

**Recommendation of the
Federal Communications Commission Disability Advisory Committee
Internet Protocol Captioned Telephone Service
User Registration Database Working Group**

Adopted: February 26, 2020

Objective

Develop recommendations and best practices for the registration of Internet Protocol Captioned Telephone Service users in the Telecommunications Relay Services User Registration Database.

Introduction and Background

These recommendations are intended to provide guidance to the Commission on the implementation of the provisions of its February 2019 Report and Order expanding the User Registration Database (URD) created for Video Relay Service (VRS) to include users of Internet Protocol Captioned Telephone Service (IP CTS).¹ Informed by a series of briefings from consumer organizations, Telecommunications Relay Services (TRS) Providers, and Rolka Loube (the Commission's third-party contractor who is currently the TRS-URD Administrator), the Working Group identified three critical issues to address in implementing the expansion of the URD to IP CTS:

- **Logistical Burdens.** The registration process raises the prospect of unnecessary delays, paperwork, and other roadblocks that could deter legitimate IP CTS users from completing registration for service they need by imposing unreasonable burdens on Providers and consumers.
- **Consumer Privacy.** The registration process raises risks to the privacy of consumers through the collection, use, retention, and sharing of personally identifying information.
- **Registration-Related Costs.** The registration process requires Providers to engage in more direct interactions with users, raising the prospect of higher costs for each user registration.

The Working Group collected substantial information from subject-matter experts about how these issues have arisen in the implementation of the TRS-URD for VRS and how lessons learned in the VRS context can be applied to the IP CTS TRS-URD.

¹ *Misuse of Internet Protocol (IP) Captioned Telephone Service et al*, Report and Order, Further Notice of Proposed Rulemaking, and Order, CG Docket No. 13-24 et al., 34 FCC Rcd. 691, 691, 693-94, 696-707, paras. 1, 5-8, 13-32 (2019) (*IP CTS TRS-URD Order*).

Logistical Burdens. First, a number of logistical burdens have arisen in the context of the VRS TRS-URD:

- In implementing the VRS TRS-URD, Providers faced significant challenges in efficiently registering new users for service:
 - Under the current custom identity validation formula, the initial submission of new user identities to the TRS-URD Administrator fails approximately twenty-five percent of the time.
 - Many new user registrations fail simply because the user has a common name, has a different married or maiden name, or has a complicated name.
 - Approximately half of the users who fail the initial registration attempt require time-consuming follow-up to obtain additional documents before they can register.
 - Of those users who fail on the initial registration attempt, approximately half are unable or unwilling to provide additional documentation and their service could be terminated. Many users who need the service simply give up.
 - People who are over 65 and have acquired mobility, visual, or cognitive disabilities in addition to hearing loss, may find it difficult to gather and submit the required documentation.
- Several alternatives to the custom identity validation formula are available. These alternatives may be less burdensome and may reduce false initial failures. For example, LexisNexis' InstantID is the only identity verification and validation solution endorsed by the American Bankers Association. Additionally, all 50 of the top US banks utilize LexisNexis's services. Using the InstantID Index, which summarizes the level of identity verification with a numeric value ranging from 0 (high identity theft risk) to 50 (low identity theft risk), might result in a higher success rate on identity validation on the first submission, eliminating the need for users to provide validation documentation and the need for home visits for validation documentation that end-up only confirming what the initial InstantID Index stated; the customer's identity.
- The Commission provided a 120-day period after the "go - live date" of January 1, 2018, to collect registration information from existing VRS users.² However, Providers collected data during the testing phase that began in 2015. If they had been unable to collect data before the go - live date, they

² *Video Relay Service Providers May Begin Submitting Data to the TRS User Registration Database*, CG Docket Nos. 10-51 and 03-123, Public Notice, 32 FCC Rcd 10467 (2017); *Structure and Practices of the Video Relay Service Program et al*, CG Docket Nos. 10-51 et al, Order, 33 FCC Rcd 2062 (CGB 2018); *Structure and Practices of the Video Relay Service Program et al*, CG Docket Nos. 10-51 et al, Order, 33 FCC Rcd 2987 (CGB 2018).

would not have been able to meet the Commission's 120-day deadline and valid users' service could have been terminated.

