Parte Rules*. The proceeding this FNPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>29</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 rule 1.1206(b). In proceedings governed by rule 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

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<sup>27</sup> 47 CFR § 1.3.

<sup>28</sup> 47 CFR § 1.415(c) (providing for a reasonable time for submission of reply comments).

<sup>29</sup> 47 C.F.R. §§ 1.1200 *et seq.*

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.

#### IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 225 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 303(r), this Further Notice of Proposed Rulemaking IS ADOPTED.

20. IT IS FURTHER ORDERED that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Alison Kutler  
Chief  
Consumer and Governmental Affairs Bureau

**APPENDIX A****Proposed Rules**

For the reasons stated in the preamble, 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, 254(k); 403(b)(2)(B), (c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, unless otherwise noted.

2. Amend section 64.621 by revising paragraph (b) to read as follows:

**§ 64.621 Interoperability and portability.**

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(b) *Technical Standard for Interoperability and Portability.*

(1) VRS providers shall ensure that their provision of VRS and video communications, including their access technology, meets the requirements of the US Video Relay Service (VRS) Provider Interoperability Profile Version 15, SIP Forum Document Number: VRS US Providers Profile TWG-6-0.15 (Sept. 23, 2015) (VRS Provider Interoperability Profile), [http://www.sipforum.org/component/option.com\\_docman/task.cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option.com_docman/task.cat_view/gid,160/Itemid,75/), and the Interoperability Profile for Relay User Equipment (RUE Profile), draft-vrs-rue-dispatch-00 (July 20, 2016), <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>.

(2) This incorporation by reference of the VRS Provider Interoperability Profile and the RUE Profile was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the VRS Provider Interoperability Profile may be obtained from SIP Forum LLC, 733 Turnpike Street, Suite 192, North Andover, MA 01845 USA, (203) 829-6307, at [http://www.sipforum.org/component/option.com\\_docman/task.cat\\_view/gid,160/Itemid,75/](http://www.sipforum.org/component/option.com_docman/task.cat_view/gid,160/Itemid,75/). Copies of the RUE Profile may be obtained from IETF Secretariat, 5177 Brandin Court, Fremont, CA 94538, 510-492-4080, at <https://www.ietf.org/id/draft-vrs-rue-dispatch-00.txt>. Copies of these publications also may be inspected during normal business hours at the following locations: Consumer and Governmental Affairs Bureau, Reference Information Center, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554; and the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).



## APPENDIX B

## Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this 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 deadlines for comments in the FNPRM. The Commission will send a copy of this FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the FNPRM and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

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

2. Under Title IV of the Americans with Disabilities Act (ADA), the Commission must ensure that relay services “are available, to the extent possible and in the most efficient manner” to persons in the United States with hearing or speech disabilities.<sup>4</sup> Section 225 of the Communications Act of 1934, as amended (Act) defines Telecommunications Relay Service (TRS) as a service provided in a manner that is “functionally equivalent” to voice telephone services<sup>5</sup> and directs the Commission to establish functional requirements, minimum standards, and other regulations to carry out the statutory mandate.<sup>6</sup> In addition, the Commission’s regulations must encourage the use of existing technology and must not discourage the development of new technology.<sup>7</sup> Video relay service (VRS) is a form of TRS that allows persons with hearing or speech disabilities to use sign language to communicate in near real time through a communications assistant (CA), via video over a broadband Internet connection.<sup>8</sup>

3. In the *VRS Reform Order*,<sup>9</sup> the Commission took steps to improve the effectiveness of its interoperability and portability rules, in order to improve functional equivalence and VRS availability for consumers, ease of compliance by providers, and overall efficiency in the operation of the TRS program.<sup>10</sup> To accomplish this goal, the Commission strongly encouraged the continuation of efforts by the Session Initiation Protocol (SIP)<sup>11</sup> Forum’s VRS Task Group to develop voluntary, consensus standards to facilitate interoperability and portability and directed Commission staff to support and

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<sup>1</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

<sup>2</sup> See 5 U.S.C. § 603(a).

<sup>3</sup> See 5 U.S.C. § 603(a).

<sup>4</sup> 47 U.S.C. § 225(b)(1).

<sup>5</sup> 47 U.S.C. § 225(a)(3) (defining TRS as “telephone transmission services that provide the ability for an individual who is deaf, hard of hearing, deaf-blind, or who has a speech disability to engage in communication by wire or radio with one or more individuals, in a manner that is functionally equivalent to the ability of a hearing individual who does not have a speech disability to communicate using voice communication services by wire or radio”).

