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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 94-102
Revision of the Commission's rules	)	
to ensure compatibility with	)	RM-8143
enhanced 911 emergency calling systems	)	
	)	

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COMMENTS OF THE
NORTH AMERICAN TELECOMMUNICATIONS ASSOCIATION

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SUMMARY

NATA supports ensuring broad availability of 911 service. However, the FCC should not blindly mandate costly and burdensome requirements. Cost-effective deployment of additional station-identification capabilities should be encouraged where it is cost-beneficial to do so. The existing record does not contain statistical information that would provide a solid basis for the sweeping regulations proposed. Further, the existing record does not demonstrate in what manner there has been or will be market failure, especially in light of recent activities of technical groups.

The Commission should follow its established CPE policies. First, it should ensure that market forces can operate unless market failure has been demonstrated, and should regulate only to the extent of such demonstrated failure. Second, the Commission should determine whether existing LEC services are adequate. Third, the Commission should favor "output" over "input" requirements.

Once it defines federal policy, the Commission should ensure that state regulation is consistent with that policy and should preempt inconsistent state regulation.

If the Commission does adopt specific mandatory rules, it should grandfather existing equipment, and provide adequate effective dates. The Commission should make clear that it does not find existing equipment to be in any sense substandard. The Commission also must ensure that the costs of mandatory equipment and services are not imposed on one particular group of users.

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The North American Telecommunications Association ("NATA") submits the following comments in response to the FCC's Notice of Proposed Rule Making ("Notice"), FCC 94-237, released October 19, 1994. NATA's comments focus on the Commission's proposed rules that would require PBXs "and similar multiline telephone systems" to provide station-identifying information on E911 calls.

STATEMENT OF INTEREST

NATA is a trade association of manufacturers, suppliers, distributors, retailers and users of customer premises equipment ("CPE"). Founded in 1970, NATA exists to promote competitive markets and healthy sales and support channels for users of business and public communications products and services. NATA has actively participated in FCC proceedings affecting CPE markets. NATA supports regulatory policies that promote fair competition in the telecommunications equipment and services distribution marketplace.

Many NATA members are actively involved in supplying equipment and services that promote public safety. NATA members provide equipment and services to public safety agencies as well as to hospitals, nursing homes, and other businesses with special safety concerns that must be addressed by CPE.

I. FEDERAL POLICY SHOULD ENSURE THAT 911 SERVICES ARE PROVIDED WITH MAXIMUM EFFICIENCY AND CONSISTENTLY WITH ESTABLISHED COMPETITIVE POLICIES

A. Policy Objectives

The Notice states that the FCC's primary objective in this proceeding is to ensure "broad availability of 911 and enhanced 911 services" to users. Notice, ¶1. NATA fully supports this objective. Equipment and services that make enhanced 911 service possible should be deployed whenever it is cost-beneficial to do so. However, broad availability of 911 service should not be the Commission's only objective -- or a necessarily overriding objective -- in this proceeding. While the Commission has a mandate to promote public safety communications service, it also has a mandate to promote efficient communications service. 47 U.S.C. § 151. Meeting the latter objective requires that communications services be tailored to the actual needs and interests of the users they are intended to serve. The Commission's policy should be to ensure that 911 services are provided widely and efficiently, and in a manner that benefits, and does not unduly burden, users. Further, those objectives should be pursued in a way that is compatible with the Commission's other

policies, including its long-established policy of relying on competition to ensure that desirable features are incorporated into CPE.[1]

Accordingly, NATA supports the initiation of a proceeding in this area. However, NATA opposes the adoption of rules that blindly mandate E911 "compatibility" without regard to efficiency or the specific needs of users. The Commission should establish a federal policy that promotes cost-effective deployment of equipment and services that support E911 service in those places where deployment is cost-beneficial, i.e., where there is a genuine, statistically documented need, that justifies the cost of deployment.

