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Video Relay Service: Program Funding and Reform

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Summary

The Federal Communications Commission (FCC) regulates a number of disability-related telecommunications services, including video relay service (VRS). VRS allows persons with hearing disabilities, using American Sign Language (ASL), to communicate with voice telephone users through video equipment, rather than through typed text. VRS has quickly become a very popular service, as it offers several features not available with the text-based telecommunications relay service (TRS).

In June 2010, the FCC began a comprehensive review of the rates, structure, and practices of the VRS program. The goal of the review is to reform the VRS program, which had long been burdened by waste, fraud, and abuse, and by compensation rates that had become inflated above actual cost. The FCC issued its updated VRS Program rules in June 2013. The new rules initiate fundamental restructuring of the program to support innovation and competition, drive down ratepayer and provider costs, eliminate incentives for waste, and further protect consumers, including—

- ensuring that VRS users can easily select their provider of choice by promoting the development of voluntary, consensus interoperability and portability standards;
- enabling consumers to use off-the-shelf tablets and smart phones for any provider's VRS services by developing and deploying a VRS application to work with these devices, based on the consensus standards;
- creating a centralized TRS User Registration Database to combat fraud, waste, and abuse by ensuring VRS user eligibility;
- encouraging competition and innovation in VRS call handling services—such as ASL interpretation—by contracting with a neutral third party to build, operate, and maintain a platform for communications services; and
- spurring research and development on VRS services by entering into a Memorandum of Understanding with the National Science Foundation.

In addition, the new rules transition VRS compensation rates toward actual costs over the next four years, initiating a step-by-step transition from existing tiered TRS Fund compensation rates toward a unitary, market-based compensation rate. No additional action has been taken in this proceeding.

Congressional interest in the VRS Program is two-fold: eliminating fraud and abuse in the program and maintaining the usefulness of the program for users. Controversy has arisen over the latest proposals for change to the program being considered by the FCC. The FCC believes that rate structure changes are needed to reduce fraud and better manage the VRS program, but the deaf and hard-of-hearing community is concerned that funding cuts will result in fewer and less-qualified ASL interpreters. Additionally, the FCC has proposed changing the technologies used to operate and use the system, but the community is concerned that changes in technology will decrease the quality of the system as it is now and also potentially pose challenges to some users.

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Introduction: How Video Relay Service Works

The Federal Communications Commission (FCC) regulates a number of disability-related telecommunications services, including video relay service (VRS). VRS is a form of Telecommunications Relay Service (TRS).[1] The service allows persons with hearing disabilities, using American Sign Language (ASL), to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a "communications assistant" (CA) so that the VRS user and the CA can see and communicate with each other in signed conversation (see **Figure 1**).

Figure 1. How Video Relay Service Works



Source: Gallaudet University, "Accessible Emergency Notification and Communication: State of the Science Conference (Presentation)," http://goo.gl/CBmtM (Original URL shortened by Google URL Shortener).

VRS has quickly become a very popular service. It offers several features not available with the text-based TRS:

- People with hearing disabilities can communicate using ASL rather than typing what they want to say. This allows them to incorporate facial expressions and body language into their conversations, which cannot be done using text.
- A VRS call is more like a telephone conversation between two hearing persons. For example, the parties can interrupt each other. The parties cannot interrupt each other during a traditional TRS call because the parties have to take turns communicating with the CA.
- Conversation flows more naturally between the parties, so the conversation may take place more quickly than with TRS.

[1] TRS is not specifically addressed in this report. TRS is available to the speech impaired and deaf-blind (telebraille). VRS is only for the deaf and hard-of-hearing. Neither the blind nor the speech impaired would benefit from VRS since they would not be able to see the operator or speak to the operator, respectively. Information about the TRS Program is available at http://www.fcc.gov/guides/telecommunications-relay-service-trs. Information about telebraille is available at http://www.deafblind.com/telebrl.html.

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- VRS calls may be made between ASL users and hearing persons speaking either English or Spanish.

Program Overview

VRS is free to the caller and VRS providers are reimbursed for their costs from the TRS Fund.