- On average, it presently takes two submissions and nine days to successfully register a VRS user.
- The TRS-URD Administrator's hourly reply to the batch submission process used to validate VRS customer identity, even though it's performed multiple times a day, results in delayed visibility to any validation issues resulting in additional visits to the customer to either fix those issues or collect additional documentation. This could be avoided with real-time submission and result processing (i.e. real-time identify validation and error code processing).
- Outages at LexisNexis, the current identity verification vendor, have repeatedly caused extended delays in processing URD submissions.
- Hundreds of users have had their service delayed for an average of several months while waiting to receive approval via the current appeal process.
- The instructions and process for filing have been modified multiple times. Many instructions are incomplete and, as a result, have required frequent updates both during testing and after the VRS URD went live. The instructions have not sufficiently defined the types of acceptable documents or matching requirements between documents and URD data.

In addition, some new logistical barriers are likely to arise in the context of IP CTS:

- Unlike VRS, the Commission's IP CTS rules currently do not include clear guidance for enterprise phones—those used outside an individual's home for business, institutional, or residential facility purposes.³
 - While the Commission does provide clear guidance on user registration requirements,⁴ those requirements may encounter obstacles when run parallel to the user validation process associated in the TRS URD. For example, consider the context of validating a user's address, phone number, and full legal name utilizing an identity validation process when the address and phone number being used to register an individual may be their workplace address and the phone number associated with the IP CTS service belongs to the enterprise they are employed by or the assisted living facility where they currently reside. In that case, the identity verification process is likely to fail.
- Multiple qualified individuals with hearing loss in workplaces and other temporary settings may need to use the same address or main phone number. There currently are no guidelines for these types of settings.

³ See 47 CFR § 64.611(a)(6) (providing requirements for enterprise phones used for VRS, but not for IP CTS).

⁴ See, e.g., 47 CFR § 64.611(j)(1)(i).

However, the institution of the TRS URD process as currently formulated—with one IP CTS user attached to one address/phone number—may preclude the possibility of multiple qualified users at one address. It also may preclude the possibility of one individual registering at more than one address or a temporary location.

Consumer Privacy. Second, numerous concerns about user privacy have arisen in the context of the VRS URD:

- The use of LexisNexis requires the examination of consumer credit history simply to verify a consumer’s identity, which forces users to choose between suffering significant dignitary harms and not using the service they need for telecommunications access.
- The VRS URD process has required Providers to collect tens of thousands of sensitive documents from VRS users beginning in 2015.
 - Some Providers understand the Commission’s current rules to require maintaining documentation for at least five years after a user terminates service, or indefinitely in some cases. Providers do not want to maintain copies of sensitive consumer documents. Consumers do not want sensitive information held any longer than is necessary.
- The Commission’s current rules require Providers to submit user documentation as part of the appeal process. This documentation contains sensitive consumer data. Although the URD program currently does not have a retention policy, the TRS-URD Administrator, Providers and the Commission maintain these records for an unspecified amount of time.⁵
- The collection, use, and retention of personal information raises the prospect of legal issues under a variety of statutes, including Section 222 of the Communications Act, the Privacy Act, the California Consumer Privacy Act, and others.
 - **Section 222.** The information collected as part of the URD process is subject to Section 222 of the Communications Act. Providers are prohibited from using, disclosing, or permitting access to customer information absent affirmative, written consent. Each entity involved in a transaction involving customer information is bound to maintain the confidentiality of the information.
 - The **Privacy Act** extends to companies that are contracted by the government to provide for “design, development, or operation of a system of records on individuals on behalf of an agency to accomplish an agency function” under the Federal Acquisition Regulation. As applied to the URD, the Privacy Act covers the Commission as well as the TRS-URD Administrator and identity verification agents, and other third parties

⁵ See Notice; one new Privacy Act System of Records, 80 Fed. Reg. 6963 (Feb. 9, 2015).

used by the TRS-URD Administrator in the administration and operation of the URD.

- As part of its use of LexisNexis to verify user registration, the TRS-URD Administrator shares significant quantities of user information with LexisNexis. It is unclear the extent to which LexisNexis retains or makes subsequent use of user information, what consequences, such as the modification of user credit scores, could result from the use of that information, and what safeguards are in place, including in any governing data transfer agreements, to ensure that LexisNexis does not retain or use user information for purposes unrelated to identity verification.
- The Commission's rules currently require users to sign a "consent" form that requires them to assent to the sharing of their personal information as a take-it-or-leave-it condition of receiving service and affords users no meaningful opportunity to provide informed, meaningful consent to the use of their data.

