Appendix A: List of Parties

***Improved TRS FNPRM*, CC Dkt. No. 98-67, FCC 00-56 (2000)**
Commenters: AT&T, Rebecca Ancheta, Jeanne Abrons, Virginia Alton, Peggy Barker, Bell Atlantic, Susan Barnhill, David Bekhour, Mary Bell, Cheryl Bergan, Todd Butterworth, California State and California Public Utility Commission (California PUC), Cellular Telecommunications Industry Association (CTIA), Sue Cohen, Geffrey Curtis, Judith Clark, Fred Dickinson, Gus Estrella, GTE, Bruce Gibbings, Barry Gurdin, Don Gulley, Andrea Gough, Helen Goodman, Augusta Goldstein, Jeffrey Hill, Cheryl Heppner, Robert Hodges, Pam Hoye, Gretchen Jerk, David Kagan, Isadora Kunitz, Katherine Keller, Leo LaPointe, Dana Lognstreth, Rebecca Ladew, Larry Littleton, David McNaughton, Maryland Department of Budget & Management (Maryland Dept. of Budget and Mgt.), Massachusetts Assistive Technology Partnership (Massachusetts ATP), Craig Miller, C. Hugh Marsh, National Association of the Deaf Telecommunications Advocacy Network and Consumer Action Network (NAD/TAN/CAN), Amy Noakes, Fred Nisen, Thomas O'Neill, Rehabilitation Engineering Research Center- Gallaudet University and Trace Center, University of Wisconsin (RERC-TA), Tracy Rackensperger, SBC Communications, Inc. (SBC), Self Help for the Hard of Hearing (SHHH), Sprint, Linda Sullivan, Marsha Spector, Howard Sage, Jeff Schultz, Trici Schraeder, Telecommunication for the Deaf, Inc. (TDI), United States Telecom Association (USTA), WorldCom, Inc. (WorldCom), Eda Wilson, Julie Winsberg, Russ Zochowski; **Reply Commenters:** Emik & Anne Avakian, Ruth Ancheta, Rod Brawley, Venna Behm, Cellular Telecommunications Industry Association (CTIA), Cindy Curtis, Sue Cohen, Gail Cobin, Florida State Public Service Commission (Florida PSC), Bruce Fleming, Bob Glass, Leo LaPointe, Amy Noakes, Barry Romich, Sprint, Bob Segalman, Margaret Turk, Bobbi Tanberg, John Van Dusen, Anke Van Aardenne, Barbara Vick, WorldCom, Inc. (WorldCom), Janell Woodbury, Ron Wolf

Reconsideration of the Improved TRS Order, CC Dkt. 98-67, FCC 00-56

Petitioners: Florida Public Service Commission (Florida PSC); National Association for State Relay Administration (NASRA); SBC Communications, Inc. (SBC), Texas Public Utility Commission (Texas PUC); Vista Technologies (Vista); WorldCom, Inc. (WorldCom). **Commenters**: Sprint Corporation (Sprint); Ultratec, Inc. (Ultratec); Self Help for Hard of Hearing People, Inc. (SHHH); National Association of the Deaf-Telecommunications Advocacy Network and Consumer Action Network (NAD/TAN/CAN); **Reply Commenters**: WorldCom and NAD/TAN/CAN.

***IP Relay Declaratory Ruling & 2nd FNPRM*, CC Dkt. No. 98-67, FCC 02-121**

Commenters: Winston A. Ching, Chad A. Ludwig, Public Service Commission of the State of Missouri (MoPSC), Richard Roehm, Telecommunications for the Deaf, Inc. (NAD and ALDA supporting)(TDI), Sprint Corporation (Sprint), Verizon Communications, Inc. (Verizon), WorldCom, Inc. (WorldCom); **Reply Commenters:** Hamilton Relay Inc. (Hamilton), Telecommunication for the Deaf, Inc. (TDI)

***IP Relay Declaratory Ruling & 2nd FNPRM*, CC Dkt. No. 98-67, FCC 02-121**

***Petition for Reconsideration filed on the behalf of MCI WorldCom, Inc. and Sprint Corporation* Commenters:** AT&T, Communications Service for the Deaf, Inc.; **Reply Commenter:** Hamilton Relay Inc.

***PSAP Public Notice*, CC Dkt. 98-67, DA 02-1826**

Commenters: AT&T, Deaf Seniors of America (DSA), Intrado, Inc. (Intrado), National Emergency Number Association, the Association of Public-Safety Communications Officials-International, Inc. (NENA/APCO) Sprint Corporation (Sprint), Telecommunications for the Deaf, Inc. (TDI), Texas Commission on State Emergency Communications (TX-CSEC), Verizon Communications, Inc. (Verizon), Maryland Department of Budget and Management (Maryland Dept. of Budget & Mgt.), Telecommunications Access of Maryland (MD-TAM); **Reply Commenters**: National Emergency Number Association, the Association of Public-Safety Communications Officials-International, Inc. and the National Association of State Nine-One-One Administrators (NENA/APCO/NASNA), Sprint Corporation, Inc. (Sprint), Telecommunications for the Deaf, Inc. (TDI), Verizon Communications, Inc. (Verizon).