B. The Existing Record Does Not Justify Sweeping, Intrusive Regulation

The proposed regulations would require extensive design changes and related expenditures by CPE manufactures. In addition,

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[1] See, e.g., Carterfone, 13 FCC 2d 420, recon. denied, 14 FCC 2d 471 (1968); Telerent Leasing Corp. et al., 45 FCC 2d 204 (1974), aff'd sub nom. North Carolina Utilities Comm'n v. FCC, 537 F.2d 787 (4th Cir.), cert. denied, 429 U.S. 1027 (1976) (NCUC I); Mebane Home Telephone Co., 53 FCC 2d 473 (1975); aff'd Mebane Home Telephone Co. v. FCC, 535 F.2d 1324 (D.C. Cir. 1976); First Report and Order in Docket No. 19528, 56 FCC 2d 593 (1975); on recon., 57 FCC 2d 1216 (1976), 59 FCC 2d 716 (1976), 59 FCC 2d 83 (1976); Second Report and Order, 58 FCC 2d 736 (1976), aff'd sub nom. North Carolina Utilities Comm'n v. FCC, 552 F.2d 1036 (4th Cir.), cert. denied, 434 U.S. 874 (1977) (NCUC II); Phase II Final Decision and Order in Docket No. 19129, 64 FCC 2d 1 (1977); Implications of the Telephone Industry's Primary Instrument Concept, 68 FCC 2d 1157 (1978); Heritage Village Church and Missionary Fellowship, Inc., 88 FCC 2d 1436 (1982), aff'd sub nom. Fort Mill Tel. Co. v. FCC, 719 F.2d 89 (4th Cir. 1983); Atlantic Richfield Co., Memorandum Opinion and Order, 3 FCC Rcd 3089, aff'd sub nom. Public Utility Comm'n of Texas v. FCC, 886 F.2d 1325 (D.C. Cir. 1989).

the proposed regulation would require the purchase of costly dedicated services by all purchasers of new PBXs or "similar" multiline equipment users.[2] Finally, the proposed rules would involve detailed and unprecedented intrusion into the routine installation, maintenance and use of business telephone systems serving millions of business users. Under the proposed rules, for example, every "move and change" made in a business telephone system -- a routine reprogramming operation which is ordinarily performed by many PBX owners without vendor supervision, and which can occur whenever employees are hired, moved to a different office, or reassigned to new jobs -- would be subject to a Commission regulation imposing sanctions and potential liability if it is not performed accurately and with proper "supervision". Such costly and intrusive requirements are not justified on the current record.

First, there are several flaws in the Notice's description of the problem that it attempts to address. The Notice defines the problem to be addressed as follows:

> A lack of uniformity in [multiline CPE] may impair public emergency services by delivering inaccurate, incomplete, or misleading call origination information to the public switched telephone network. Moreover, mutually incompatible systems for resolving this problem are likely to cause user confusion or higher costs in equipment or services.

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[2] It is estimated that annual shipments of new PBX systems in the United States comprise more than 3.6 million stations, generating annual revenue of about $2 billion. Annual key/hybrid system shipments are estimated at 4 million stations with revenue of $1.8 billion.

Notice, ¶ 11. However, it is not CPE or a lack of uniformity in CPE that "impairs public emergency services." CPE interfaces are designed to meet market demand for interconnection with available network services. As we stated in our previous comments in this proceeding, addressing Adcomm Engineering, Inc.'s petition for rulemaking:

> Historically, local exchange carriers ("LECs") have not offered PBXs or other CPE the type of interconnection on switched services that would enable CPE systems to transmit station identification information in a format that would be accepted and processed by the telephone network. Accordingly, there has been no reason for manufacturers to design CPE that would routinely transmit such information to telephone network switches.

Comments of the North American Telecommunications Association, filed January 28, 1993, at 3-4. Further, it is not CPE that delivers "inaccurate, incomplete, or misleading" call origination information. Because of the historical limitations of network services, described above, multiline CPE systems, regardless of design, generally cannot transmit any call origination information over business lines and PBX trunks.[3] All such information must be provided by the carrier. Thus, it is a mischaracterization to speak of CPE as "incompatible" with E911 services, or as hindering the transmission of location information or impairing emergency services. If there is any incompatibility, it is between the exchange services currently provided by LECs to business users and

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[3] ISDN services may have the capability to accept and forward station-identifying information in some instances. The Commission should seek information from LECs regarding the current capabilities of ISDN services in this regard.

the stated needs of emergency agencies.

