

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

April 8, 2011

Mr. Alexander Hunt
Chief, Information Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget

Dear Mr. Hunt:

In accordance with OMB's emergency processing rules, 5 C.F.R. §1320(13), the Federal Communications Commission (FCC or Commission) requests expedited review and approval under the Paperwork Reduction Act (PRA) of 1995, of the new information collection requirements contained in paragraph 63 of the attached *Structure and Practices of the Video Relay Service Report and Order (VRS Order)*, adopted by the Commission on April 5, 2011. We make this request for emergency approval to be granted within the effective date of the rules contained in the attached *VRS Order* to put in place immediate critical measures for fraud prevention and to ensure that only legitimate entities continue to provide VRS to consumers who have come to rely on for this service for their critical communication needs.

The VRS program enables deaf and hard of hearing persons who use American Sign Language (ASL) to communicate with other individuals who do not know ASL through a broadband connection using a video link. A communications assistant (CA) interprets (relays) the conversation back and forth between the parties in sign language and voice. Although very popular among consumers, in recent years, this program has fallen victim to considerable fraud and abuse by a number of companies that have offered VRS to the public without specific authorization by the Commission. Such companies have engaged in a series of schemes designed to defraud this program, which have cost taxpayers millions of dollars in fraudulent payments. For example, as noted in the attached *VRS Order* (at para. 4), in November 2009, the U.S. Department of Justice indicted 26 people for allegedly billing illegitimate calls to the Interstate TRS Fund (a fund established by the FCC which supports this program through contributions from telecommunications and VoIP service providers). Most of these individuals have either pleaded guilty or been convicted. In addition, the Commission continues to receive ongoing allegations of fraudulent VRS practices on a regular basis that are being used to generate illegitimate call traffic. The *VRS Order* (at para. 4) lists some of these allegations, many of which have resulted in criminal investigations of VRS practices:

- VRS callers specifically requesting that their calls not be relayed by the CA to the parties that they call;
- Calls placed to numbers that do not require any relaying, for example a voice-to-voice call;
- Calls initiated from international IP addresses by callers with little or no fluency in ASL where the connection is permitted to "run" (*i.e.*, the line is simply left open without any relaying of the call occurring);

- VRS CAs calling themselves;
- CAs connecting videophones/computers and letting them run with no parties participating in the call;
- Callers disconnecting from one illegitimate call and immediately calling back to initiate another; and
- Callers admitting that they were paid to make TRS calls.

Much, if not most, of the fraudulent activity that has occurred has been by entities that are *not* directly authorized by the Commission to provide VRS, but that contract with companies that are approved by the FCC to offer VRS to the public. The approved entities have billed the TRS Fund for the minutes handled by their subcontractors, and then have paid out a portion of such compensation to these unauthorized entities. The attached *VRS Order* seeks to put an end to such practices by prohibiting companies that have not been directly approved by the Commission from providing VRS, as well as from holding themselves out as VRS providers to the public.

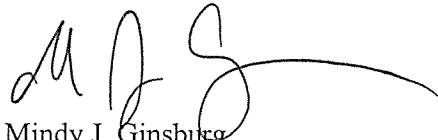
Because this new prohibition against unauthorized entities may harm some entities that are in fact legitimate, the *VRS Order* offers such companies an opportunity to seek a temporary waiver from the new prohibition (so that they may continue providing service), until such time that they can receive direct authorization (certification) to provide VRS from the FCC. Paragraph 63 of the *VRS Order* directs applicants seeking such waivers to provide the following detailed documentation to demonstrate their ability to provide VRS in a legitimate manner: (1) a copy of each deed or lease for each call center the applicant currently owns or plans to acquire; (2) a list of individuals or entities that hold at least a 10 percent equity interest in the applicant, have the power to vote 10 percent or more of the securities of the applicant, or exercise de jure or de facto control over the applicant, a description of the applicant's organizational structure, and the names of its executives, officers, partners, and members of its board of directors; (3) a list of the applicant's full-time and part-time employees; (4) proofs of purchase or license agreements for the use of equipment and/or technologies that the applicant currently uses or intends to use for its call center functions, including but not limited to, call distribution, routing, call setup, mapping, call features, billing for compensation from the Fund and user registration; (5) copies of employment agreements for the provider's executives and CAs; and (6) a list of financing arrangements pertaining to the provision of VRS, including documentation for financing of equipment, inventory, and other property. It is this information collection for which we seek emergency review and approval.

A company seeking a waiver must do so before the effective date of the new prohibition against unauthorized VRS providers (within 30 days after publication in the Federal Register) because if it does not seek and obtain a waiver, it will not be permitted to continue operating. Accordingly, without swift approval of this information collection, companies that wish to continue operating will not be able to do so and therefore will likely challenge the entire rule prohibiting VRS operations by unauthorized providers. This, in turn, will impede the Commission's efforts to promptly implement this measure, which is pivotal to eliminating much, if not most of the fraud being perpetrated on this program. The result will be the continued drain on this program's resources, and the potential waste of millions of taxpayer dollars. Moreover, because the waiver option needs to be available when the prohibition against unauthorized operations becomes effective, if we are unable to obtain PRA approval by the time this occurs, the waiver requirements will be nullified. We anticipate that the number of entities requesting waivers will be small, and therefore burden on the public will be minimal. While commenters will have a

option needs to be available when the prohibition against unauthorized operations becomes effective, if we are unable to obtain PRA approval by the time this occurs, the waiver requirements will be nullified. We anticipate that the number of entities requesting waivers will be small, and therefore burden on the public will be minimal. While commenters will have a smaller window of opportunity to comment, we are confident based on public comments received in the rulemaking that the waiver procedure for which we request emergency approval will be well received.

The Commission will publish a notice in the Federal Register seeking 15 days of public comment on the information collection requirements. The Commission is requesting that OMB approve the information collection requirements 30 days after the collection is received at the OMB. Please have your PRA Desk Officer contact Cathy Williams or Walt Boswell if he has any questions or requires any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'M J G', with a long horizontal flourish extending to the right.

Mindy J. Ginsburg
Deputy Managing Director
Federal Communications Commission