**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Implementing Kari's Law and Section 506 of RAY BAUM'S Act | ) | PS Docket No. 18-261 |
| | ) | |
| | ) | |
| Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems | ) | PS Docket No. 17-239 |
| | ) | |
| | ) | |

# COMMENTS OF THE AD HOC TELECOMMUNICATIONS USERS COMMITTEE

Andrew M. Brown
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, DC 20036
202-857-2550

Counsel for
Ad Hoc Telecommunications Users Committee

Filed: December 10, 2018

## SUMMARY

The Ad Hoc Telecommunications Users Committee supports the Commission's measured approach to the consideration of new rules needed to implement the statutory mandates of Kari's Law and Section 506 of the RAY BAUM's Act. Historically, the Commission has not imposed regulatory obligations on the numerous businesses that own and operate Multi-Line Telephone Systems ("MLTS"). With the passage of recent federal legislation requiring the manufacture and configuration of MLTS to permit direct dialing without a prefix to 911 emergency services, to provide on-site or other notification when a 911 call is made, and to transmit dispatchable location information, the Commission must now ensure that businesses owning and operating MLTS—the vast majority of which are not otherwise regulated by the Commission under the Communications Act—still maintain broad flexibility and discretion in determining the best practices to protect their employees and workplaces in emergency situations. This balancing of interests will be accomplished only if the Commission adheres to a "light-touch" regulatory approach that avoids overly prescriptive, one size fits all rules.

The Commission should not attempt to mandate the specific content of on-site emergency notifications, leaving that determination to individual MLTS operators who best know and understand the employees and workplace at which such solutions are deployed. Furthermore, the Commission should impose obligations to transmit emergency call notifications only to the extent technically feasible with MLTS equipment and software. Ad Hoc urges the Commission to limit the regulatory burdens imposed on MLTS operators to the specific requirements of the underlying statutes under consideration by this NPRM, neither of which contemplates mandated staffing requirements for on or off-site emergency response or requires enterprise customers to invest in new equipment or new technologies to upgrade legacy MLTS assets.

Importantly, Ad Hoc requests that the Commission make specific modifications to its proposed and updated E911 rules for interconnected VoIP providers. Specifically, the Commission needs to eliminate the warning label/sticker requirements for enterprise customer devices which are impractical and ineffective. The Commission should also mandate that interconnected VoIP providers immediately update databases after receiving new Registered Location information from end-users of nomadic VoIP.

By adopting rules which narrowly apply the obligations mandated by statute, the Commission will ensure that Congress's public safety objectives are met while at the same time minimizing the expense and operational disruption overly broad regulatory burdens could impose on private sector owners/operators of MLTS.

## TABLE OF CONTENTS

**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Implementing Kari's Law and Section 506 of RAY BAUM'S Act | ) | PS Docket No. 18-261 |
| | ) | |
| | ) | |
| Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems | ) | PS Docket No. 17-239 |
| | ) | |
| | ) | |

# COMMENTS OF THE AD HOC TELECOMMUNICATIONS USERS COMMITTEE

The Ad Hoc Telecommunications Users Committee ("Ad Hoc") submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM")[1] in the aforementioned proceeding.

## INTRODUCTION

Ad Hoc is a longstanding organization of corporate enterprise customers that individually and collectively purchase large quantities of wireline and wireless telecommunications and information services. Its membership includes companies from a wide variety of industries including manufacturing, financial services, consumer products, shipping and logistics, and transportation. Ad Hoc's membership does not include any telecommunications carriers or manufacturers of telecommunications equipment.

[1] *Implementing Kari's Law and Section 506 of RAY BAUM'S Act*, PS Docket No. 18-261, *Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems,* PS Docket 17-239, Notice of Proposed Rulemaking, FCC No. 18-132 (rel. Sept. 26, 2018) ("NPRM").

Most relevant to this NPRM, Ad Hoc member companies deploy a wide variety of sophisticated technologies to facilitate their business activities including extensive use of both legacy circuit switched and more current IP-based Multi-Line Telephone Systems ("MLTS")/Enterprise Communications Systems ("ECS").[2] As operators of MLTS and adopters of emerging technologies, Ad Hoc members understand the unique challenges presented by both legacy and IP-based MLTS in accessing external emergency services provided at the local level. Because of the significant attention and resources their companies dedicate to workplace safety issues, Ad Hoc members also understand how best to integrate MLTS into their unique network topologies and corporate geographies.