Second, the record contains no evidence, other than newspaper anecdotes, concerning the dimensions of the problem the Commission seeks to address. While the Notice cites some statistical evidence of the volume of E911 calls and station-identification related problems involving cellular phones, the Notice cites no documentation in the record, to date, that quantifies statistically the volume of 911 calls involving multiline wireline CPE, or the number of injuries attributable to the absence of station-identifying information for multiline CPE in general or in particular circumstances. If solid statistical information is submitted by commenting parties, it should be carefully evaluated and presented for public comment. In the absence of solid statistical evidence, however, it is clearly premature to conclude that imposing costly station-identification transmission requirements on equipment manufacturers and users is necessary to advance the public interest.[4]

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[4] To satisfy the notice requirements of the Administrative Procedure Act, 5. U.S.C. § 553, "[T]he notice required by the APA, or information subsequently supplied to the public, must disclose in detail the thinking that has animated the form of a proposed rule and the data upon which that rule is based." Home Box Office, Inc. v. FCC, 567 F.2d 9, 35 (D.C. Cir. 1977). Further, to avoid being arbitrary and capricious, the agency's final order "'must examine the relevant data and articulate a satisfactory explanation for its action including a "rational explanation between the facts found and the choice made."'" Schurz Communications, Inc. v. FCC, 982 F.2d 1043, 1049 (7th Cir. 1992), quoting Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co., 103 S.Ct. 2856, 2866 (1982), and Burlington Truck Lines, Inc. v. United States, 371 U.S. 156, 168 (1962).

Third, the Notice states that the record in this proceeding "indicates that market forces to date have not been effective in implementing a solution to this problem." Id. However, the Commission does not identify specifically the manner in which it believes the market has failed, or the evidence supporting its belief. If there were a market failure, one would expect the Commission to have received far more complaints from users -- those whose emergencies the E911 system is supposed to respond to. The record to date does not contain any credible statistical evidence that substantial numbers of users have sought, but failed to obtain, equipment providing station identification capabilities. Even assuming that there is developed more substantial documentation of a need for accelerated deployment of station identification technology, the Commission should not assume that there is a market failure requiring the imposition of intrusive rules mandating deployment and maintenance of a particular technology -- or any technology -- in CPE. As discussed above, the Commission has determined on numerous occasions that the CPE market can be relied upon to provide desirable features through the operation of competitive forces. Indeed, in telecommunications matters generally, the Commission has a strong and well-established preference for problems to be addressed by market forces. Regulatory intervention in the CPE market is deemed necessary only if there is a specifically identified market failure.[5]

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[5] As the Commission stated in Telerent Leasing:

(continued...)

In addition, the Commission must consider the extent to which any market failure which is adequately identified will be adequately addressed by voluntary industry efforts, such as consensus technical solutions. With the publication of TIA Telecommunications Systems Bulletin 103, significant technical issues in this area appear to have been satisfactorily resolved. Unless the record reveals a specific problem with the manner in which the technical issues have been addressed, it should be expected that equipment manufacturers or users will voluntarily incorporate cost-effective and appropriate station-identification technologies in CPE systems, where such technology is a cost-

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[5](...continued)

> In fairness to all parties concerned, we deem it in order to state our view at this time that under a free enterprise system, particularly in this instance where there is an existing and growing competitive market for customer-provided interconnective equipment, <u>any governmental action designed to prohibit or restrict the competitive operation of such a market would be of questionable validity and legality unless supported by compelling and cogent public policy considerations</u>. <u>In the Matter of Telerent Leasing Corp., et al.</u>, 45 FCC 2d 204 223 (1974) (emphasis added).

Having established and adhered to this principle in its CPE policies, the Commission is not at liberty to disregard it. The Seventh Circuit Court of Appeals has ruled that, where the Commission established a similar principle to govern regulation of television networks -- that "<u>the Commission should not intervene in the market except where there is evidence of a market failure and a regulatory solution is available that is likely to improve the net welfare of the consuming public.</u>" -- the Commission cannot casually jettison that principle in subsequent decisions. <u>Schurz Communications, Inc. v. FCC</u>, 982 F.2d at 1053.

beneficial response to a genuine need.[6] And if a specific unaddressed technical issue can be identified, regulation should be tailored to that issue, rather than applying broadly mandatory solutions to other issues that are better resolved by market forces.