Registration-Related Costs. Third, Providers have incurred significant costs in the implementation of the VRS URD. Collectively, Providers have spent millions of dollars in engineering, database administration, and outreach, including multiple truck rolls to users' homes to obtain supporting documentation. These costs remain ongoing as new users are added to the URD and when users port their VRS service from one Provider to another.

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The Working Group expects that most of these issues with the VRS URD will not only persist but manifest in new ways in the context of IP CTS. IP CTS user demographics include a large segment of older users, which likely means that more users will face difficulty in navigating complex and confusing registration and appeals processes. Older users are often warned not to give out personal identifying information about themselves and will be leery of being asked to do so. Moreover, the majority of IP CTS is on wired lines; older users may be less tech-savvy and may not understand what is required of them. They may be less able or unable to communicate with Providers about the requirements via phone calls until they obtain the service and may not be savvy enough to use alternative methods such as email, text messaging, or live Internet-based chat functionality in the absence of phone service. This leaves them more vulnerable to registration failures and may lead them to feel more frustrated than other users. As a result, they may give up at higher rates than VRS users and find themselves left without access to service.

As a result, it is critical that the Commission address these issues to ensure an approach that balances the Commission's goals of preventing waste, fraud, and abuse with the potential unintended consequences of imposing the IP CTS URD on Providers and on consumers who are deaf or hard of hearing. The Working Group acknowledges that addressing some of these issues may be a simple matter of restructuring the Commission's ongoing practices, while others may require additional rulemaking and the development of an additional record. Accordingly, the

recommendations that follow note where the Working Group believes further rulemaking may be required.

Recommendations

NOW, THEREFORE, IT IS—

1. RECOMMENDED that the Commission not issue the Public Notice indicating that the URD is ready to receive user registration information for IP CTS users until the Commission addresses the pending Further Notice of Proposed Rulemaking and conducts a further rulemaking proceeding on the recommendations that follow.
2. RECOMMENDED that the Commission take necessary action to limit the logistical burdens of the IP CTS URD, including:
 - a. Provide a two-year data submission period to register existing users after the IP CTS URD activation date;
 - b. Conduct a clear and straightforward outreach and education campaign to inform consumers about the IP CTS URD process and requirements to use the service;
 - c. Facilitate lifetime registration for users by ensuring that users need not re-register when porting to a different Provider or being assigned a subsequent Ten Digit Number, including:
 - i. Give Providers a mechanism to determine whether a user is already registered and rely upon the existing registration to satisfy URD requirements; and
 - ii. Once a customer is registered within the TRS URD, require the TRS URD Administrator to maintain the customer's URD account for a period of time that matches the current customer account record keeping requirements Providers are expected to follow.
 - d. Through a rulemaking procedure, the Commission should determine what shall be considered valid documentation, for example:
 - i. Allow the use of expired identification documents (e.g., driver's license, passport, military ID, state - issued ID, etc.);
 - ii. Add additional documentation types that are acceptable to clear failed risk codes—e.g., medical bills, rental agreements; and
 - iii. Clarify the details of specific acceptable documentation types—e.g., what constitutes a "utility bill;"
 - e. Require the TRS-URD Administrator to:

- i. Work with IP CTS providers, Consumer Groups, and the Commission to evaluate whether or not the use of LexisNexis's InstantID Index score could be used to sufficiently and reasonably validate a user's identity;
 - ii. Provide advance notice to Providers of any planned LexisNexis maintenance outages to prevent problems with submissions; and
 - iii. Use real - time application programming interfaces (APIs) for registration submissions and responses;
- f. Allow compensation for minutes of use incurred by a user while a registration appeal is pending;
- g. Resolve all user registration appeals within 30 days of the initial submission of the appeal;
- h. After the IP CTS URD activation date, permit Providers to provide service and be compensated for minutes of use for up to 30 days while new users are pending URD approval;
- i. Remove obstacles to a consumer's ability to have an appropriate IP CTS device at each location where that user needs its use by;
- i. Allowing providers to install IP CTS devices in transient or enterprise environments where more than one person with hearing loss who meets the Commission's eligibility requirements for IP CTS and needs the use of an IP CTS device for accessible telecommunications;
 - ii. Allowing facilities with stable as well as transient populations to provide IP CTS phones to qualified people with hearing loss;
 - iii. Establishing guidelines and adopting procedures to allow registration for "enterprise" IP CTS devices;
 - iv. Recognizing the five variables (full legal name, address, date of birth, last 4 of social security number, phone number) required for registration, when at least one item is unique, the submission should be recognized as another user;
 - v. If an individual has more than one electronic serial number (ESN) or IP CTS device, requiring that all ESNs and devices be tied to the same user;
 - vi. Allowing for the possibility that if there are two certified users in one household, there may be one ESN (or individual ID) tied to both users or there may be multiple IP CTS devices tied to one household;

