

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 08–15 and 03–123; FCC 13–101]

Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Services; Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on possible actions to enhance the knowledge and use of Speech-to-Speech (STS) relay service by persons with speech disabilities. It has been estimated by consumer advocates that only one percent of prospective users are currently using the service. Thus, amendments to the Commission's rules may be necessary to ensure that persons with speech disabilities have access to relay services that address their unique needs, in furtherance of the objectives of section 225 of the Communications Act of 1934, as amended (the Act) to provide relay services in a manner that is functionally equivalent to conventional telephone voice services.

DATES: Comments are due September 16, 2013 and reply comments are due September 30, 2013.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 08–15 and 03–123, by any of the following methods:

Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket Nos. 08–15 and 03–123.

• Paper filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving 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 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial Mail sent by 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 should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, or via email to fcc@bcpiweb.com

<mailto:fcc@bcpiweb.com>. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gregory Hlibok, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 559–5158, or email Gregory.Hlibok@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Services; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking (*Notice*), document FCC 13–101, adopted on July 19, 2013, and released on July 19, 2013, in CG Docket Nos. 08–15 and 03–123. In document FCC 13–101, the Commission adopted an accompanying Report and Order (Order), which is summarized in a separate **Federal Register** Publication. The full text of document FCC 13–101 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone: (800) 378–3160, fax: (202) 488–5563, or Internet:

www.bcpiweb.com <http://www.bcpiweb.com>. Document FCC 13–101 can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/encyclopedia/telecommunications-relay-services-trs>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov <mailto:fcc504@fcc.gov> or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 13–101 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).

Synopsis

1. Although the Commission approved STS as a compensable relay service in 2000, demand for this service has remained relatively modest, and its growth has been slow compared with other forms of telecommunications relay services (TRS) notwithstanding the sizeable population of people in the United States who have speech disabilities. The *2010 STS Petition* alleges that outreach efforts over the last decade have only resulted in the use of STS by an estimated one percent of prospective users. Bob Segalman and Rebecca Ladew, *Petition for Rulemaking*, CG Docket No. 03–123 (*2010 STS Petition*).

2. To ensure that individuals with speech disabilities who need STS become aware of its availability and how to access these services, the Commission has been supplementing the STS interstate per minute rate to include additional funds for STS outreach activities for the past six years. However, this supplemental funding has not increased the number of interstate STS minutes of use by any significant amount over the past several years and, since 2009, the TRS Fund administrator has suggested in each of its annual rate filings that the Commission may wish to revisit this additional funding to determine whether there is a more effective way to inform consumers with speech disabilities about the availability of this service.

3. The Commission would like to learn more about the reasons that STS

has not been more widely utilized. Are people with speech disabilities not connected to an organized or culturally identified disability community that could provide them with information and resources about assistive technologies and services that can be of use to them? Are there other reasons why this service is not more widely utilized? The Commission seeks comment on the number of individuals with speech disabilities who are potential users of this service and what steps can be taken to ensure that individuals who could benefit from STS can use this service. The Commission specifically asks whether it would be more efficient and effective to utilize a single entity to conduct nationwide STS outreach, instead of continuing the current system of providing outreach funds to each of the individual interstate STS providers through the STS compensation formula.

4. The Commission tentatively concludes that centralizing STS outreach efforts supported by the Fund in a single, coordinated entity can result in more effectively reaching and educating a greater portion of the population of Americans who could benefit from this service, and seeks comment on this tentative conclusion. The Commission believes that the section 225 of the Act directive for the Commission to prescribe regulations that ensure relay services are "available . . . in the most efficient manner" makes it appropriate to take new steps to better educate the public about the purpose and functions of STS and provides the Commission with sufficient authority to direct that a national STS outreach effort be funded for this purpose from TRS contributions as a necessary cost caused by TRS. The Commission asks commenters whether they agree with this assessment. The Commission further asks commenters whether, given that the Commission has resolved to establish the Internet-based TRS National Outreach Program (iTRS-NOP) for Internet protocol relay service (IP Relay) and video relay service (VRS), the Commission should bundle national STS outreach efforts into this national outreach program. What are the costs and benefits of combining these efforts? Are there efficiencies to be gained in contracting with a single entity or a group of single entities for all types of TRS outreach? Or are there characteristics of STS or the population served by this service that necessitate a separate outreach effort? If the latter, the Commission asks commenters to describe these characteristics, as well as any criteria needed for the selection of