The Commission acknowledges in the Notice that provision of appropriate services by local exchange carriers ("LECs") "is essential to enable PBXs to transmit proper identification and location information to a 911 tandem or PSAP." Notice, ¶ 29. Yet, while the Commission proposes to impose numerous specific regulatory requirements on PBX manufacturers and users, it does not propose any specific requirements for LECs. In this regard, the Commission's Notice seems to have put the cart before the horse. As discussed above, the Commission has treated the CPE market as competitive and generally has expected market forces to resolve issues of supplying appropriate equipment to users. The local exchange market, by contrast, is, if at all competitive, certainly far less competitive than the CPE market. Therefore, the Commission's normal response to problems of inadequate supply has been to look first to see if there is a problem with the

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[6] Statements regarding the importance of public safety do not necessarily establish that public safety concerns will fail to be addressed by the marketplace. Businesses are subject to a number of pressures to take steps to ensure a quick response to emergencies occurring on their premises and threatening the lives of guests or employees. Hotels, for example, may face liability, as well as adverse publicity from, injuries to guests resulting from negligent conduct. Employers are also subject to these pressures, as well as loss of productivity caused by injuries to employees and the impact of such injuries on employee morale.

"bottleneck" local exchange monopoly. Assuming any mandatory regulation is needed in the E911 area, the first priority surely must be to ensure that LECs make available the necessary transmission services, without which all the CPE capabilities that even the heavy-handed regulation proposed here -- much less market forces -- can bring into being will be useless.

This is the approach Commission followed in its Computer III proceedings, to take just one example. In that proceeding, the Commission concluded that, under existing regulatory conditions, the market was not providing certain enhanced services desired by users. To remedy the problem, the Commission prescribed requirements for the LECs to provide new bottleneck minimum services, while easing up on regulation of their competitive offering. The FCC did not require any party to deploy new competitive equipment or services.[7] It would be inconsistent for the Commission to respond to E911 problems by giving priority to re-regulation of an admittedly competitive market.

Therefore, assuming that credible evidence of a substantial problem is provided, the Commission's next step should be to examine whether LEC offerings are adequate -- both technically and in terms of price -- to provide end users with a transmission capability for station identification information. To the extent

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[7] In re Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), 104 FCC 2d 958 (1986) (Computer III), on reconsideration, 2 FCC Rcd 3035 (1987), further reconsideration, 3072 (1987); 3 FCC Rcd 1135 (1988); 3 FCC Rcd 1150 (1988), rev'd in part on other grounds, California v. FCC, 905 F.2d 1217 (9th Cir. 1990).

that any regulation is necessary, it is more likely to be regulation that mandates LEC provision of a basic minimum transmission capability at a reasonable price. If that need has been filled, CPE manufacturers can be expected to build station-identification capabilities into any CPE products that are subject to significant demand for such capabilities.

Another issue that must be determined by the FCC is what size of system should be subject to any regulations that are adopted. The proposed rules would apply to "PBXs and similar multi-line telephone systems." This language is too vague and may be overbroad. The rules obviously should not apply to all multiline business systems. Imposing station identification requirements on a two-line key system would serve no purpose other than to multiply the telecommunications costs associated with such customers by several times.[8] Even the inclusion of systems with 200 or more stations may impose substantial costs while offering limited benefits. Customers with such systems often occupy only one floor of a building, enabling emergency service personnel in most cases to identify the location where they are needed once they arrive.