- vii. Providing guidelines for the certification process for those with power of attorney or guardianship, or for people under the age of 18; and
 - viii. Allowing for scenarios such as enterprise and transient environments where a user may give a different work/room phone extension for an inbound call but outgoing calls may go out under several possible “trunk lines,” and in those scenarios, once registration is validated, ensure that the URD approves the call by the individual ID or ESN.
 - ix. Establishing a process to address minors becoming the age of majority, including allowing a grace period for minors to become fully compliant as if they were newly registered users.
3. RECOMMENDED that the Commission take necessary action to limit harms to consumer privacy resulting from the implementation of the IP CTS URD, including:
- a. Require the TRS-URD Administrator to:
 - i. Establish internal policies and procedures that ensure data security;
 - ii. Adopt a record retention schedule that causes the Commission, Providers, and the TRS-URD Administrator to retain records only as long as necessary to fulfill the requirements of the URD, and destroy records immediately thereafter;
 - iii. Update vendor agreements with any third parties involved in the administration of the URD, including LexisNexis, to:
 - 1. Limit retention of data given to vendors by the TRS-URD Administrator to the time period necessary to fulfill their obligations under the agreements;
 - 2. Prohibit the sale or commercial use of data given to the vendor by the TRS-URD Administrator;
 - 3. Prohibit any use of the data given to the vendor by the TRS-URD Administrator beyond the narrow, specified purposes in the agreements; and
 - 4. Notify the TRS-URD Administrator and the Commission in the event of a breach within 30 days of discovery;
 - iv. Designate an official agent to conduct internal audits and ensure internal compliance; and

- v. Provide notice of data collection and use in clear, understandable language to be passed by Providers to their customers;
- b. Ensure Privacy Act compliance by:
 - i. Articulating requirements for the TRS-URD Administrator, identity verification agents and other third parties used by the TRS-URD Administrator in the administration and operation of the URD;
 - ii. Adopting procedures to ensure:
 - 1. Individuals' access to records;
 - 2. Notice of collection and use;
 - 3. Disclosure of the purpose of the collection;
 - 4. The name and location of relevant systems being used;
 - 5. Categories of records in the relevant systems;
 - 6. Security safeguards;
 - 7. Amendment procedures; and
 - 8. All other measures to comply with the Act.
- c. Limit the period that Providers and the TRS-URD Administrator must maintain documents by requiring the TRS-URD Administrator to complete audits of supporting documentation—only to the extent necessary for registration validation—in a prescribed period;
- d. To the extent that the TRS-URD Administrator requires copies of supporting documentation, require the transmission of those documents and storage of those documents by the TRS-URD Administrator to be secured using reasonable and appropriate security measures, including end-to-end encryption in transit and encryption at rest;
- e. Require transmission and storage of personal user data, including supporting documents to or by the TRS-URD Administrator, be subject to a data transfer agreement between the Provider and the TRS-URD Administrator that ensures reasonable and appropriate security measures, including end-to-end encryption in transit and encryption at rest, and including security audit rights for Providers;
- f. Require Providers and the TRS-URD Administrator to purge all supporting documentation upon the earlier of either approval of the application, or 30 days after submission regardless of audit completion;

- g. In all other practicable ways, minimizing retention requirements for all data collected for the URD;
 - h. Limit non-real-time validation requirements to circumstances where a specific registrant's information gives rise to a specific, articulable suspicion that he or she is attempting to register fraudulently;
 - i. Where possible, limit information used for verification to metadata rather than personally identifiable information, for example, rely on information that says the person is located in the United States, rather than their address, or rely on information that says the DOB matches, rather than list the DOB or include a copy of a Driver's License; and
 - j. Temporary approval should be granted if the URD Administrator submits a code that signifies they have collected an appropriate "corrective document".
 - i. In the event of a validation failure:
 - Provider uploads document to a secure document storage system for URD Administrator's review.
 - Once URD Administrator has accepted the registrations and a unique identifier has been issued, URD Administrator shall "approve" or "sign off" on that registration and then the documentation must be purged.
4. RECOMMENDED that the Commission address registration related costs of the IP CTS URD by allowing Providers to receive an exogenous cost adjustment for incurred URD related costs.