

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
911 Call Forwarding Requirements for Non-) **PS Docket No. 08-51**
Service-Initialized Phones)
)

To: The Federal Communications Commission

**COMMENTS OF
MISSION CRITICAL PARTNERS, INC.**

Mission Critical Partners, Inc. (“MCP”), through its attorney, hereby submits its Comments in response to the Notice of Proposed Rulemaking in the above-captioned docket (“NPRM”)¹ examining whether the Commission should retain the obligation of commercial mobile radio service (“CMRS”) providers to transmit 911 calls from non-service-initialized (“NSI”) devices to Public Safety Answering Points (“PSAP”). MCP encourages the Commission to develop and review a more thorough record in this proceeding before adopting the NPRM. The Commission should only eliminate the obligation of CMRS providers to transmit 911 calls from NSI devices if it determines continued access to 911 from NSI devices is an acute problem that impacts only a very small number of legitimate consumers and there are no workable technological solutions to fix the problem.

I. MISSION CRITICAL PARTNERS

MCP provides executive consulting to clients with public and life safety missions throughout North America. Our client base consists of PSAPs in more than half of the United

¹ See *In the Matter of 911 Call-Forwarding Requirements for Non-Service-Initialized Devices*, Notice of Proposed Rulemaking, FCC 15-43 (Apr. 1, 2015)(“NPRM”).

States. The comments herein represent our experiences with, and on behalf of, many of those clients rather than advocacy for a particular product, technology, or other interest.

With a professional staff of more than 80 employees, the MCP team is uniquely qualified to comment on this issue. The majority of our staff is former public safety and PSAP professionals who have held leadership positions. Our experience in the industry has put our professionals in a unique position to understand the challenges PSAPs face in fielding and responding to non-emergency 911 calls from NSI devices.

II. INTRODUCTION

The Commission's current rules require CMRS providers to transmit all wireless 911 calls to PSAPs, including calls placed from NSI devices.² In the NPRM, the Commission proposes to eliminate the requirement that CMRS providers transmit calls placed from NSI devices to PSAPs after a six-month transition period.³

The Commission is entertaining this proposal because PSAPs receive a significant number of fraudulent calls from callers using NSI devices.⁴ NSI devices have no associated subscriber name and address information, do not provide Automatic Number Identification ("ANI"), and do not provide call-back features. As a result, when a caller uses an NSI device to call 911, the PSAP typically cannot identify the caller and expends significant resources in responding to these fraudulent calls.⁵ The problem is magnified because the overwhelming majority of calls placed to 911 from NSI devices appear to be non-emergency calls.⁶

² 47 C.F.R. §20.18(b).

³ NPRM at ¶2.

⁴ *Id.*

⁵ *Id.* at ¶ 1.

⁶ *See, Id.* at ¶¶ 12-15.

However, the Commission is faced with a dilemma of how to balance two competing goals. The first is the agency's overarching goal of providing universal access to 911.⁷ The second is ensuring that a PSAP's limited resources are deployed efficiently, and not squandered in responding to non-emergency calls. In the NPRM, the Commission has made the preliminary determination to prioritize the second goal. In doing so, the agency has determined that to accomplish this goal, it must sacrifice the ability of NSI device users to dial 911. This may not, in fact, be the case.

MCP urges the Commission to develop and carefully review a thorough record to better understand the magnitude and source of the problem before it eliminates the ability of NSI devices to reach a PSAP when dialing 911. The Commission may find a less draconian way to insulate PSAPs from non-emergency calls from NSI devices while still allowing the bulk of NSI devices to reach a PSAP in the event of a real emergency. MCP agrees that fraudulent 911 calls placed from NSI devices are a real problem requiring a solution. The company urges the Commission to look at all options to find a resolution that may preserve access to 911 for legitimate NSI device users.

III. ARGUMENT

In 2008, several parties filed a Petition requesting that the Commission open a Notice of Inquiry ("NOI") to attempt to resolve the problem posed by non-emergency calls to 911 from NSI devices.⁸ At the time, the Petitioners highlighted the fact that "[t]oo many callers use NSI devices to harass PSAPs or make fraudulent emergency reports," and requested that the Commission consider a host of options, including eliminating the requirement to forward 911

⁷ The first sentence of the NPRM reads, "[t]he Commission has a longstanding commitment to ensuring access to 911 for the American public." NPRM at ¶1.

⁸ See, Petition for Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers' Blocking Options for Non-Initialized Phones, CC Docket No. 94-102 (Filed Feb. 14, 2008) ("Petition").

calls from NSI devices to PSAPs, as well as other options to resolve the issue surrounding 911 calls from NSI devices.⁹ The FCC later released an NOI based on the petition.¹⁰

In 2013, the National Emergency Number Association (“NENA”) urged the Commission to block all 911 calls placed from NSI devices after a transition period to “provide PSAPs with relief from the barrage of false or harassing calls from NSI devices.”¹¹

On the heels of NENA’s 2013 letter, the Commission released a Public Notice to refresh the record in this proceeding and received seven sets of comments: six from public safety entities and one from a CMRS provider.¹² The Commission relied on these limited comments to issue its proposed rule that would eliminate CMRS providers’ requirement to forward 911 calls from NSI devices to PSAPs.