Another issue related to the scope of requirements is the degree to which users must be required to "pinpoint" station locations for emergency services personnel, especially if the ANI associated with the line already provides a reasonable basis for

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[8] Under the Commission's current proposal, the costs of compliance for a two-line customer would be the cost of the additional equipment needed plus administration costs, plus the cost of a dedicated E911 trunk to that customer's premises.

routing emergency services. For example, if a group of telephone extension numbers are all assigned to stations located in a particular building or portion of a building, should the user be required (if the user does not voluntarily decide to do so) to assign a different station identification number to each extension, or should the user be able to use a single number to identify the entire group? The latter alternative would allow considerable savings, e.g., in the expense of updating data bases after moves and changes. As long as new numbers in a particular building or portion of a building were always assigned from the same pool of extensions, updating the location data base would not be necessary and the costs of administering and verifying updates would be saved.

The Commission also must assess the costs of compliance with any requirement it wishes to adopt. These costs may include (1) the costs of designing station identification capabilities into new CPE, (2) the costs of adding station identification capabilities to CPE that has been manufactured but not installed prior to applicable effective dates, (3) the costs associated with maintaining correct station identification and other non-manufacturing costs associated with implementing station identification requirements in CPE, and (4) the costs of the required E911 services -- including dedicated CAMA trunks which may not be usable for any other purpose -- to be provided by local exchange carriers (LECs). Many of these costs will vary depending on the scope of the requirements adopted by the Commission.

Therefore, a variety of cost-benefit calculations are necessary in order to determine the optimum scope of any federal regulation in this area.

C. "Input" vs. "Output" Requirements

Assuming that the benefits of requiring station-identification for some group of users is substantial enough to justify mandatory regulations, the Commission must decide whether its regulations should take the form of specific "input" requirements that compel a particular type of interconnection with E911 services, or more general "output" requirements that allow manufacturers and users to choose from a number of alternative technical solutions.

TIA's Telecommunications Systems Bulletin 103 describes a number of different technical alternatives for transmitting station-identification information. The CAMA trunk interface described in the proposed rules is just one of several alternatives, which also include ISDN and other services. Another alternative for users is to provide a live attendant who is alerted in emergencies and is able to orally report the exact location to emergency personnel. Significantly, many users require no new equipment capabilities at all, because their current ANI already adequately identifies their station locations. Different alternatives may be more cost effective for different users, based on a variety of factors such as the nature of the user's business, the configuration of the premises, the type of telecommunications system used, and the like.

Mandating specific technical station-identification capabilities to be incorporated as a condition of Part 68 equipment registration does not appear consistent with the purposes of Part 68 as currently defined. See 47 CFR §§ 68.1, 68.3 (definition of "harm").

Furthermore, locking in equipment manufacturers and users to a particular technology -- one which may become outmoded in the future -- would be inconsistent with Section 7(a) of the Act to the extent that it discourages "the provision of new technologies and services to the public." 47 U.S.C. § 157(a). At a minimum, the Commission must find that the benefits of E911 station identification cannot otherwise be obtained before imposing requirements that discourage the provision of new CPE technologies.

II. FEDERAL VS. STATE REGULATION

As discussed above, the cost-beneficial provision of E911 services is an important objective of federal policy. The current record supports a finding that prescribing bottleneck requirements and leaving market forces to adapt are the best means of ensuring efficient deployment of E911 station identification capabilities in multiline CPE. If the Commission concludes that market forces will best ensure appropriate deployment of E911 equipment, the Commission should so find as a matter of federal policy. Any state regulation inconsistent with that policy should be preempted. The Commission has clear authority to preempt inconsistent state regulations affecting interconnection of customer premises

equipment. In other cases where the Commission has removed restrictions on interconnection or has followed a policy of relying on market forces, it has been accorded substantial latitude to preempt inconsistent state regulation. See NCUC I; NCUC II; California v. FCC, 76 RR 2d 549, 557-58 (9th Cir. 1994).

Alternatively, if the FCC chooses to impose regulations on carriers, users, and/or equipment manufacturers and vendors, it should preempt any state or local regulations which are inconsistent or impose different or greater standards on carriers, equipment manufacturers, vendors and users. The proposed regulations are likely to impose significant burdens and costs. If those regulations are supplemented by a patchwork of varying state requirements, the compliance burden will become intolerable. The FCC's past equipment decisions recognize that users cannot comply with different technical interconnection standards for interstate and intrastate use, and that manufacturers cannot practically design equipment differently for each state. NCUC I; NCUC II.