a national STS outreach coordinator that should be different from the criteria used to select a national coordinator of VRS and IP Relay outreach. Additionally, if the Commission or the Interstate TRS Fund administrator contracts with a single entity for the handling of STS calls, and it decides on a national outreach effort that is separate from the iTRS-NOP, the Commission seek comments on whether the entity selected to provide STS also should be eligible to become the national STS outreach coordinator, or whether the outreach coordinator should be independent of any provider of STS.

5. The Commission also seeks comment on the criteria that should be used to select a nationwide outreach program coordinator, as well as the outreach activities for which such coordinator should be responsible. With respect to the latter, the Commission seeks feedback on whether the coordinator should be required to engage in the following activities, as well as any other activities not identified below:

- Consulting with consumer groups, STS providers, the TRS Fund administrator, and other STS stakeholders;
- Establishing clear and concise messaging about the purposes, functions, and benefits of STS;
- Contacting and providing direct outreach and education to relevant medical, disability and senior citizen organizations, associations and medical professionals whose constituencies, members, and patients are likely to benefit from STS;
- Determining media outlets and other appropriate avenues for providing information about STS to identified medical, disability, and senior citizen organizations, associations, and professionals, the general public and potential new-to-category subscribers;
- Preparing for and arranging for publication, press releases, announcements, digital postcards, newsletters, and media spots about STS that are directed to identified medical, disability, and senior citizen organizations, associations, and professionals, as well as retailers and other businesses, including trade associations;
- Creating electronic and media tool kits that include samples of the materials listed in the previous bullet, and which may also include templates, all of which will be for the purpose of facilitating the preparation and distribution of such materials by consumer and industry associations,

governmental entities, and other STS stakeholders;

- Providing materials to local, state, and national governmental agencies on the purposes, functions, and benefits of STS; and

- Exploring opportunities to partner and collaborate with other entities to disseminate information about STS.

1. The Commission proposes that an entity selected by the Commission or the Interstate TRS Fund administrator to coordinate such outreach be required to work with and submit periodic reports to the Chief of the Consumer and Governmental Affairs Bureau and to the Managing Director, which reports measure and describe the effectiveness of the entity's outreach efforts. The Commission seeks comment on these proposals. The Commission also seeks comment on whether there should be specified levels of outreach activities that the STS national outreach coordinator should be required to meet, and how and by whom these levels should be set and evaluated. If a national outreach program is established, the Commission proposes that the additional amount currently added to the STS per minute rate for outreach is discontinued from future rates, and seeks comment on this proposal. If the Commission chooses not to continue reimbursing the cost of outreach activities on a per minute basis to providers, it seeks feedback on whether a specified amount should be set aside from the Fund on an annual basis for nationwide outreach activities, what this amount should be, and how it should be determined. Finally, should the cost of providing STS as well as STS outreach be allocated between the Interstate TRS Fund and the state program funds, and, if so, how?

2. In recent years, the Commission has undertaken significant efforts to ensure that its Internet-based TRS programs are structurally sound and are free from waste, fraud and abuse. Of particular concern to the Commission is making sure that only those individuals who are truly eligible for different forms of TRS are allowed to use these services. Accordingly, the Commission seeks comment on how to establish rules to clearly define and oversee the eligibility, registration, and verification of STS users. As an initial matter, the Commission notes that in the *VRS Reform Order*, the Commission recently directed the creation of a user registration database for VRS users. *Structure and Practices of Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos.