To that end, and as we noted in our most recent response[3] to the Commission's ECS NOI,[4] Ad Hoc has participated in nearly two decades' worth of Commission proceedings dealing with MLTS and access to emergency services.[5] As we have in

[2] The Commission has used two different terms, "Enterprise Communications Systems" (ECS) and "Multi-Line Telephone Systems" (MLTS), throughout this proceeding to refer to "the full range of networked communications systems that serve enterprises, including circuit-switched and IP-based systems." NPRM ¶ 9 n.15. As Ad Hoc noted in its Comments on the 2017 NOI, relevant state statutes and regulations and, now, federal statutes under consideration by this NPRM, use the term MLTS but not ECS. Comments of the Ad Hoc Telecommunications Users Committee on the Notice of Inquiry, PS Docket 17-239 (filed Nov. 15, 2017) ("Ad Hoc ECS NOI Comments") at 6 n.7. For purposes of its response to this NPRM, Ad Hoc uses the term MLTS exclusively but intends that it describe the types of systems (to the extent there was any difference intended by the Commission when adopting the term ECS in 2017) that would be covered by both terms.

[3] Ad Hoc ECS NOI Comments at 2.

[4] *Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems,* Notice of Inquiry, 32 FCC Rcd 7923 (2017) ("ECS NOI").

[5] *See* Comments of the Ad Hoc Telecommunications Users Committee on the FNPRM, CC Docket 94-102, IB Docket 99-67 (filed Feb. 19, 2003) ("Ad Hoc FNPRM Comments"); Reply Comments of the Ad Hoc Telecommunications Users Committee on the FNPRM, CC Docket 94-102, IB Docket 99-67 (filed Mar. 25, 2003) ("Ad Hoc FNPRM Reply Comments"); Comments of the Ad Hoc Telecommunications Users Committee on the Second FNPRM, CC Docket 94-102, IB Docket 99-67 (filed Mar. 29, 2004) ("Ad Hoc Second FNPRM Comments"); Reply Comments of the Ad Hoc Telecommunications Users Committee on the Second FNPRM, CC Docket 94-102, IB Docket 99-67 (filed Apr. 26, 2004) ("Ad Hoc Second FNPRM Reply Comments"); and Reply Comments of the Ad

every aspect of prior ECS 911 proceedings, we again encourage the Commission: (i) to recognize that individual operators of MLTS are best positioned to adopt the most effective solutions to enhance workplace safety for their companies in their particular localities; (ii) to provide operators of MLTS wide discretion and flexibility in determining the methods for accessing emergency services and transmitting relevant call-back and location information; (iii) to acknowledge the Commission's limited jurisdiction over both workplace safety issues and owners/operators of MLTS particularly in the context of recent federal legislation addressing issues related to E911 for MLTS; and (iv) to understand the effects of imposing "one size fits all" regulations which complicate and, sometimes, undermine MLTS operators' ability to adopt effective workplace safety solutions for their companies and to manage their telecommunications networks efficiently.

## I. THE COMMISSION SHOULD AVOID ADOPTING HEAVY-HANDED, "ONE SIZE FITS ALL" REGULATIONS THAT INTERFERE WITH MLTS OPERATORS' DISCRETION TO DESIGN AND IMPLEMENT THE MOST EFFECTIVE SAFETY POLICIES FOR THEIR COMPANIES' WORKFORCES.

As it considers how best to implement the statutory mandates of Kari's Law and Section 506 of RAY BAUM's Act, the Commission should strictly adhere to its "light touch" regulatory philosophy. Such an approach requires that the Commission adopt the least burdensome, least costly, and least market distorting rules that fulfill the specific public safety objectives articulated by Congress in recent legislation covering access to 911 emergency services from MLTS.

---

Hoc Telecommunications Users Committee on the Public Notice, CC Docket 94-102 (filed Mar. 29, 2005) ("Ad Hoc 2004 Public Notice Reply Comments").