III. DETAILS OF PROPOSED RULES

A. Effective Dates

The Commission's proposed equipment requirements would apply to systems manufactured or imported one year or more after the effective date of the section, and to systems installed eighteen months or more after the effective date. Already installed equipment would be grandfathered. Equipment manufactured between 30 days and one year after the effective date also would be

grandfathered, except that this equipment would have to be labeled with a warning indicating its limitations for purposes of calling 911.

NATA supports the grandfathering of already-installed equipment. Applying new requirements to already installed equipment would require massive and disruptive changes to existing equipment. Much of the existing installed base, valued at many billions of dollars would have to be prematurely replaced. In other cases, in order to avoid totally replacing equipment, customers would have to undertake a variety of costly and burdensome retrofitting operations. It is clearly inappropriate to impose such requirements on customers without a compelling demonstration that the benefits would outweigh the costs.

As discussed above, NATA also questions the need for the Commission's proposed requirements applicable to the manufacture and sale of new equipment. If such requirements are adopted, however, effective dates should be later than those proposed. Until the Commission adopts final rules, manufacturers cannot be sure of what technical changes in manufacturing processes they will be required to make. Such changes typically require significantly greater lead time than the one-year period proposed by the Commission. The proposed 18-month deadline for applying the rules to installed equipment also must be lengthened. It is important to allow sufficient time for equipment to be cleared from the "pipeline" of manufacturer, wholesaler, and dealer inventories.

NATA also questions the necessity for labeling equipment that

is sold prior to the effective date of any rule. The purpose of the 911 code is to enable callers to make emergency calls quickly, without having to look up numbers or read instructions. It may be difficult to devise a label that would effectively inform 911 callers of the limitations of equipment without causing confusion to callers in emergency situations. Moreover, since labels would not be applied to existing equipment, the actual impact of labels in terms of informing E911 callers is likely to be minimal. Finally, in the event that customers purchase labeled equipment and then add adjunct equipment to provide a station-identification capability, the labels could be misleading to callers.

If the FCC does require labels, it should provide a longer lead time. It is clearly impractical to expect manufacturers, wholesalers, and retailers to fully comply with labeling requirements within 30 days of the effective date (i.e., within 60 days of Federal Register publication if customary procedures are followed). To be realistic, the FCC must allow at least a year after Federal Register publication for compliance with labeling requirements.

B. Liability

There is significant likelihood that any rules the FCC adopts will be asserted as governing standards of liability in litigation between persons suffering injuries and PBX owners, vendors, and manufacturers, as well as telephone companies and E911 service providers. Whatever the standard of liability is or should be in

the absence of the FCC's regulation, it would be counterproductive if the FCC's adoption of a prospective rule had the effect of imposing heightened liability retroactively on owners and manufacturers of existing equipment which was produced in good faith compliance with existing Part 68 requirements. Such liability would defeat the FCC's intention to avoid the massive costs of retrofitting the installed base.

To limit the potential for such inappropriate uses of its rules, the FCC should stress that the regulations it adopts are prospective only and are not intended in any manner to impose obligations or liability with regard to equipment manufactured or installed prior to the effective dates of the regulations.

The Commission should also emphasize that nothing in its rules or accompanying opinions is intended as a finding that any existing equipment is unsafe, substandard, or below the "state-of-the-art." Indeed, the Commission must find that there is no "state-of-the-art" at this time, if only because there have been no uniformly available exchange services to which CPE systems could be designed.

Another issue that must be carefully handled in anticipation of possible litigation is the question of whom the FCC will hold responsible for compliance with various requirements.[9] Proposed section 68.320 falls within Subpart D, compliance with which is generally the responsibility of the manufacturer (or the grantee of registration, if different from the manufacturer). However, not

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[9] As discussed above, NATA questions whether any specific equipment requirements should be added to Part 68 anyway.

all provisions of proposed section 68.320 are reasonably within the manufacturer's control. Proposed subsection (d) provides a standard for the number of E911 trunks to be connected to a "private switch". Since manufacturers clearly cannot control the use of telephone company trunks, this subsection should not be included in Subpart D, even if the Commission adopts the other proposed provisions of subsection (d).