03–123 and 10–51, Report and Order and Further Notice of Proposed Rulemaking, published at 77 FR 25609, May 1, 2012 (*VRS Structural Reform Order*). Should STS providers be required to use this database to register all individuals seeking to use STS, whether STS is provided by a single provider or if it remains with the states? As part of the registration process, should users be permitted to provide self-certification that they have a speech disability? The Commission seeks comment on the costs and benefits associated with a certification requirement, as well as whether such requirements will effectively fulfill Congress's directive to the Commission, in section 225 of the Act, to ensure that TRS is available, "to the extent possible and in the most efficient manner," to persons with hearing and speech disabilities. Finally, the Commission proposes that any certification ultimately required by the Commission's rules be made under penalty of perjury as an added layer of assurance that the individual's disability satisfies the Commission's eligibility requirements and seeks comment on this proposal. Commenters who do not believe these certification proposals are appropriate should offer alternative requirements that can be used to ensure that only eligible individuals who are intended to benefit from this service (*i.e.*, who need STS to communicate in a manner that is functionally equivalent to communication by voice telephone users) are permitted to use it.

3. The Commission further asks whether it should adopt a centralized process by which the identities of STS users are verified, as the Commission has done in the *VRS Structural Reform Order*. In that Order, the Commission directed the Managing Director to ensure that a centralized user registration database has the capability of performing an identification verification check when a VRS provider or other party submits a query to the database about an existing or potential user and that the criteria for identification verification (*e.g.*, information to be submitted, acceptable level of risk, *etc.*) be established by the Managing Director in consultation with the Commission's Chief Technology Officer and the Chief of the Office of Engineering and Technology. In addition, the Commission required that VRS providers not be permitted to register individuals that do not pass the identification verification check conducted through the user registration database, and not seek compensation for

calls placed by such individuals. The Commission asks whether the same requirements should now apply to STS providers.

4. In the *2008 STS NPRM*, the Commission tentatively concluded that IP STS providers would not need to meet the following TRS mandatory minimum standards to be eligible for compensation: (1) CA competency in typing and spelling; (2) ensuring that TTY calls over TRS can be transmitted in ASCII and Baudot formats; (3) call release; (4) hearing carry over (HCO) and voice carry over (VCO) services; (5) equal access to interexchange carriers; (6) pay-per-call (900) service; and (7) outbound 711 dialing.

Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Speech-to-Speech and Internet Protocol (IP) Speech-to-Speech Telecommunications Relay Service, CG Docket Nos. 03–123 and 08–15, Notice of Proposed Rulemaking, published at 73 FR 47120, August 13, 2008 (*2008 STS NPRM*). The Commission now proposes to amend its rules to state that the standards for (a) CA competency in typing and spelling, (b) ensuring that TTY calls over TRS can be transmitted in ASCII and Baudot formats, (c) call release, and (d) VCO services not be applied to any form of STS because they are inapplicable to this service, and it seeks comment on this proposal.

5. The Commission also seeks comment on whether STS user profiles should be immediately available to an STS CA each time an STS user places a call, to allow the provider to provide a better and more "consistent STS relay experience" for users. Additionally, when an STS user is silent and does not say "good-bye," should the CA not terminate the call until at least 60 seconds has passed so that the call will not be disconnected prematurely? Should the FCC establish an STS Advisory Council for the purpose of formulating an STS outreach plan? Should the Commission establish a mandatory minimum standard for training of CAs who handle STS calls or any other mandatory minimum standards that are specific to STS? Finally, the Commission seeks information about any technological advances in end user equipment since the submissions of the petitions in this proceeding that may bear on the provision of this service.

6. To what extent should providers be required to allow STS users to create caller profiles? Such profiles generally allow users to pre-submit their preferences for call handling, including their contact information (for

emergencies), language preferences, and speed dial numbers, which may speed up the time needed for STS call set-up. If providers should be required to offer caller profiles, what should users be allowed to include in these profiles? What are the costs and benefits of mandating the availability of profiles?