Management

Since July 1, 2011, the TRS Fund has been administered by Rolka Loube Saltzer Associates, LLC (RLSA). Prior to that date, the fund was administered by the National Exchange Carriers Association.

Funding

The VRS Program is funded through the larger TRS Fund. The TRS Fund[2] is a revolving fund that is financed through contributions by all providers of interstate telecommunications services.[3] Contributions are based on a "contribution factor" that is set on an annual basis by the FCC. Although the FCC generally sets a new rate each year, it maintained the 2011 contribution factor while it conducts a comprehensive review of the program begun in 2010. The current carrier contribution factor is 0.01058[4] of a service provider's interstate telecommunications revenues during the previous calendar year.

Provider Reimbursement

The FCC generally sets the per-minute reimbursement rate each year. However, as with funding, the FCC stated that the 2011 reimbursement rate would remain in effect until the review was completed. The current rates for VRS range from $5.0668 to $6.2390.[5]

[2] The TRS Fund is similar to another FCC Program, the Universal Service Fund (USF). For information on the USF, see CRS Report RL33979, *Universal Service Fund: Background and Options for Reform*, by Angele A. Gilroy.

[3] Contributions are made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

[4] Rolka Loube Saltzer Associates, Interstate Telecommunications Relay Service Fund Overview, http://www.r-l-s-a.com/TRS/.

[5] There are three separate monthly compensation tiers for VRS. They are based on the number of minutes provided for the month. The specific rates are: $6.2390 for Tier I, $6.2335 for Tier II, and $5.0668 for Tier III. Tier I includes the first 50,000 monthly VRS minutes; Tier II includes monthly minutes between 50,001 and 500,000; and Tier III includes monthly minutes above 500,000. See Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51, and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CG Docket No. 03-123), DA 12-996, 27 FCC Rcd 7150, June 26, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-996A1.doc.

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June 2013 Report and Order and Further Notice of Proposed Rulemaking

The FCC's new VRS rules initiate fundamental restructuring of the program to support innovation and competition, drive down ratepayer and provider costs, eliminate incentives for waste that have burdened the TRS Fund in the past, and further protect consumers. Measures to improve the structure and efficiencies of the VRS program while promoting consumer protection include—

- ensuring that VRS users can easily select their provider of choice by promoting the development of voluntary, consensus interoperability and portability standards;
- enabling consumers to use off-the-shelf tablets and smart phones for any provider's VRS services by developing and deploying a VRS application to work with these devices, based on the consensus standards;
- creating a centralized TRS User Registration Database to combat fraud, waste, and abuse by ensuring VRS user eligibility;
- encouraging competition and innovation in VRS call handling services—such as ASL interpretation—by contracting with a neutral third party to build, operate, and maintain a platform for communications services; and
- spurring research and development on VRS services by entering into a Memorandum of Understanding with the National Science Foundation.

In addition, the new rules transition VRS compensation rates toward actual costs over the next four years, initiating a step-by-step transition from existing tiered TRS Fund compensation rates toward a unitary, market-based compensation rate. In this manner, VRS rates will better approximate the actual, reasonable costs of providing VRS, and will considerably reduce the costs of operating the program.[6]

Further Notice of Proposed Rulemaking

In a Further Notice of Proposed Rulemaking, the FCC has proposed transitioning to a new ratemaking approach that makes use of competitively established pricing—contract prices set through a competitive bidding process—where feasible.[7] No additional action has been taken in this proceeding.

[6] Federal Communications Commission, VRS Overhaul to Improve Phone Service for Americans with Disabilities (CG Docket Nos. 10-51 and 03-123, FCC 13-82), June 7, 2013, paras. 1-216, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-13-82A1.pdf.

[7] VRS Overhaul to Improve Phone Service for Americans with Disabilities, paras. 217-282.

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Policy Considerations

The FCC has implemented changes to the VRS Program to reduce fraud and abuse and to better manage the amount of money that is collected to fund the program, as well as take advantage of technological advancements.