Appendix B: Final Regulatory Flexibility Analysis (FRFA)

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the further notice of proposed rulemaking to which this *Report and Order* responds.[2] The Commission sought written public comment on the proposals in the *Improved TRS FNPRM,* including comment on the IRFA incorporated in that proceeding. The comments we have received discuss only the general recommendations, not the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

Need for, and Objective of, this *Report and Order*

2. This proceeding was generally initiated to address the requirement that telecommunications relay services (TRS) users have access to telephone services that are functionally equivalent to those available to individuals without hearing or speech disabilities. Our specific concerns were to address emergency call handling, Speech-to-Speech (STS) services, and to examine the mandatory minimum standards with regard to technological advancements in telecommunications. Because technological advancements in telecommunications services produce enhanced features available to the non-disabled telecommunications consumer, the Commission issued the *Improved TRS FNPRM* to further develop the record with the goal of determining the best plan to make the full range of telecommunications services available to TRS users.

3. The Commission issued the *Improved TRS FNPRM* to seek public comment on technological advances that could improve the level and quality of service provided through TRS for the benefit of the community of TRS users. In doing so, the Commission sought to enhance the quality of TRS and broaden the potential universe of TRS users, consistent with Congress' direction at 47 U.S.C. § 225(d)(2), to ensure that TRS regulations encourage the use of existing technology and not discourage or impair the development of improved technology. The *Improved TRS NPRM* also sought comment on outreach programs, the accessibility of emergency services to TRS, and whether SS7 technology and concomitant services should be made available to TRS facilities. The intent of the proposed rules was to improve the overall effectiveness of TRS, and to improve the Commission's oversight of certified state TRS programs and our ability to compel compliance with the federal mandatory minimum standards for TRS.

4. In this *Report and Order*, the Commission establishes new rules and amends existing rules governing TRS to further advance the functional equivalency mandate of section

[1] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

[2] *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-67, FCC 00-56, 15 FCC Rcd 5140 (2000) (*Improved TRS Order & FNPRM).*

[3] *See* 5 U.S.C. § 604. We also expect that we could certify the *Report and Order* under 5 U.S.C. § 605, because it appears that only one TRS provider is likely a small entity (because it is a non-profit organization). Therefore, there is not a substantial number of small entities that may be affected by our action.

225. First, we require that TRS providers offer certain LEC-based improved services and features where technologically feasible,[4] several additional types of TRS calls,[5] and other services and features[6] through which consumers with varying needs, abilities, and preferences may access and use TRS. In addition, we require that all TRS providers successfully implement 711 dialing access for STS users. This *Report and Order* also revises the requirements for handling emergency calls. Finally, we provide guidance for public access to TRS-related information to improve the usability of TRS for all Americans. These amended and new rules will improve the overall effectiveness of TRS to ensure that persons with hearing and speech disabilities have access to telecommunications networks that is consistent with the goal of functional equivalency mandated by Congress.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

5. No comments were filed directly in response to the IRFA in this proceeding. The Commission has nonetheless considered the potential significant economic impact of the rules on small entities and, as discussed below, has concluded that the rules adopted may impose some economic burden on at least one small entity that is a TRS provider.

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

6. 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 adopted herein.[7] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[8] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[9] 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 Small Business Administration (SBA).[10] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[11]

[4] For example, new features that may be LEC-based such as three-way calling.

[5] New mandatory types of TRS calls are: (1) two-line VCO; (2) two-line HCO; (3) VCO-to-TTY; (4) VCO-to-VCO; (5) HCO-to-TTY; and (6) HCO-to-HCO.

[6] Other such services and features that may involve new technologies or require new tasks to be preformed by a CA include call release; and three-way or conference calling.

[7] 5 U.S.C. § 604(a)(3).

[8] 5 U.S.C. § 601(6).

[9] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the 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."

[10] 15 U.S.C. § 632.

[11] 5 U.S.C. § 601(4).

Nationwide, as of 1992, there were approximately 275,801 small organizations.[12] The term "small governmental jurisdiction" is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[13] As of 1997, there were approximately 87,453 governmental jurisdictions in the United States.[14] This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

7. Below, we further describe and estimate the number of small entity licensees and regulatees that, in theory, may be affected by these rules.[15] For some categories, the most reliable source of information available at this time is data the Commission publishes in its *Trends in Telephone Service* Report.[16]

8. *Local Exchange Carriers*. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[17] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[18] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.

9. *Incumbent Local Exchange Carriers*. Neither the Commission nor the SBA has developed a small business size standard specifically directed toward providers of incumbent local exchange service. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[19] This provides that such a carrier is small entity if it employs no more than 1,500 employees.[20] Commission data from 2000 indicate that there are 1,329

[12] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[13] 5 U.S.C. § 601(5).

[14] U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Section 9, pages 299-300, Tables 490 and 492.

[15] *But see* note 3, *supra*.

[16] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (May 2002) (*Trends in Telephone Service*). FCC Website location (see online page 24): http://www.fcc.gov/Bureaus/CommonCarrier/Reports/FCC-StateLink/IAD/trend502.pdf.

[17] 15 U.S.C. § 632.

[18] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. 121.102(b).

[19] 13 C.F.R. § 121.201, NAICS Code 517110.