The Commission must, therefore, ensure that MLTS owners and operators maintain broad discretion to make individualized decisions about how best to deploy workplace safety solutions within their own companies consistent with applicable laws.[6] The physical layout of corporate facilities, makeup of workforces and deployment of network technologies and communications devices varies greatly across industries and enterprises. Rather than attempt to prescribe "one size fits all," top-down mandates for MLTS E911 deployments, the Commission should grant enterprise owner/operators the flexibility to develop individualized solutions that take into account their wide variety of workplace scenarios and network technologies, including on-site and local emergency response capabilities. By affording such discretion to the entities actually responsible for ensuring the safety of their workplaces and employees, the Commission will fulfill its obligation to address the specific public safety issues identified by Congress without imposing technically infeasible or overly burdensome federal mandates on American businesses.

### A. Adoption of Rules to Implement Kari's Law

Ad Hoc generally supports the Commission's proposed rule to implement the statutory mandate of Kari's Law.[7] It provides a reasonable grandfathering of legacy equipment and timeframe after which newly installed equipment must comply with the law's requirements. And, as written, the proposed rule provides adequate discretion

[6] This view was broadly supported by other commenters on the ECS NOI. *See, e.g.,* Comments of AT&T Services, Inc. on the Notice of Inquiry, PS Docket No. 17-239 (filed Nov. 15, 2017) at 3-4; Comments of Verizon on the Notice of Inquiry, PS Docket No. 17-239 (filed Nov. 15, 2017) at 4; Comments of Telecommunications Industry Association on the Notice of Inquiry, PS Docket No. 17-239 (filed Nov. 15, 2017) at 5.

[7] NPRM, Appendix A, § 9.16(a) and § 9.16(b)(1)-(2). Section 9.16(b)(3) covers the Commission's proposal to implement Section 506 of RAY BAUM's Act and is addressed in these Comments separately, in Section I.B (Adoption of Rules to Implement Section 506 of RAY BAUM'S Act) *infra.*

for the MLTS operator to shape the content of any simultaneous notification of a 911 call so that it contains the information that best supports prompt emergency response after consideration of the specific requirements of a particular work location. We urge the Commission to adopt the rule as proposed and avoid adding more specific or detailed requirements for the content required in the internal notification (either as part of the rule or in any subsequent Order adopting the rule).

### 1. The Commission should not specify the required contents of contemporaneous emergency call placement notifications.

The Commission has proposed minimum requirements for notification to include: "(1) the fact that a 911 call has been made, (2) a valid callback number, and (3) the information about the caller's location that the MLTS conveys to the PSAP."[8] Ad Hoc believes that transmission of this information to an internal MLTS destination *may* be useful in some circumstances. But we strongly urge the Commission to leave the decision about what specific content to include in the required notification to the operator of the MLTS. Therefore, in response to the Commission's question about whether it "should…allow enterprises the flexibility to customize notification as they see fit,"[9] Ad Hoc requests that the Commission do just that. The Commission should not pile on overly prescriptive requirements to the plain meaning of Kari's Law, especially without Congressional authorization or a mandate to do so. Indeed, there are a variety of different scenarios in which an operator of MLTS might want to customize the type of information transmitted as part of an internal notification of an emergency call, depending on the particular types of work activities undertaken at a location, the

[8] NPRM ¶ 22.

[9] *Id.*

physical layout of a particular site, the available on-site first response personnel and procedures at a particular site, as well as the capabilities and proximity of emergency responders sent to the site by the nearest PSAP.

If the Commission specifies recommended minimum notification requirements, it should expressly authorize MLTS operators to customize their specific notifications, in the Commission's words, "as they see fit," if the operators reasonably determine any such customization improves emergency response at a particular site, is necessary or desirable to improve compliance with state law applicable at a particular site, or is necessary to transmit the type and form of information required by the technical capabilities of the MLTS equipment in use at the site.

### 2. Mandated timing of the emergency call notification should be conditioned on what is technically feasible.

The Commission has proposed mandating that notifications be made contemporaneously with the outgoing 911 call without delaying placement of the call to 911.[10] Ad Hoc believes that the Commission's approach to timing of notification is reasonable given the likely intent of Congress in adopting the notification requirement in the first place. The Commission should, however, reiterate that any notification—contemporaneous or otherwise—be technically feasible by the MLTS equipment installed and in use by the MLTS operator. Currently, some enterprise owner/operators of MLTS report challenges in configuring MLTS equipment to provide simultaneous/contemporaneous notification in addition to placing the call to 911 emergency services. We believe that the Commission's compliance date of February

[10] NPRM ¶ 23.