The primary concern of the deaf and hard-of-hearing community appears to be that cuts to the fund may result in fewer and less-qualified ASL interpreters, which would decrease the functional equivalency of the service. Additionally, it is concerned that changes in technology—even "better" technology—will decrease competition among service providers, possibly decreasing innovation. Moreover, the community believes that changes in the technology could pose challenges to some users and make placing and receiving calls more difficult.

Congressional Considerations

The deaf and hard-of-hearing community will likely continue to contact Congress whenever changes are proposed for the VRS Program. The community relies heavily on the program, so it is understandable that they might view any proposed changes with concern. However, the FCC also has a responsibility to make sure that the fund remains solvent and take advantage of advances in technology that it has determined will improve the system. Congress may wish to monitor the current proposed changes to the system to ensure that the FCC, while working to modernize TRS technology and minimize financial abuse, also gives full consideration to the concerns of the deaf and hard-of-hearing community.

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Appendix. History of Proposed Changes to the VRS Program, 2010-2013

In June 2010, the FCC began a comprehensive review of the rates, structure, and practices of the VRS program. The goal of the review has been to reform the VRS program, which for many years had been burdened by waste, fraud, and abuse, and by compensation rates that had become inflated above actual cost.[8] Thus far, the commission has acted to improve the program by

- cutting the reimbursement rate for the bulk of VRS traffic by more than $1.00 per minute, the first substantial VRS rate reduction in six years (June 2010);
- requiring providers to submit detailed call records to justify their requests for reimbursement (April 2011);
- instituting annual as well as unscheduled audits and banning providers from tying their employees' wages to the number of calls processed (April 2011);
- prohibiting revenue-sharing arrangements between fund-eligible service providers and unregulated companies (April 2011); and
- tightening the eligibility and certification requirements for VRS providers to ensure that only providers operating in compliance with the FCC's rules would be permitted to provide service to the public (July 2011).

The FCC estimates that its actions over the past two years have saved the program approximately $300 million.[9]

October 2012 FCC Request for Additional Comment

In October 2012, the FCC asked for input on how it might change the structure of the VRS program and update the VRS contribution factor and reimbursement rate.[10] Specifically, the FCC asked for input on three proposals by CSDVRS, a VRS service provider: (1) potential changes to VRS access technology, (2) enhancing iTRS database operations, and (3) two rate proposals.

Proposed Changes to VRS Access Technology

In a July 2012 letter to the FCC,[11] CSDVRS proposed that the FCC facilitate the migration of all VRS access technologies from the current hardware-based and VRS-proprietary system to a

[8] Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51, and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, DA 12-687, April 30, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-687A1.pdf.

[9] Structure and Practices of the Video Relay Service Program, CG Docket No. 10-51, and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, FCC 11-184, December 15, 2011, http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-184A1.pdf.

[10] Additional Comment Sought on Structure and Practices of the Video Relay Service (VRS) Program and on Proposed VRS Compensation Rates, CG Docket No. 03-123 and CG Docket No. 10-5, DA 12-1644, October 15, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1644A1.pdf.

[11] Letter from Jeff Rosen, General Counsel, CSDVRS, LLC, to Marlene H. Dortch, Secretary, FCC, filed July 10, 2012; Letter from Jeff Rosen, General Counsel, CSDVRS, LLC, to Marlene H. Dortch, Secretary, FCC, filed August (continued...)

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software-based and off-the-shelf application that could be used on a variety of user-selected hardware. In its request for additional comment, the FCC posed a number of questions, including, for example:

- Should the commission mandate use of a single application or allow development of multiple, interoperable applications?
- Should providers be able to continue to offer their own internally developed applications? If so, under what conditions?
- What off-the-shelf hardware and operating system platforms should be supported? Should VRS users or providers be responsible for procuring the off-the-shelf equipment used with the new application?
- How should VRS users be involved in the development, selection, certification, and ongoing enhancement of the application?
- How would users obtain support for issues relating to the application or its use on their equipment (e.g., network firewall issues, troubleshooting problems)?