[20] *Id.*

incumbent local exchange carriers, total, with approximately 1,024 having 1,500 or fewer employees.[21] The small carrier number is an estimate and might include some carriers that are not independently owned and operated; we are therefore unable at this time to estimate with greater precision the number of these carriers that would qualify as small businesses under SBA's size standard. Consequently, we estimate that there are no more than 1,024 ILECS that are small businesses possibly affected by our action.

10. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically directed toward providers of interexchange service. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[22] This provides that such a carrier is small entity if it employs no more than 1,500 employees.[23] Commission data from 2000 indicate that there are 229 interexchange carriers, total, with approximately 181 having 1,500 or fewer employees.[24] The small carrier number is an estimate and might include some carriers that are not independently owned and operated; we are therefore unable at this time to estimate with greater precision the number of these carriers that would qualify as small businesses under SBA's size standard. Consequently, we estimate that there are no more than 181 interexchange carriers that are small businesses possibly affected by our action.

11. *TRS Providers.* Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward providers of telecommunications relay services (TRS). Again, the closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[25] Currently, there are 10 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. The Commission estimates that at least one TRS provider is a small entity. The FCC notes that these providers include several large interexchange carriers and incumbent local exchange carriers. Some of these large carriers may only provide TRS service in a small area but they nevertheless are not small business entities.[26] Consequently, the FCC estimates that at least one TRS provider is a small entity that may be affected by our action.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. *Reporting and Recordkeeping.* This *Report and Order* may involve new mandatory reporting requirements. These rules require a speed dialing feature that may require TRS providers to maintain a list of telephone numbers. The *Report and Order* adopts a rule to require that TRS facilities provide speed dialing functionality on an intrastate and interstate basis; however, it does not adopt specific requirements for speed dialing functionality at this time. We anticipate that TRS providers will develop customized speed dialing and expect that

[21] *Trends in Telephone Service* at Table 5.3.

[22] 13 C.F.R. § 121.201, NAICS Code 517110

[23] *Id.*

[24] *Trends in Telephone Service* at Table 5.3.

[25] 13 C.F.R. § 121.201, NAICS Code 517110

[26] MCI WorldCom, for example, provides TRS in only a few states but is not a small business.

consumers' needs will be addressed as this feature matures. The *Report and Order* establishes voluntary reporting requirements associated with certain waivers available for certain TRS providers. Consistent with the *IP Relay Order on Reconsideration*,[27] this *Report and Order* establishes waivers for TRS providers who elect to provide Internet Protocol (IP) Relay and video relay service (VRS).[28] The waivers set forth in this *Report and Order* are contingent on annual reports filed with the Commission detailing the technological changes in these areas, the progress made, and the steps taken to resolve the technologically problems that prevent IP Relay and VRS providers from offering these types of TRS calls. This requirement has very little economic impact on the TRS providers because it merely requires an annual submission of an annual report to the Commission and the reports are voluntary because IP Relay and VRS are not mandatory forms of TRS under our rules.

13. *Other Compliance Requirements*. The rules adopted in this *Report and Order* require that all TRS providers provide several types of TRS calls including: two-line VCO and two-line HCO,[29] HCO-to-TTY and HCO-to-HCO,[30] and VCO-to-TTY and VCO-to-VCO.[31] The rules also require that TRS facilities route emergency TRS calls to the designated PSAP to which a direct voice call from a non-TRS number would be delivered.[32] Furthermore, the rules require that TRS facilities provide certain technological features including: call release,[33] three-way calling.[34] The *Order on Reconsideration* clarifies certain reporting requirements for contact persons. These rules will affect TRS providers.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

14. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed 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 or reporting requirements under the rule for 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 small entities.[35] One of the main purposes of this

[27] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling and Second Further Notice of Proposed Rule Making, FCC 02-121, 17 FCC Rcd 7779 (2002) (*IP Relay Declaratory Ruling & FNPRM*), Order on Reconsideration, FCC 03-46, (*rel'd* March 14, 2003), 68 FR 18825 (published April 16, 2003) (*IP Relay Order on Reconsideration*).

[28] *See supra* sections IV(B)(1)(d), IV(C)(2)(f).

[29] *See supra* section IV(B)(1)(a).

[30] *See supra* section IV(B)(1)(b).

[31] *See supra* section IV(B)(1)(c).

[32] *See supra* section IV(B)(2).

[33] *See supra* section IV(C)(1)(c).

[34] *See supra* section IV(C)(1)(f).

[35] 5 U.S.C. § 603(c)(1)-(c)(4).

15. *Report and Order* is to clarify many of the current requirements for TRS providers. The annual reports associated with the waivers for IP Relay and VRS providers have been made to expire at the same time as previous waivers so that TRS providers have one deadline instead of multiple deadlines to which they must adhere if providing those non-mandatory forms of TRS. Any new requirements that are imposed are similar to services currently being offered and therefore the Commission expects a minimal impact on small business. Currently, most TRS providers are not small entities, and are either interexchange carriers or local exchange carriers, with very few exceptions.[36] This *Report and Order* adopts rules that will improve the effectiveness of TRS and ensure access to telecommunications networks for persons with hearing and speech disabilities while imposing the least necessary regulation.

Report to Congress

16. The Commission will send a copy of the *Report and Order* and *Order on Reconsideration*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.[37] In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order, Order on Reconsideration* and FRFA (or summaries thereof) will also be published in the *Federal Register*.[38]

[36] *See* ¶ 11, *supra.*

[37] *See* 5 U.S.C. § 801(a)(1)(A).