16, 2020 for the manufacture, sale, and lease of equipment, and the grandfathering from these requirements of embedded or legacy equipment which *may* not be able to satisfy the newly proposed requirements is likely sufficient to ensure that any MLTS or operator obligations for timing of notifications will be technically feasible. However, to ensure clarity and compliance with the new rules, clarification from the Commission on the requirements of legacy MLTS in use prior to February 16, 2020 would be helpful to MLTS operators.

### 3. The Commission should not mandate requirements for the location, configuration or staffing of notification destination points.

Kari's Law generally requires that MLTS be configured to provide notification that an emergency call has been made, either on-site at a centralized location or to a third party regardless of the location.[11] As the Commission notes in the NPRM, "the language [used in Kari's Law] indicates that Congress sought to provide MLTS installers, managers, and operators with broad flexibility in selecting destination points to achieve this goal."[12] The Commission should fully respect the language of the statute enacted by Congress which is limited in scope and, as the Commission itself acknowledged, intended to give broad discretion to MLTS operators. Consequently, the Commission should not now prescribe specific location, configuration, or staffing requirements for destination points.

Such an exercise would exceed the limited statutory authority granted to the Commission to implement the Kari's Law legislations. Even if the Commission could

[11] 47 USC § 623(c).

[12] NPRM ¶ 24.

mandate specific requirements for notification endpoints, the Commission lacks subject matter expertise about what types of staffing, resources, and capabilities—all workplace safety requirements—would be appropriate in the myriad of private sector workplaces. As Ad Hoc has reminded the Commission over nearly two decades of proceedings in which the Commission has considered E911 requirements for MLTS, the Commission's subject matter expertise and jurisdiction does not extend to workplace safety issues.[13] Such issues are more appropriately addressed on an industry by industry basis by the Occupational Safety and Health Administration, an agency with dedicated subject matter experts and expertise in workplace safety issues. Indeed, in other proceedings, the Commission itself has recognized OSHA's preeminence in workplace safety issues and deferred to OSHA in making workplace safety determinations.[14]

The Commission is correct in noting that nothing suggests Congress intended to impose staffing or monitoring requirements that would impose unreasonable costs—or, any costs, for that matter—or limit the flexibility of MLTS operators to develop cost-effective and efficient notification solutions.[15] The Commission should therefore refrain from imposing or specifying any such requirements on MLTS operators.

---

[13] *See* Ad Hoc FNPRM Comments at 9-12; Ad Hoc FNPRM Reply Comments at 2-8; Ad Hoc Second FNPRM Comments at 4-8; Ad Hoc Second FNPRM Reply Comments at 2-5; and Ad Hoc 2004 Public Notice Reply Comment at 2-3.

[14] *See Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation,* ET Docket No. 93-62, Report and Order, 11 FCC Rcd 15123, 15136 (1996) (emphasis added), *recon. granted in part,* Second Memorandum Opinion and Order, 12 FCC Rcd 13494 (1997), *aff'd, Cellular Phone Taskforce v. FCC,* 205 F.3d 82 (2d Cir. 2000), *cert. denied,* 531 U.S. 1070 (2001). ("Our NEPA responsibilities do not appear to encompass the issuance of specific rules on workplace practices and procedures. If such a policy were to be instituted by the Federal Government, *it would seem more appropriate for OSHA itself to promulgate this type of rule*.")

[15] NPRM ¶ 26.

Doing so, given the widely varied technologies and types of workplaces at which MLTS is deployed, would be a fruitless exercise resulting in the imposition of potentially expensive federal mandates that are imprecise and that, in many cases, may be ineffective and unrealistic for any given company to achieve.

A further example of why the Commission should exercise restraint in adopting top-down regulatory requirements on MLTS operators is revealed in paragraph 27 of the NPRM regarding the application of notification requirements to small businesses. The Commission's well-placed concern about how notification requirements would apply to small business reveals the slippery slope that the Commission will quickly slide down if it attempts to prescribe "one size fits all" regulations for every workplace in America because the variation among workplaces in America is immense. Inasmuch as Congress and the Commission are seeking a federal standard for E911 MLTS, emergency response is an inherently local, site-specific activity. So, in very large corporations, small branch offices or individual retail locations have an entirely different emergency access profile when compared to the same company's global headquarters, manufacturing facilities, hardened data centers, or warehouses. Whether it is a small business or a small location in large business, mandated requirements for notification endpoints will ultimately fail to provide effective and achievable standards at a reasonable cost. Therefore, the Commission should not attempt to preserve them.