7. Finally, are there other enhancements to STS that the Commission should know about? For example, one provider recently implemented a national wireless short code to make it easier to place or receive STS calls. The Commission seeks comment on the benefits of using such a code nationwide.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended, 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 Notice. 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 Notice. The Commission will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

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

1. Speech-to-speech (STS) relay service is a form of telecommunications relay service (TRS) that utilizes specially trained communications assistants (CAs) who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by such individuals to the other parties to a relayed call. In the *Notice*, the Commission seeks comment on four main issues. First, the Commission seeks comment on ways to improve outreach to increase awareness and utilization for STS, and whether the Commission should contract with a single entity to educate potential users about the service's availability. Second, to ensure the integrity and long term sustainability of the service and prevent waste, fraud, and abuse, the Commission seeks comment on whether it should adopt consumer eligibility, registration, and verification requirements to ensure that only individuals with speech disabilities who need the service can use it. Third, the Commission seeks comment on whether certain mandatory minimum standards are inapplicable to STS, including CA competency in typing and spelling, transmission format of TTY

calls, call release of a CA from a call with only two TTY users, and voice carry over (VCO), where a person with a hearing disability speaks to the other party to the call, but receives the other party's spoken words as text from the CA. Fourth, the Commission seeks comment on whether to adopt requirements for STS providers to facilitate the ability of STS users to create caller profiles. The Commission tentatively concludes that these proposed rule changes may be necessary to improve the efficiency of the STS program and to ensure effective, quality STS services so that users with speech disabilities may receive functionally equivalent telephone service, as mandated by Title IV of the Americans with Disabilities Act.

B. Legal Basis

1. The legal basis for any action that may be taken pursuant to the *Notice* is contained in sections 1, 2, 4(i), 4(j), and 225 of the Communications Act of 1934, as amended.

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

1. 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. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 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.

2. The Commission believes that the entities that may be affected by the proposed rules are STS providers. Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward STS providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were 31,996 firms in the Wired Telecommunications Carrier category which operated for the entire year. Of this total, 30,178 firms had employment of 99 or fewer employees, and an additional 1,818 firms had employment of 100 employees or more. Thus, under this size standard, the vast majority of

firms can be considered small. (The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 100 employees or more.") Five providers currently receive compensation from the Interstate TRS Fund for providing STS: AT&T Corporation; Hamilton Relay, Inc.; Kansas Relay Service, Inc.; Purple Communications, Inc.; and Sprint Nextel Corporation. The Commission notes that only one of the STS providers that would be affected by the proposed rules is deemed to be a small entity under the SBA's small business size standard.

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

1. Certain rule changes, if adopted by the Commission, would modify rules or add requirements governing reporting, recordkeeping, and other compliance obligations. If the Commission were to adopt consumer eligibility, registration, and verification requirements to ensure that only individuals with speech disabilities who need the service can use it, STS providers, including small entities, would be required to collect certain information from consumers and to maintain such information.

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

1. 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."

2. 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, two of the proposed rules would confer benefits as explained below.

3. If the Commission were to contract with a single outreach coordinator to educate potential users about the availability of STS, STS providers, including small entities, would benefit,

because they would be relieved of the obligation to conduct outreach.

4. If the Commission were to adopt consumer eligibility, registration and verification requirements to ensure that only individuals with speech disabilities who need the service can use it, STS providers, including small entities, would be required to collect certain information from consumers and to maintain such information. The Commission is not proposing alternatives for small entities because these requirements may be needed to limit waste, fraud and abuse, and an ineligible user can potentially defraud the TRS Fund by obtaining service from large and small entities alike. Therefore, if the Commission were to adopt registration, certification and verification procedures, the same requirements would need to apply to users of small entities as well as large entities.

5. If the Commission were to find certain mandatory minimum TRS standards to be inapplicable to STS, all STS providers, including small entities, would benefit because they would not need to comply with those mandatory minimum standards.

F. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

1. None.

Ordering Clauses

2. Pursuant to sections 1, 4(i), (j), and (o), 225, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), and (o), 225, and 403, the Further Notice of Proposed Rulemaking is hereby adopted.

3. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the 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.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

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