Proposed Enhancements to the iTRS Database

In a separate letter to the FCC submitted in May 2012,[12] CSDVRS proposed an industry structure in which all service providers would use an enhanced version of the TRS numbering directory to provide features such as user registration and validation, call routing, and usage accounting. This new structure would separate the video communication service component of VRS from the ASL relay CA service component by providing the functions of the video component from an enhanced database ("enhanced iTRS database"). In its request for additional comment, the FCC posed a number of questions, including, for example:

- What functions and services should the enhanced iTRS database provide?
- How would ASL relay CA service providers interface with the enhanced iTRS database?

Proposed Rate Changes

In April 2012, the FCC stated that the current interim (2011) rates for VRS would remain in place pending the completion of its VRS program review.[13] The FCC has stated that it anticipates completing the proceeding prior to setting rates for the 2013-2014 fund year. It requested the fund

(...continued)

27, 2012.

[12] Letter from Jeff Rosen, General Counsel, CSDVRS, LLC, to Marlene H. Dortch, Secretary, FCC, filed May 9, 2012.

[13] In general, per Sections 64.604(c)(5)(iii)(E) and (H) of the commission's rules, the fund administrator is required to file the fund payment formulas and revenue requirements for VRS with the commission on May 1 of each year, to be effective that July 1. However, on April 30, 2012, the FCC waived that obligation, extending interim rates "to remain in effect until the commission completes its review of the compensation method and market structure for VRS." Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program, CG Docket Number 10-51 and CG Docket No. 03-123, Order, 27 FCC Rcd 7150, June 26, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-996A1.doc.

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administrator, RLSA, to submit proposed VRS rates for the remainder of the 2012-2013 fund year. In the October 2012 request, the FCC asked for comment on two proposed VRS compensation rates, as well as any suggestions for alternative rate methodologies.[14] It asked that parties in disagreement with the proposal offer specific and detailed alternatives.

Opposition to the October 2012 Proposed Reform Options

The proposals for technical and rate changes to the VRS program, while designed to improve the service overall, are not popular with VRS users, who fear that any changes would be to the detriment of the service. Specifically, they argue that the proposed changes would damage the "functional equivalency" of the VRS program. Functional equivalency is a primary element of Title IV of the Americans with Disabilities Act.[15] Title IV requires

> telephone transmission services [to] provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is **functionally equivalent** to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio.[16]

A number of organizations that represent the deaf and hard-of-hearing community have begun campaigns aimed at stopping any changes to the program, and one website has been created specifically for people to contact the FCC to oppose the changes.[17] In its comments filed on November 14, 2012, the National Association of the Deaf (NAD)[18] summarized the concerns of the deaf and hard-of-hearing community.[19]

Proposed Changes to VRS Access Technology

The NAD stated in its comments that it believes mandating the use of a single application is not good for deaf and hard-of-hearing consumers. The organization believes that competition among the currently many service providers encourages innovation. Without such competition, the NAD believes that VRS products will not keep pace with technological change. The NAD believes that the FCC should address interoperability problems through third-party testing and product certification. The NAD is also concerned that changes in the technology could pose challenges to some users, making the service less useful.

[14] Additional Comment Sought on Structure and Practices of the Video Relay Service (VRS) Program and on Proposed VRS Compensation Rates, CG Docket No. 03-123 and CG Docket No. 10-5, DA 12-1644, October 15, 2012, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1644A1.pdf.

[15] 47 U.S.C. §225.

[16] 47 U.S.C. §225(a)(1).

[17] http://SaveMyVRS.com.

[18] The NAD was selected for discussion in this report because it is the largest organization representing the interests of the deaf and hard-of-hearing community.

[19] National Association of the Deaf, NAD Responds to VRS Public Notice, November 14, 2012, http://www.nad.org/blogs/andrew-phillips/nad-responds-fcc-vrs-public-notice.

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Proposed Enhancements to the iTRS Database

The NAD did not express any opposition to creating a central iTRS database to keep track of all phone numbers, so long as the information is kept private and is well managed.

Proposed Rate Changes

The NAD expressed its concern that rate changes could impede providing functionally equivalent services through VRS. Specifically, it wants the FCC to ensure that cutting reimbursement rates without instituting any minimum quality standards will not decrease service quality. It suggested that the FCC could compensate VRS companies for using nationally certified interpreters or providing a way for users to be better matched with VRS interpreters.

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