

FCC Proposes Changes to its Accessibility Requirements for Interoperable Video Conferencing Services

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On June 12, 2023, the Federal Communications Commission (“FCC” or “Commission”) released its Report and Order, Notice of Proposed Rulemaking, and Order ([FCC 23-50](#)) to address growing concerns related to the accessibility of interoperable video conferencing services (“IVCS”). Given the increasingly prominent role of video conferencing in work, education, and recreation, the Commission has proposed several changes to accessibility obligations for IVCS. Many of these are based on the 2022 recommendations from the Disability Advisory Committee (“DAC”).

The Report and Order (“R&O”) clarified the definition of IVCS—in particular, the term “interoperable”—and concluded that IVCS encompasses commonly used video conferencing platforms that host calls between two or more users. In the Notice of Proposed Rulemaking (“NPRM”), the Commission proposed to amend several Part 14 performance objectives applicable to IVCS and permit the use of the Telecommunications Relay Service (“TRS”) Fund to support TRS in video conferencing. Lastly, the Commission’s Order (“*Privacy Screen Order*”) allows VRS users and communication assistants (“CAs”) to turn off their videos during a video conference. Below is a high-level summary of the IVCS R&O, NPRM, and the *Privacy Screen Order*.

Comments on the NPRM are due 30 days after publication of the Further Notice in the Federal Register, and reply comments are due 45 days after publication.

The IVCS Report and Order

Under the 21st Century Communications and Video Accessibility Act (“CVAA”), IVCS and IVCS equipment must be accessible to people with disabilities. The CVAA defines an IVCS as “a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.”¹

In the R&O, the Commission clarified the scope of IVCS, particularly in relation to the term “interoperable.” Rejecting previous calls to adopt a narrower definition of what is an “interoperable” video conferencing service, the Commission concluded that Section 716’s accessibility requirements and Part 14 of the Commission’s rules apply to *all* services and equipment that “enable two or more users to share information with one another.” IVCS thus includes both point-to-point and multi-point conversations, but does not include video broadcasting services (one-to-many). The Commission further clarified that IVCS is not limited by device, connection type, operating system, browser, or whether the IVCS is a public or a private platform.

The R&O will be effective thirty days after publication in the Federal Register and the Part 14 compliance deadline is one year from the effective date.

¹ 47 U.S.C. § 153(27).

IVCS Notice of Proposed Rulemaking

The *NPRM* seeks comment on various amendments to the Commission’s Part 14 performance objectives and how to support the provision of TRS in video conferencing services.

Part 14 Performance Objectives. The *NPRM* proposes several specific performance objectives involving captioning, text-to-speech, sign language interpreting, and user interface controls to address recommendations from the DAC. IVCS providers can comply with their performance obligations through native or third-party solutions.

- **Captions.** The Commission proposes to require “at least one mode with captions that are accurate and synchronous”; caption accuracy and latency must be comparable to those of TRS Fund-supported captioned telephone services. The Commission also seeks comment on whether it should require IVCS to enable other captioning methods (e.g., Communication Access Realtime Translation (“CART”)) and ensure compatibility with TRS Fund-supported captioning.
- **Text-to-Speech.** The Commission proposes to require text-to-speech functionality in IVCS. The Commission has additionally asked whether IVCS providers should be required to support the use of IP Relay.
- **Sign Language Interpreting.** The Commission proposes to adopt a new performance objective that would require IVCS to enable the provision of sign language interpreting. If adopted as proposed, this objective could be satisfied through use of a third-party interpreting service or by a VRS provider. The Commission seeks comment on whether its proposals should cover other forms of visual communication (e.g., Cued English) and whether it should require providers to publish technical specifications and instructions on their websites.
- **User Interface Controls.** If the current performance objectives regarding accessibility of control functions is insufficient, the Commission proposes to require IVCS to provide user interface control functions for adjusting the display of captions, speakers and signers, and other features. The DAC has specifically recommended caption activation, size, color, background, layout, positioning, pinning and multi-pinning, side-by-side views, hiding non-video participants (including ASL interpreters and other interpreters), and enabling users to control these features without relying on video conference hosts.
- **General Considerations.** The *NPRM* also seeks comment on whether the Commission should define more specific objectives, as well as on the efficacy and availability of recently added accessibility features from IVCS providers and on the availability of technical standards that can serve as safe harbors for IVCS compliance.

Providing TRS in Video Conferences. The *NPRM* also proposes to allow the TRS Fund to be used in connection with TRS in video calls. The Commission also seeks comment on other issues such as: how to validate users; whether to allow multiple CAs, multiple VRS users, or multiple VRS providers on calls; and when to allow VRS users and CAs to turn off their videos.

- **Privacy Screen Rule.** The Commission proposes to allow VRS users on a multi-party video call to turn off their videos so long as at least one other party continues speaking and the VRS users are still connected to the call. In addition, the Commission proposes to allow VRS CAs to turn off their videos when taking turns in relaying conversations with another VRS CA.

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- **Integration of Non-VRS TRS with Video Conferencing.** The Commission seeks comment on the need for integration of non-VRS types of TRS with video conferencing.
- **Confidentiality Rules.** The Commission proposes to amend its rules to expressly prohibit CAs from disclosing non-relayed content on a video call. These confidentiality rules would expressly apply to TRS providers.

Cost Benefit Analysis. The Commission seeks comment on the specific costs that TRS providers would incur to integrate TRS with IVCS as well as estimates on the necessary research and development costs. It also requests comment on whether the Commission should change cost categories to better reflect the costs of integrating with IVCS platforms and whether it should provide additional cost recovery mechanisms from the TRS Fund as an incentive to encourage VRS integration with IVCS.

The Privacy Screen Order

The *Privacy Screen Order* grants a limited, conditional waiver of the VRS privacy screen rule and allows VRS users and CAs to turn off their videos during video conference calls. The waiver is limited to multi-party conferences and is subject to notice and record maintenance requirements. The waiver applies to all VRS providers immediately and terminates one year from the date of the Order (June 12, 2023) or the effective date of Commission amendments to section 64.604(a)(6), whichever is earlier.

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For more information on the Report & Order, NPRM, and Order on the Accessibility of Interoperable Video Conferencing Service or HWG's telecom practice, please contact Kristine L. Devine, Amy Robinson, Daeyeong Kim, or the HWG lawyer with whom you regularly work.

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