[38] *See* 5 U.S.C. § 604(b).

Appendix C: Initial Regulatory Flexibility Analysis (IRFA)

1. As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *NPRM*.[2] 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 *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the *Federal Register*.

Need for, and Objectives of, the *NPRM*

2. The Commission is issuing this *NPRM* to seek public comment on technological advances that could improve the level and quality of service provided through TRS for the benefit of the community of TRS users. In doing so, the Commission hopes to enhance the quality of TRS, and broaden the potential universe of TRS users consistent with Congress' direction at 47 U.S.C. § 225 (d)(2) to the Commission to ensure that its regulations encourage the use of existing technology and not discourage or impair the development of improved technology.

3. Specifically, the *NPRM* proposes that TRS and TRS facilities should receive a National Security and Emergency Preparedness (NS/EP) Priority Status commensurate with that given to LEC facilities. Furthermore, the Commission requests comment on the mandatory minimum standards confidentiality rule for IP Relay TRS calls, and the use of encryption. The Commission also seeks comment on possibly requiring TRS that would employ a non-shared language translation service. Moreover the Commission seeks comment on amending its call set-up rules for various forms and types of TRS calls, including STS, VRS, VCO, HCO, and two-line VCO and HCO. The *NPRM* seeks comment on technological advancements that have taken place that may advance the functional equivalency of TRS. The intent of these proposed rules is to improve the overall effectiveness of the TRS program, and to improve the Commission's oversight of certified state TRS programs. The *NPRM* also seeks comment on additional outreach efforts that may benefit TRS consumers. Finally, the *NPRM* seeks comment on whether the Commission should institute a certification process specifically for providers of IP Relay, VRS, and any other technology that does not fit easily into the traditional jurisdictional separation of intrastate and interstate, for the period of time that such services are reimbursed from the Interstate TRS Fund. Concerning the proposed certification rules, we ask whether they should be modified in the case of providers of IP Relay or VRS. We note that some current providers of VRS, and some potential providers of IP Relay and VRS, are not common carriers; we ask whether this should influence the need for a federal certification process.

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[1] 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-612, 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).

[2] *See* 5 U.S.C. § 603. We also expect that we could certify this action under 5 U.S.C. § 605, because it appears that only one TRS provider is likely a small entity (because it is a non-profit organization). Therefore, there is not a substantial number of small entities that may be affected by our action.

Legal Basis

4. The authority for actions proposed in this *NPRM* may be found in sections 1, 4(i) and (j), 201-205, 218 and 225 of the Communications Act of 1934, as amended, 47 U.S.C. sections 151, 154(i), 154(j), 201-205, 218 and 225.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will 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 adopted herein.[3] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[4] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[5] 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 Small Business Administration (SBA).[6] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[7] Nationwide, as of 1992, there were approximately 275,801 small organizations.[8] The term "small governmental jurisdiction" is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[9] As of 1997, there were approximately 87,453 governmental jurisdictions in the United States.[10] This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

6. Below, we further describe and estimate the number of small entity licensees and regulatees that, in theory, may be affected by these rules.[11] For some categories, the most

[3] 5 U.S.C. § 604(a)(3).

[4] 5 U.S.C. § 601(6).

[5] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the 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."

[6] 15 U.S.C. § 632.

[7] 5 U.S.C. § 601(4).

[8] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[9] 5 U.S.C. § 601(5).

[10] U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Section 9, pages 299-300, Tables 490 and 492.

[11] *But see* note 2, *supra*.

reliable source of information available at this time is data the Commission publishes in its *Trends in Telephone Service* Report.[12]

7. *Local Exchange Carriers.* We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[13] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope.[14] We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on FCC analyses and determinations in other, non-RFA contexts.[15]

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9. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically directed toward providers of interexchange service. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[19] This provides that such a carrier is small entity if it employs no more than 1,500 employees.[20] Commission data from 2000 indicate that there are 229 interexchange carriers,

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[12] FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (May 2002) (*Trends in Telephone Service*). FCC Website location (*see* online page 24): http://www.fcc.gov/Bureaus/CommonCarrier/Reports/FCC-StateLink/IAD/trend502.pdf.

[13] 15 U.S.C. § 632.

[14] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. 121.102(b).

[15] NAICS code 513310.

[16] 13 C.F.R. § 121.201, NAICS Code 517110.

[17] *Id.*

[18] *Trends in Telephone Service* at Table 5.3.

[19] 13 C.F.R. § 121.201, NAICS Code 517110

[20] *Id.*

total, with approximately 181 having 1,500 or fewer employees.[21] The small carrier number is an estimate and might include some carriers that are not independently owned and operated; we are therefore unable at this time to estimate with greater precision the number of these carriers that would qualify as small businesses under SBA's size standard. Consequently, we estimate that there are no more than 181 interexchange carriers that are small businesses possibly affected by our action.