<sup>6</sup> 47 U.S.C. § 225(d)(1).

<sup>7</sup> 47 U.S.C. § 225(d)(2).

<sup>8</sup> See 47 C.F.R. § 64.601(a)(27) (2012).

<sup>9</sup> *Structure and Practices of the Video Relay Service Program*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8620, para. 1 (2013) (*VRS Reform Order*).

<sup>10</sup> *Id.* at 8639-41, paras. 40-44.

<sup>11</sup> Session Initiation Protocol (SIP) is a communications protocol for signaling and controlling multimedia communication sessions.

participate in the SIP Forum process.<sup>12</sup> The SIP Forum and a successor group, the Relay User Equipment (RUE) Forum have now produced interoperability and portability standards, making it possible to achieve the improvements sought in the *VRS Reform Order*. This FNPRM proposes to incorporate those interoperability and portability standards by reference into the Commission's VRS interoperability rule,<sup>13</sup> along with guidance on implementation, including the need for a transition period for existing VRS access technologies to achieve interoperability and portability.<sup>14</sup> In addition, this FNPRM proposes a process that will readily enable revisions to this rule to reflect future amendments or changes in these standards by issuing a public notice seeking comment on such modifications, followed by an order incorporating into the VRS rules amendments or changes by reference if justified based on the resulting record, after which a second public notice will be issued containing information on how to access the modified standards online and establishing an implementation schedule.

## **B. Legal Basis**

4. The legal basis for any action that may be taken pursuant to the Further Notice is contained in sections 1, 2, 4(i), 4(j), 225, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 225, 303(r).

## **C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules May Apply**

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 rules.<sup>15</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>16</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>17</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>18</sup>

6. *All Other Telecommunications*. "All Other Telecommunications" is defined as follows: "This U.S. industry comprises establishments 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>19</sup> The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with

<sup>12</sup> *VRS Reform Order*, 28 FCC Rcd at 8642-44, paras. 47-52.

<sup>13</sup> 47 CFR § 64.621; *see also VRS Reform Order*, 28 FCC Rcd at 8643, para. 49.

<sup>14</sup> *See VRS Reform Order*, 28 FCC Rcd at 8643, para. 49.

<sup>15</sup> 5 U.S.C. § 604(a)(3).

<sup>16</sup> 5 U.S.C. § 601(6).

<sup>17</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

<sup>18</sup> 15 U.S.C. § 632.

<sup>19</sup> U.S. Census Bureau, North American Industry Classification System, Definition of NAICS Code 517919. *See* <<http://www.census.gov/cgi-bin/sssd/naics/naicsrch>>.

gross annual receipts of \$32.5 million or less.<sup>20</sup> VRS can be included within the broad economic category of All Other Telecommunications because VRS providers use Internet services via client-supplied telecommunications connections.<sup>21</sup> For this category, Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these, 1,400 firms had annual receipts of less than \$25 million.<sup>22</sup> Under this category and the associated small business size standard, the majority of providers of “All Other Communications” service providers, maybe considered small.

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

7. Certain rule changes, if adopted by the Commission, would modify rules or add requirements governing compliance obligations.

8. If the Commission were to incorporate the SIP Forum standards by reference into the Commission’s VRS interoperability rule and provide guidance on implementation, VRS providers, including small entities, would need to take steps to comply with such standards.

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

9. The RFA requires an agency to describe any significant alternatives, specific to small entities, that it has considered in developing its approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>23</sup>

10. In general, alternatives to proposed rules are discussed only when those rules pose a significant adverse economic impact on small entities. In this context, however, the proposed rules generally confer benefits. In particular, interoperability requirements benefit the smaller providers because consumers find the services of smaller providers to be more attractive when these services are interoperable than when they are not interoperable. These benefits outweigh any burdens associated with compliance. Moreover, because all of the VRS providers participated in the discussions associated with the development of the standards, the Commission believes that these standards are acceptable to all VRS providers, including small entities. Lastly, the FNPRM seeks comment on the proposed implementation schedule to ensure that such implementation schedule is achievable.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with Proposed Rules**

11. None.

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<sup>20</sup> See 13 C.F.R. § 121.201, NAICS Code 517919.

<sup>21</sup> Five providers are currently eligible to receive compensation from the Interstate TRS Fund for providing VRS: ASL Services Holdings, LLC; CSDVRS, LLC; Convo Communications, LLC; Purple Communications, Inc.; and Sorenson Communications, Inc.

<sup>22</sup> See

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

<sup>23</sup> 5 U.S.C. § 603(c)(1)-(c)(4).