### 4. The Commission has no statutory authorization to adopt transitional rules for grandfathered MLTS equipment.

The Commission's rules implementing Kari's Law must be: (i) consistent with the authority granted to the Commission by Congress in the statute; and (ii) forward looking, as evidenced by Congress's intent that legacy equipment be grandfathered from the newly adopted requirements. In paragraph 41 of the NPRM, the Commission asks whether it should adopt interim measures for legacy MLTS, including the imposition on MLTS owners of notification requirements to end-users about the capabilities of specific MLTS which might, for example, include placement of stickers on equipment.

We urge the Commission to refrain from prescribing such impractical mandates. First, the Commission lacks a statutory mandate to impose such requirements. Neither Kari's Law, nor any other statute or source of Commission jurisdiction, grants or otherwise instructs the Commission to impose notification requirements directly on MLTS owners/operators to provide such notification. Second, the Commission's prior imposition of "stickering" and "warning label" requirements on providers of interconnected VoIP proved a wildly impractical and ineffective method for improving public safety and awareness, particularly in the enterprise market. The ill-conceived warning label mandate may have worked for a period in the consumer/residential market, but it produced unintended results in the enterprise market when providers of interconnected VoIP began including contractual provisions that would have required enterprises to place stickers on hundreds, thousands, even tens of thousands of devices detailing the limitations of VoIP. Many of the "phones" at issue in the enterprise market are soft phone clients that reside on laptops or wireless

smartphones, making stickering impracticable. We urge the Commission not to replicate this prior mistake,[16] and note again that the Commission does not have adequate jurisdiction to impose such requirements on MLTS owners, even if it were inclined to do so.

### B. Adoption of Rules to Implement Section 506 of RAY BAUM'S Act

The Commission's proposed rule to implement Section 506 of RAY BAUM's Act for MLTS follows the statutory mandate given by Congress and, along with the definition of "dispatchable location," should not be expanded any further by the Commission.[17] Again, Ad Hoc urges the Commission to adhere to the limited, statutory authority granted by Congress to adopt rules for MLTS manufacturers, installers, and operators but maintain the primacy of such entities in determining the best methods and details for deploying the technology needed to transmit the information most useful to emergency responders given the context of particular locations. The Commission should avoid overly prescriptive regulations that potentially impose significant costs to MLTS operators and with which it may be technically and operationally difficult for MLTS operators to comply.

#### 1. The Commission should permit MLTS operators to transmit the level of location detail they determine is technically feasible and most appropriate for the safety of their workplaces and employees.

The Commission correctly notes that the transmission of E911 location information is a shared responsibility between multiple parties.[18] MLTS operators play

[16] *See* Statement of Commissioner Michael O'Rielly regarding the NPRM (Sept. 26, 2018), available at https://www.fcc.gov/document/fcc-proposes-action-help-public-reach-911/orielly-statement. ("For those us who were around in the early 2000s, we remember and recognize the insanity of the Commission's previous VoIP sticker mandate.").

[17] NPRM, Appendix A, § 9.16(a)(2) and (b)(3).

[18] NPRM ¶ 55.

an important role in determining the technical capability of their existing (and future) MLTS to transmit specific types of location information and the information that is most effective and usable in an emergency upon consideration of the particular workplace from which the information is conveyed. The Commission should therefore specify that no MLTS owner or operator should be obligated to transmit any type of information that its equipment—whether legacy or subsequently installed—is not technically capable of transmitting or that would require assumption of any unreasonable costs to upgrade in order to make it technically capable of satisfying newly adopted regulatory mandates.