10. *TRS Providers.* Neither the Commission nor the SBA has developed a definition of "small entity" specifically directed toward providers of telecommunications relay services (TRS). Again, the closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers.[22] Currently, there are 10 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. Approximately five or fewer of these entities are small businesses.[23] The FCC notes that these providers include several large interexchange carriers and incumbent local exchange carriers. Some of these large carriers may only provide TRS service in a small area but they nevertheless are not small business entities.[24] The FCC estimates that there is at least one TRS provider that is a small entity that may be affected by our action.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

11. This *NPRM* seeks comment on a proposal regarding possible certification of TRS providers seeking to provide interstate TRS. The proposed certification process would mirror an existing certification process established for certification of state TRS programs. The proposed certification process for interstate TRS providers, if implemented, would impose a new requirement to file information with the Federal Communications Commission.

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

12. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take (among others) into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for 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 small entities.[25]

13. The proposals in the *NPRM*, and the comments the Commission seeks regarding

[21] *Trends in Telephone Service* at Table 5.3.

[22] 13 C.F.R. § 121.201, NAICS Code 517110

[23] *See* National Association for State Relay Administration (NASRA) Statistics. These numbers are estimates because of recent and pending mergers and partnerships in the telecommunications industry.

[24] MCI WorldCom, for example, provides TRS in approximately only a few states but is not a small business.

[25] 5 U.S.C. § 603.

them, are part of the Commission's role with respect to the implementation and operation of nationwide TRS for persons with hearing and speech disabilities.[26] The guiding principal shaping these proposals is Congress' direction to the Commission to ensure that TRS keeps pace with advancing technology and that the Commission's rules do not discourage the implementation of technological advances or improvements, and assures functional equivalency in telecommunications services for persons with hearing and speech disabilities. The majority of TRS service is provided by large interexchange carriers and incumbent local exchange carriers, and we believe that the number of small entities impacted by these proposals would be potentially very small. With respect to proposed amendments to the Commission's rules governing TRS, by statute common carriers (including small entities) providing voice transmission services that are subject to the TRS rules may comply with their obligations individually, through designees, through competitively selected vendor, or in concert with other carriers.[27] For this reason, the Commission expects that the proposed rule amendments will have a minimal impact on small entities. We seek comment on our tentative conclusion.

Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules

14. None.

[26] *See, e.g.*, 47 U.S.C. § 225.

[27] 47 U.S.C. § 225(c).

Appendix D: Final Rules

For the reasons discussed in the preamble, the Commission amends 47 C.F.R. subpart F as follows:

PART 64--MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. In Part 64, subpart F, remove the words "Consumer Information Bureau" and add, in their place, "Consumer & Governmental Affairs Bureau".

2. Section 64.601 is amended and the existing text substituted for by the following:

§ 64.601 Definitions.

As used in this subpart, the following definitions apply:

(1.) 711. The abbreviated dialing code for accessing all types of relay services anywhere in the United States.
(2.) American Sign Language (ASL). A visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body.
(3.) ASCII. An acronym for American Standard Code for Information Interexchange which employs an eight bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher.
(4.) Baudot. A seven bit code, only five of which are information bits. Baudot is used by some text telephones to communicate with each other at a 45.5 baud rate.
(5.) Call release. A TRS feature that allows the CA to sign-off or be "released" from the telephone line after the CA has set up a telephone call between the originating TTY caller and a called TTY party, such as when a TTY user must go through a TRS facility to contact another TTY user because the called TTY party can only be reached through a voice-only interface, such as a switchboard.
(6.) Common carrier or carrier. Any common carrier engaged in interstate Communication by wire or radio as defined in section 3(h) of the Communications Act of 1934, as amended (the Act), and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b) of the Act.
(7.) Communications assistant (CA). A person who transliterates or interprets conversation between two or more end users of TRS. CA supersedes the term "TDD operator."
(8.) Hearing carry over (HCO). A form of TRS where the person with the speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use one telephone line for hearing and the other for sending TTY messages. HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user. HCO-to-HCO allows a relay conversation to take place between two HCO users.
(9.) Non-English language relay service. A telecommunications relay service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a CA who is fluent in that language.

(10.) Qualified interpreter. An interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
(11.) Public Safety Answering Point (PSAP). A facility that has been designated to receive 911 calls and route them to emergency services personnel as provided in 47 C.F.R. § 64.3000(c).
(12.) Speech-to-speech relay service (STS). A telecommunications relay service that allows individuals with speech disabilities to communicate with voice telephone users through the use of specially trained CAs who understand the speech patterns of persons with speech disabilities and can repeat the words spoken by that person.
(13.) Speed dialing. A TRS feature that allows a TRS user to place a call using a stored number maintained by the TRS facility. In the context of TRS, speed dialing allows a TRS user to give the CA a "short-hand" name or number for the user's most frequently called telephone numbers.
(14.) Telecommunications relay services (TRS). Telephone transmission services that provide the ability for an individual who has a hearing or speech disability 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 or speech disability to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a text telephone or other nonvoice terminal device and an individual who does not use such a device, speech-to-speech services, video relay services and non- English relay services. TRS supersedes the terms "dual party relay system," "message relay services," and "TDD Relay."
(15.) Text telephone (TTY). A machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system. TTY supersedes the term "TDD" or "telecommunications device for the deaf," and TT.
(16.) Three-way calling feature. A TRS feature that allows more than two parties to be on the telephone line at the same time with the CA.
(17.) Video relay service (VRS). A telecommunications relay service that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. The video link allows the CA to view and interpret the party's signed conversation and relay the conversation back and forth with a voice caller.
(18.) Voice carry over (VCO). A form of TRS where the person with the hearing disability is able to speak directly to the other end user. The CA types the response back to the person with the hearing disability. The CA does not voice the conversation. Two-line VCO is a VCO service that allows TRS users to use one telephone line for voicing and the other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take place between two VCO users.

