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ATTORNEYS AT LAW

November 12, 2019

Ex Parte

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Wireless E911 Location Accuracy Requirements; PS Docket No. 07-114

Dear Ms. Dortch:

On November 8, 2019, Maria Kirby and Trey Forgety of Apple Inc. and Rob Carter and I on behalf of Apple met with Chairman Pai's legal advisor Zenji Nakazawa and separately with Commissioner O'Rielly's legal advisor Erin McGrath. In addition, Ms. Kirby, Mr. Forgety, Mr. Carter, Kumar Chhokra[1] of Apple, and I met with Commissioner Rosenworcel's legal advisor Travis Litman and separately with Commissioner Starks' legal advisor Austin Bonner. Finally, on November 7, Mr. Chhokra, Ms. Kirby, Mr. Forgety, and Mr. Carter met with Commissioner Carr's legal advisor Will Adams. During these meetings, Apple discussed the draft Fifth Report and Order and Fifth Further Notice of Proposed Rulemaking in the above-referenced proceeding.

First, we discussed that consumers should not have to choose between 911 and privacy. The draft order commendably recognizes and addresses protections for privacy in relation to vertical location. Apple expressed support for the draft order's conclusion that all 911 location data—including z-axis information and associated data—should receive the same privacy and security protections. However, Apple cautioned that the draft order could inadvertently create a privacy loophole related to the use of 911 location data by third-party location technology vendors. The Commission can address this issue by revising section 9.10(i)(4)(v) of the draft rules as set forth in the attached exhibit. This revision would allow the use of location data by third parties when needed for 911 calls while protecting consumers against the use of that data for other purposes, or the use of precise location data beyond what is needed for 911 purposes.

In addition, CTIA has recommended that the draft order definition of "z-axis capable device" should include "'any device capable of measuring *and reporting* vertical location with a wireless 9-1-1 call without a hardware upgrade,' to ensure that a 'capable' device is one that can

[1] Mr. Chhokra participated in the November 7-8 meetings via teleconference.

actually provide Z-axis information as part of a wireless 9-1-1 call."[2] Apple agreed with this recommendation.

Finally, Apple noted that location for mobile devices is inherently probabilistic and can accurately be represented only with clear and non-zero uncertainties.[3] Accordingly, Apple recommended that the Further Notice of Proposed Rulemaking add questions that seek comment on how confidence and uncertainty should be provided in civic address format when considering dispatchable location approaches.

Pursuant to the Commission's rules, a copy of this notice is being filed electronically in the above-referenced docket. If you require any additional information, please contact the undersigned.

Sincerely,

/s/ Paul Margie

Paul Margie
Counsel for Apple Inc.

Enc.

cc: meeting participants

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[2] *See* Letter from Matt Gerst, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, PS Docket No. 07-114 at 2 (filed Nov. 5, 2019) (emphasis in original).

[3] *See* Letter from Paul Margie, counsel for Apple Inc., to Marlene H. Dortch, Secretary, FCC, PS Docket No. 07-114 at 1-3 (filed Oct. 29, 2019).

Exhibit A: Proposed edits to Section 9.10(i)(4)(v)

(v) Z-axis use certification. Prior to use of z-axis information to meet the Commission's 911 vertical location accuracy requirements, CMRS providers must certify that neither they nor any z-axis technology vendor they rely on to obtain this information will ~~not~~ use the ~~z-axis~~ information or associated data for any non-911 purpose, except as otherwise required by law, and that they will not require or permit disclosure of a user's precise location to any z-axis technology vendor for purposes of complying with § 9.10(i)(2)(ii). The certification must state that CMRS providers and any z-axis technology vendors they rely on will provide ~~z-axis~~coordinate-based location information privacy and security protection equivalent to the NEAD.