C. Network Cost Recovery

The Commission must carefully consider who should appropriately bear the costs generated by any new requirements it imposes -- especially the costs of network services with which CPE owners must interconnect. Under the rules proposed by the Commission, interconnection with E911 trunks would be mandatory: users would have no choice but to comply. If interconnection with E911 trunks is required by law because it is deemed in the public interest, the costs of the E911 service should not be imposed on the users who are forced to comply. Rather, such costs should be recovered from the general body of ratepayers.

Significantly, the costs of newly required E911 services have a disparate impact on PBX and key system users as opposed to centrex users. Centrex service has always offered a form of station identification capability, through a feature known as automatically identified outward dialing ("AIOD").

The exchange services provided to PBX and key system users, by contrast, have never included station identification capability.

Local exchange carriers chose not to build such a feature into PBX trunks and business lines. As a result, it appears that the provision of station identification at this point would require dedicated E911 trunks. These trunks are of no known use to PBX and key system users, except for the handling of E911 calls, which will be very infrequent from most business locations. The FCC has not yet been provided estimates of the cost of providing such dedicated trunks, but it seems likely that the costs will be substantial. It is not reasonable to penalize PBX and key system users by requiring them to pay the costs of E911 trunks which they are required to order whether they want them or not, and for which they have no other use.

Another reason why the costs of E911 trunks should not be imposed on PBX and key system users is that such a requirement will provide the LECs with a strong incentive to overprice the service. The LECs' centrex service competes with PBXs and key systems. The trunks must be ordered by PBX and key system users, but not by centrex users. Therefore, the LECs have an incentive to price the service very high in order to improve the competitiveness of centrex vis-a-vis PBXs and key systems. In order to avoid giving the LECs such an incentive, the Commission should require that the costs of E911 trunks be recovered from generally applicable access charges.

Another reason why the costs of E911 E&M trunks should be recovered from generally applicable charges is that the number of E911 trunks will not vary directly in relation to the size of a CPE

system. Small system users are likely to be disproportionately affected by the requirements. If, despite these considerations, the FCC decides that the costs of E911 trunks should be imposed on PBX and key system users, the FCC must nevertheless retain supervision over tariffing of the service. The Commission is proposing to require subscription to dedicated E911 service. If the Commission is going to compel users to order the service, then it should exercise its authority to ensure that the service is priced in a reasonable manner. The Commission should require that the service be tariffed in federal tariffs.

D. Technical Issues

The proposal assumes that a ten-digit number will be assigned to each station, so that the format of the number transmitted to PSAPs will be the same as the format of the ANI which currently is used to provide relatively precise identification of the location of single-line or small-system users. However, such ten-digit numbers are not currently available to users unless they subscribe to direct inward dialing ("DID"), a service that allows callers from outside a PBX system to direct-dial individual PBX stations. DID, as currently offered by LECs, involves significant additional expense. Therefore, a large percentage of business users do not currently subscribe to DID service. These users would require access to a pool of unused ten-digit numbers in order to comply with the proposed requirements.

The proposed rules would require that equipment must be

"capable of notifying an attendant or on-premises personnel, if present, and of providing station number identification and emergency response location to the attendant when a 911 call is dialed." This requirements appears duplicative. If the system automatically transmits location information to the PSAP, transmission of the same information to the attendant may be helpful, but should not be required. Conversely, if there is available an attendant who can direct emergency personnel to the appropriate location, transmission of location information to the PSAP should not be required.

E. Installation Requirements

The FCC proposes to require that verification of accurate station identification be performed by a person who (1) has at least 6 months training in installation of telephone terminal equipment, and (2) has been trained in the operation of E911 trunks and the performance of operations needed to verify proper station identification. As a proposed exception to these requirements, verification could be performed by "a licensed professional engineer." NATA questions whether it is appropriate to promulgate a regulation governing the qualifications necessary for making what should be -- if excessive costs are to be avoided -- routine operations.

We also question the basis for concluding that a "licensed professional engineer" is necessarily more qualified than other people not trained in telephone terminal equipment installation to