3. Section 64.604 is amended by revising paragraphs (a)(1), (a)(3), (b), and (c)(2) to read as follows:

§ 64.604 Mandatory minimum standards.

The standards in this section are applicable December 18, 2000, except as stated in paragraphs (c)(2) and (c)(7) of this section.

(a) Operational standards.
(1) Communications assistant (CA).

(i) TRS providers are responsible for requiring that all CAs be sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.
(ii) CAs must have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. CAs must possess clear and articulate voice communications.
(iii) CAs must provide a typing speed of a minimum of 60 words per minute. Technological aids may be used to reach the required typing speed. Providers must give oral-to-type tests of CA speed.
(iv) TRS providers are responsible for requiring that VRS CAs are qualified interpreters. A "qualified interpreter" is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.
(v) CAs answering and placing a TTY-based TRS or VRS call must stay with the call for a minimum of ten minutes. CAs answering and placing an STS call must stay with the call for a minimum of fifteen minutes.
(vi) TRS providers must make best efforts to accommodate a TRS user's requested CA gender when a call is initiated and, if a transfer occurs, at the time the call is transferred to another CA.
(vii) TRS shall transmit conversations between TTY and voice callers in real time.

* * * * *

(3) Types of calls.
(i) Consistent with the obligations of telecommunications carrier operators, CAs are prohibited from refusing single or sequential calls or limiting the length of calls utilizing relay services.
(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call.
(iii) Relay service providers are permitted to decline to complete a call because credit authorization is denied.
(iv) Relay services shall be capable of handling pay-per-call calls.
(v) TRS providers are required to provide the following types of TRS calls: (1) text-to-voice and voice-to-text; (2) VCO, two-line VCO, VCO-to-TTY, and VCO-to-VCO; (3) HCO, two-line HCO, HCO-to-TTY, HCO-to-HCO.
(vi) TRS providers are required to provide the following features: (1) call release functionality; (2) speed dialing functionality; and (3) three-way calling functionality.
(vii) Voice mail and interactive menus. CAs must alert the TRS user to the presence of a recorded message and interactive menu through a hot key on the CA's terminal. The hot key will send text from the CA to the consumer's TTY indicating that a recording or interactive menu has been encountered. Relay providers shall electronically capture recorded messages and retain them for the length of the call. Relay providers may not impose any charges for additional calls, which must be made by the relay user in order to complete calls involving recorded or interactive messages.
(viii) TRS providers shall provide, as TRS features, answering machine and voice mail retrieval.

(4) Handling of emergency calls. Providers must use a system for incoming emergency calls that, at a minimum, automatically and immediately transfers the caller to an appropriate Public Safety Answering Point (PSAP). An appropriate PSAP is the designated PSAP to which a direct call from the particular number would be delivered. In addition, a CA must pass along the caller's telephone number to the PSAP when a caller disconnects before being connected to emergency services.

(5) STS called numbers. Relay providers must offer STS users the option to maintain at the relay center a list of names and telephone numbers which the STS user calls. When the STS user requests one of these names, the CA must repeat the name and state the telephone number to the STS user. This information must be transferred to any new STS provider.

(b) Technical standards.
(1) ASCII and Baudot. TRS shall be capable of communicating with ASCII and Baudot format, at any speed generally in use.
(2) Speed of answer.
(i) TRS providers shall ensure adequate TRS facility staffing to provide callers with efficient access under projected calling volumes, so that the probability of a busy response due to CA unavailability shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.
(ii) TRS facilities shall, except during network failure, answer 85% of all calls within 10 seconds by any method which results in the caller's call immediately being placed, not put in a queue or on hold. The ten seconds begins at the time the call is delivered to the TRS facility's network. A TRS facility shall ensure that adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.
(A) The call is considered delivered when the TRS facility's equipment accepts the call from the local exchange carrier (LEC) and the public switched network actually delivers the call to the TRS facility.
(B) Abandoned calls shall be included in the speed-of-answer calculation.
(C) A TRS provider's compliance with this rule shall be measured on a daily basis.
(D) The system shall be designed to a P.01 standard.
(E) A LEC shall provide the call attempt rates and the rates of calls blocked between the LEC and the TRS facility to relay administrators and TRS providers upon request.

(3) Equal access to interexchange carriers. TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services, to the same extent that such access is provided to voice users.

(4) TRS facilities.
(i) TRS shall operate every day, 24 hours a day. Relay services that are not mandated by this Commission need not to be provided every day, 24 hours a day.
(ii) TRS shall have redundancy features functionally equivalent to the equipment in normal central offices, including uninterruptible power for emergency use.

(5) Technology. No regulation set forth in this subpart is intended to discourage or impair the development of improved technology that fosters the availability of telecommunications to

person with disabilities. TRS facilities are permitted to use SS7 technology or any other type of similar technology to enhance the functional equivalency and quality of TRS. TRS facilities that utilize SS7 technology shall be subject to the Calling Party Telephone Number rules set forth at 47 C.F.R. §§ 64.1600 *et seq.*

(6) Caller ID. When a TRS facility is able to transmit any calling party identifying information to the public network, the TRS facility must pass through, to the called party, at least one of the following: the number of the TRS facility, 711, or the 10-digit number of the calling party.