In response to paragraph 58 of the NPRM, the Commission need not specify location information to be transmitted beyond what the statutory and proposed § 9.3 definition of "dispatchable location" requires. This definition clearly requires transmission of the street address of the calling party and "additional information … [that is] *necessary* to *adequately* identify the location of the calling party."[19] The statute therefore includes a specific mandatory component (the street address) and more general permissive component (additional information necessary to adequately identify the calling party's location). We agree with the Commission that the determination of what additional information would be necessary to identify the caller should be left to the discretion of the MLTS installer, manager or operator.[20] MLTS operators currently make exactly these type of determinations and are best positioned to make the determination of what type and granularity of location

[19] NPRM, Appendix A, § 9.3 (emphasis added).

[20] NPRM ¶ 58.

information should be transmitted by considering the specific type of workplace, size and layout of facility, number of workers, and other relevant factors. The Commission, on the other hand, has little if any visibility into the myriad of private sector workplaces across the country, nor does it have the resources to consider the many alternatives and best practices that suit a particular company or workplace. Any attempt to impose more specific location requirements than required by the statute would result in exactly the kind of one size fits all regulation that the Commission should avoid.

### 2. The Commission must not prematurely conclude that all MLTS are technically capable of transmitting dispatchable location information.

Ad Hoc cautions the Commission from concluding that transmission of dispatchable location information from MLTS is feasible in all cases.[21] Unless and until the Commission actually adopts a definition of "dispatchable location" (as clarified in Section II.B.1 above) and settles on a reasonably narrow definition of MLTS, it would be premature to conclude that it is feasible for MLTS operators to satisfy the rules' requirements based primarily on the representations of various vendors that their products have solved the problem of transmitting accurate location information.[22] Actual experience in the marketplace by MLTS operators suggests that the solutions available today are not as simple to deploy, reasonably priced, or universally effective for solving the challenge of identifying the precise location of a highly mobile workforce as the record may indicate.

[21] NPRM ¶ 60 and n.104.

[22] *Id.*

As Ad Hoc described in its Comments on the ECS NOI, almost all large corporate communications networks integrate a variety of different technologies and devices to interconnect corporate locations and to enable collaboration of employees around the globe—by voice, video, and instant messaging. A corporate voice network is now significantly more complex than an inventory of fixed desk-phones that connect to an on-site PBX before accessing the PSTN. Instead, a typical corporate environment involves a highly mobile workforce and highly mobile technology often comprised of a combination of wireless phones, tablets, and softphones on desktops and laptops, frequently utilizing IP based technologies, including but not limited to interconnected VoIP.

The Commission should understand that this vast array of technologies, devices, and services challenges all those—MLTS operators, telecommunications providers, equipment manufacturers—who have a shared E911 responsibility to transmit specific location information, and this challenge is not simply solved by the purchase and deployment of certain vendors' technologies. While it is true that tremendous advances in location technologies have been made, many of which address problems within enterprise networks, the Commission should advance cautiously before concluding that the problem has been solved by vendors who benefit profoundly from a regulatory mandate that requires non-regulated entities to invest in their products. This is particularly true if the Commission does not also impose on such vendors commensurate regulatory responsibility in the event that their products fail to deliver location information as promised.

### 3. The Commission should not mandate upgrades to existing MLTS, adopt rules that effectively require the purchase of a specific technology for new or existing MLTS, or impose burdensome notification requirements for legacy MLTS.

The Commission rightly refrained from "propos[ing] to require implementation of specific location technologies or solutions," focusing instead on identifying "functional requirements" that would promote the objectives of transmitting accurate location information of emergency callers.[23] In furtherance of that objective, the Commission should ensure that its rules do not effectively *require* MLTS operators to purchase specific technologies from a small cadre of vendors unless those technologies satisfy the MLTS operator's business and workplace safety requirements. No business in America or any operator of MLTS should be effectively required to buy a particular product from a particular vendor simply because those vendors have represented to the Commission that they can satisfy the standards of a rule that the Commission adopts. Such specific decisions are best made by individual businesses and MLTS operators based on their operational needs, security requirements, technology budgets, and the makeup of their specific workplaces. They should not be made to comply with overly broad regulatory mandates.