(c) * * *
(2) Contact persons. Beginning on June 30, 2000, State TRS Programs, interstate TRS providers, and TRS providers that have state contracts must submit to the Commission a contact person and/or office for TRS consumer information and complaints about a certified State TRS Program's provision of intrastate TRS, or, as appropriate, about the TRS provider's service. This submission must include, at a minimum, the following: 1) the name and address of the office that receives complaints, grievances, inquiries, and suggestions; 2) voice and TTY telephone numbers, fax number, e-mail address, and web address; and 3) the physical address to which correspondence should be sent.

* * * * *

Appendix E: Proposed Rules for Eligibility for Certification

1. Add a new § 64.604(c)(5)(iii)(F)(4), as follows:

(4) Interstate TRS providers certified by the Commission pursuant to § 64.605.

2. Revise § 64.605 to rename the section "TRS Provider and State TRS Program Certification"; to rename subsection 64.605(a) as "Documentation"; to redesignate subsections 64.605(b) and (b)(1) through (b)(3) as (b)(1) and (b)(1)(i) through (b)(1)(iii); and to add the following subsections:

(a) Documentation.

* * *

(2) Interstate TRS provider. Any TRS provider desiring to provide TRS on an interstate basis, independent from any state TRS program or any interstate common carrier, and desiring to establish eligibility to provide TRS and receive compensation for providing those services from the Interstate TRS Fund, shall submit documentation to the Commission addressed to the Federal Communications Commission, Consumer & Governmental Affairs Bureau, Interstate TRS Provider Certification Program, Washington, DC 20554, and captioned "Interstate TRS Provider Certification Application." All documentation shall be submitted in narrative form, and shall clearly describe the forms of TRS to be provided (*i.e.,* VRS, STS, IP Relay, traditional text-to-speech TRS) and any waivers of mandatory minimum standards deemed necessary to provide the aforementioned forms of TRS. The Commission shall give public notice of each interstate TRS provider filing for certification including notification in the *Federal Register.*

(b) Requirements for certification.

* * *

(2) After review of certification documentation, the Commission shall certify, by letter, or order, the interstate TRS provider if the Commission determines that the certification documentation:

(i) Establishes that the interstate TRS provider meets or exceeds all operational, technical, and functional minimum standards contained in § 64.604;

(ii) Establishes that the interstate TRS provider makes available adequate procedures and remedies for ensuring compliance with the requirements of this section and the mandatory minimum standards contained in section 64.604, including the requirement that informational materials on complaint procedures sufficient for users to know the proper procedures for filing complaints are made available to TRS users; and

(iii) Where the interstate TRS provider exceeds the mandatory minimum standards contained in § 64.604, the state or the interstate TRS provider establishes that its program and services in no way conflict with federal law.

(c) Certification period

* * *

(2) Interstate TRS providers. Certification granted under this section shall remain in effect for one year. Providers shall file with the Commission, on an annual basis, a report providing evidence that they are in compliance with section 64.604. Interstate TRS providers shall also file a log of any complaints received, and their disposition of such complaints. An interstate TRS provider may apply for renewal of its certification by filing documentation to the Commission addressed to the Federal Communications Commission, Chief, Disability Rights Office, Consumer & Governmental Affairs Bureau, Washington, DC 20554, and captioned "Interstate TRS Provider Re-Certification Application," as prescribed by paragraphs (a) and (b) of this section.

(d) * * *

(e) Suspension or revocation of certification.

* * *

(2)(i) The Commission may suspend or revoke the certification of an interstate TRS provider if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. If such certification has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of TRS.
(ii) The Commission may, on its own motion, require a certified interstate TRS provider to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a certified interstate TRS provider may not be in compliance with the minimum standards.

(f) Notification of substantive change.

* * *

(2) Interstate TRS providers must notify the Commission of substantive changes in their TRS programs, services and features within 60 days of when such changes may occur, and must certify that the interstate TRS provider continues to meet federal minimum standards after implementing the substantive change.

* * * * *

SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Second Report and Order, Order on Reconsideration, and Notice of Proposed Rulemaking; CC Docket No. 98-67 & CG Docket No. 03-123

As developments in telecommunications technologies continue to improve the lives of Americans, the Commission must ensure that those Americans with disabilities are empowered to participate fully in this digital migration and reap its benefits equally with their neighbors. In executing this mission, we are to ensure that our regulations encourage the use of existing technology and do not discourage the development of improved technology. By expanding the scope and variations of covered services and features for TRS, the Commission responds to this obligation to keep pace with technological change.

This item acknowledges technological advancement by expanding the mechanisms by which TRS users may communicate even further by requiring TRS providers to offer six new variations of TRS calls including two-line voice carry over and two-line hearing carry over. It also opens the door to services such as call release, speed dialing and three-way calling to TRS users. We also take steps to ensure that critical safety-of-life applications – such as E911 – are functional and accessible over the TRS platform.