Ad Hoc further urges the Commission to minimize the potentially sweeping economic impact of federal mandates on MLTS operators by grandfathering any existing MLTS in use (or purchased prior to the adoption of the rules) from compliance with the dispatchable location rules if such compliance is technically

[23] NPRM ¶ 59.

infeasible and/or economically unreasonable.[24] Instead, the Commission should follow its proposed approach with respect to implementation of direct dialing and on-site notification requirements of Kari's Law by setting a reasonable future date after which all MLTS equipment sold by manufacturers or services provided by vendors must satisfy the requirements of the rules. To the extent that MLTS operators must make material investments to comply with any new rules adopted by the Commission, the Commission should exempt such operators from compliance with the rules for any MLTS components installed prior to the future compliance date for equipment described above. Reasonable compliance obligations would only apply after the MLTS operator upgrades its systems in the normal course of their technology refresh cycles and is then able to purchase compliant equipment that does not require expensive upgrades.

Lastly, the Commission asks whether it should adopt disclosure requirements for grandfathered MLTS.[25] As we described in Section I.A.4, *supra,* we do not believe that federally mandated disclosure requirements are particularly effective at improving safety, nor are they practical to deploy, especially if they take the form of past Commission disclosure requirements.[26] MLTS operators have long assumed responsibility for establishing safe workplaces by the adoption of

[24] NPRM ¶ 62.

[25] *Id.*

[26] O'Rielly, *supra* note 16, at 11. Again, Commissioner O'Rielly's statement noting the "insanity of the Commission's previous VoIP sticker mandate" is instructive here. The sticker requirements, imposed on interconnected VoIP providers yielded questionable benefits for public awareness regarding the limitations of E911 access. In this case, the Commission does not specify that disclosures would include warning label mandates, however, past experience in this area would suggest that method is not a sensible approach.

workplace safety policies, including methods for accessing 911 and notifying employees and end-users about the procedures and limitations of the service. The Commission should not now interfere with those policies by imposing potentially burdensome disclosure regulations on businesses not otherwise regulated by the Commission without substantial evidence of the effectiveness of such requirements.

## II. THE COMMISSION SHOULD MODIFY ITS E911 RULES FOR INTERCONNECTED VOIP PROVIDERS SO THAT THEY ARE WORKABLE FOR ENTERPRISE CUSTOMERS

As Ad Hoc explained to the Commission in its ECS NOI comments, MLTS operators are often forced into business arrangements that require them to assume disproportionate liability and responsibility for 911 issues, particularly those associated with nomadic use of interconnected VoIP.[27] As the Commission considers adoption of new rules to implement Kari's Law and Section 506 of RAY BAUM'S Act, we again urge the Commission to consider the following revisions to 47 C.F.R. § 9.5 (or, to 47 C.F.R. § 9.11 which, if the Commission's proposed 911 rules reorganization is adopted, as reflected in NPRM Appendix A, would serve as the successor provision thereto):

- First, the Commission should permit carriers to discharge their "notification/warning label" obligations differently for enterprise customers, permitting the enterprise customer of record full discretion in determining the best method and form for notifying employees of VoIP/911 limitations.[28] As currently proposed in the

[27] Ad Hoc ECS NOI Comments at 11-15.

[28] *Id.* at 14.

Commission's new rules, the warning sticker obligation remains unchanged and largely unworkable for large enterprises.[29]

- Second, the Commission should impose a specific obligation on interconnected VoIP providers to update immediately following the submission by its customer/end-user of its service any Registered Location information. This obligation would apply regardless of whether the update was obtained by the provider of interconnected VoIP pursuant to proposed rule § 9.11(b)(4)(i)(B) or § 9.11(b)(4)(i)(C)(1).

[29] NPRM at Appendix A (Proposed Rules), 47 C.F.R. § 9.11(b)(5)(iii) [Proposed].

## CONCLUSION

In adopting new rules to implement the requirements of Kari's Law and RAY BAUM'S Act, the Commission should maintain its longstanding practice of allowing operators of MLTS significant discretion in determining the best practices and procedures for ensuring their workplaces have access to emergency services. Narrowly tailored rules that impose only the "light touch" regulation favored by the Commission will advance the Commission's and Congress's important public safety objectives. At the same time, this measured approach will minimize the potentially significant economic costs and compliance burdens on American business that rely heavily on affordable and efficient MLTS and other communications technologies to engage successfully in global economic activity.

Respectfully submitted,

Andrew M. Brown
Levine, Blaszak, Block & Boothby, LLP
2001 L Street, NW, Suite 900
Washington, DC 20036
202-857-2550

Counsel for
Ad Hoc Telecommunications Users
Committee

Filed: December 10, 2018