My colleagues and I remain committed to continue this work. Our efforts are in no way complete. On the contrary, developments central to our national security bring new considerations in our efforts to ensure functionally equivalent communications for hearing-impaired and speech-impaired individuals. Significantly, we initiate the important step to integrate TRS into our homeland security efforts by tentatively concluding that these facilities should receive the same National Security/Emergency Preparedness (NS/EP) priority under the Telecommunications Service Priority (TSP) System as local exchange carriers. This initiative will ensure that, in the event of a disaster or emergency, restoring TRS service – and, thus, the ability to communicate of individuals with speech and hearing disabilities – will receive the same priority as restoring other essential communications platforms. Additionally, we seek comment on the routing of emergency wireless calls made to a TRS center to the appropriate Public Safety Answering Point. Finally, although we have recently witnessed a nationwide marketing campaign by a TRS provider about TRS, we seek comment on ways to further achieve the important goal of educating the general public about TRS.

I would like to thank my colleagues for their contribution in the development of this item. I would also like to acknowledge the hard work of the Consumer and Governmental Affairs Bureau, specifically the Disability Rights Office, in bringing this item, that is so important in the lives of so many Americans, to the Commission.

SEPARATE STATEMENT OF COMMISSIONER JONATHAN S. ADELSTEIN

Re: In the Matter of Amendment of Telecommunications Relay Services and Speech-to-Speech for Individuals with Hearing and Speech Disabilities; CC Docket No. 98-67, CG Docket No. 03-123

I am an ardent supporter of universal service. I wholeheartedly believe that disability rights issues go hand-in-hand with universal service in that the Commission must strive for universal, or functionally equivalent, access to all telecommunications products and services. For persons with hearing and speech impairments, the initiatives we adopt today ensure that they are able to take full advantage of our country's ever-evolving telecommunications and information networks by being able to communicate through the latest technologies.

Public interest issues, especially disability rights, always should remain in the forefront of our decisions as Congress intended. While a staff member in the U.S. Senate, I worked on the Americans with Disabilities Act and devoted a great amount of attention to the Social Security Disability Insurance program. These concerns remain central to me on the Commission, as well.

Today's action is centered upon the adoption of the TRS Order, which is designed to give persons with hearing or speech impairments "functionally equivalent" access to our nation's telecommunications network. By adopting this Order, the Commission takes yet another significant step toward fulfilling the mandates of Title IV of the American with Disabilities Act (ADA). I fully support our decision today to require additional TRS features and services to facilitate and expand the use of TRS by persons with hearing and speech impairments.

I also welcome our request for comment on other matters related to TRS, and urge all stakeholders to comment on our tentative proposal to allow TRS facilities to receive an NS/EP priority status. This is particularly important since TRS can be the only means of communications between persons with hearing and speech impairments and emergency services personnel.

Our Further Notice also asks for input on the important goal of improving our outreach efforts for the TRS program to all Americans, an initiative that I strongly support. In the NPRM, we ask if we can require outreach and, if so, how best can we achieve results, and how best can we control costs by targeting the use of the funds.

I would like to thank the Consumer and Governmental Affairs Bureau and the Disability Rights Office on a job well done. This is an important issue to bring to our attention, and I hope that additional comprehensive steps will be taken to ensure functionally equal access to the network that drives our way of life.

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS,
APPROVING IN PART, CONCURRING IN PART

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CC Docket No. 98-67, CG Docket No.03-123)*

When Congress passed the Americans with Disabilities Act more than twelve years ago, it directed the Commission to do everything we could to ensure that those with disabilities have access to functionally equivalent services so that all of America's citizens can participate fully in our society. I support today's item because, consistent with this vision, we take positive steps to update our TRS requirements. I also support our efforts to seek comment on the impact of new technological developments on TRS. As the pace of innovation quickens, we should commit to reviewing our TRS requirements with ever greater frequency.

I must concur in part rather than approve *en toto* because I believe that this item delays unnecessarily the start of effective national TRS outreach efforts. Three years ago, the Commission tentatively concluded that a nationwide awareness campaign would improve TRS by publicizing its availability more broadly than the limited bill inserts and directory listings required under our current rules. The Commission noted that our current rules have not effectively ensured that callers are aware of TRS and concluded that this lack of awareness was adversely affecting the quality of TRS. For example, we found that callers using relay service experience an unacceptably large number of hang-ups because people receiving TRS calls are not familiar with the service. Our record also reflected that many employment opportunities are not extended to individuals with hearing disabilities because employers are uncomfortable using, or are unwilling to use, TRS for business transactions. That is surely a problem when we are talking about a group experiencing over 50%, in many areas 75%, unemployment. Against this background, the Commission determines that we need more comment before embarking on a national awareness campaign. This timidity is not warranted by either the record or the statute. We have ample support to begin a nationwide outreach effort right now and we ought to be doing exactly that.

While we take steps forward today, we have much more to do. The Commission needs to complete its Section 255 proceeding on accessibility to equipment and services. We need to address compatibility problems between wireless phones and hearing aids and we need to encourage a robust dialogue between telecommunications companies and the hearing and speech impaired communities that rely on their products and services. These issues affect all of us—not only the millions of Americans with disabilities, but also the millions more who could communicate with these citizens and whose lives would be improved as their lives are improved.

Thank you to the Consumer and Governmental Affairs Bureau and the Disability Rights Office for their leadership on this item. I look forward to continuing our work together to resolve these issues.