A. The Commission Should Develop a More Thorough Understanding of the Problem It Seeks to Solve

MCP recognizes that fraudulent 911 calls from NSI devices represent a significant problem for PSAPs. The company applauds the Commission for attempting to address this problem. However, MCP urges the Commission to remember that many NSI device users are elderly or poor and may lack the technological sophistication to understand they are operating an NSI device or that their NSI device could be unable to dial 911 even after a transition period that includes aggressive consumer outreach and education. Universal access to 911 is critical. In considering restricting access to 911 for even a discreet minority of the population, the

⁹ Petition at pp. 2 and 8.

¹⁰ Petition for Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers’ Blocking Options for Non-Initialized Phones, PS Docket No. 08-51, *Notice of Inquiry*, 23 FCC Rcd 6097 (2008).

¹¹ See Letter from Telford Forgety, NENA Director of Governmental Affairs & Regulatory Counsel, to Marlene Dortch, Secretary, Federal Communications Commission, PS Docket No. 08-51 (Feb. 11, 2013), at 2.

¹² See, Public Safety and Homeland Security Bureau Seeks to Refresh the Record Regarding Options for Addressing Non-Emergency Calls to 911 from Non-Service Initialized Handsets, PS Docket No. 08-51, *Public Notice*, 28 FCC Rcd 2513. See also, NPRM at ¶10.

Commission should ensure that there are no alternative solutions that could rectify the problem while preserving 911 access for legitimate users of NSI devices. Lives may hang in the balance.

MCP believes the Commission needs a more complete record to determine the severity, magnitude, and cause of the problem. For example, the NPRM cites different studies that provide a wide variation in the number of calls from NSI devices that are not emergency calls. The Petition cited data from four states indicating that “between 3.5% and less than 1% of 911 calls placed by NSI devices were legitimate calls relating to actual emergencies.”¹³ Another study indicates that “approximately 8% of calls from NSI devices were to report an emergency or crime.”¹⁴ Finally, Montgomery County (MD) has indicated that 30% of calls to 911 from NSI handsets were legitimate during a brief study in 2008.¹⁵

MCP informally polled the Montgomery County (PA) Department of Public Safety, and the number of legitimate emergency calls it receives from NSI devices falls within the range of these studies. In a time period from May 1, 2015 to June 2, 2015, the PSAP received 2,242 calls from NSI devices. It estimated that 7.5% of those calls were legitimate requests for public safety service. The incident type ranged from lower priority noise complaints to higher priority domestic disturbances and medical calls. While only representing a single county, the statistics present a reality that many of our nation’s citizens still rely on NSI devices as their lifeline, just as those with service initialized devices.

There are two threshold issues the Commission should consider in order to accurately gauge the NSI device problem. First, what is the tipping point or percentage of legitimate 911 calls from NSI devices at which the agency would continue allowing NSI devices to reach a

¹³ NPRM at ¶12.

¹⁴ *Id* at ¶13, *citing* Sonoma County, California, Sheriff Comments, PS Docket 08-51 (filed May 14, 2013).

¹⁵ *Id* at ¶22, *citing* Maryland Emergency Number Systems Board Comments, PS Docket 08-51 (filed June 30, 2008), at p. 3.

PSAP when dialing 911? Certainly the greater percentage of legitimate emergency calls placed from NSI devices, the more critical it is to ensure that NSI devices retain the ability to dial 911.

In addition, it does not appear that the Commission has sufficient information to know how many NSI devices are currently deployed. The agency will have to make this determination as part of its planned public outreach and education efforts in the event it adopts the proposed rules.¹⁶ It should expedite its research into this issue and collect this information before it determines how to proceed. The record indicates that “a disproportionate number of fraudulent 911 calls come from a relatively small subset of NSI devices.”¹⁷ The NPRM even cites an example from California identifying 266 active repetitive callers who placed over 77,000 calls to 911, mainly using NSI devices.¹⁸ If the universe of deployed NSI devices is large and the number of individuals that use NSI devices to fraudulently call 911 is small, the Commission should carefully consider whether an alternative technology (*e.g.* throttling or blocking 911 calls from certain devices) is a more appropriate solution to the problem.

MCP respectfully suggests that there are two additional issues the Commission should consider before determining how to proceed. First, it would be helpful if the agency understood how many total 911 calls and fraudulent 911 calls were placed from both NSI devices and service-initialized devices. From MCP’s experience, fraudulent 911 calls placed from NSI devices are not the most pressing issue facing PSAPs. PSAPs face other more pressing challenges related to funding, end of life technologies, staffing, training,¹⁹ SWATting calls with

¹⁶ *Id.* at ¶31.

¹⁷ *Id.* at ¶15.

¹⁸ *Id.*

¹⁹ *See*, Report on the State of 9-1-1 Services in 2014, at p. 37 (rel. May 27, 2015) available at <https://sites.google.com/site/co911rc/home/announcements/2014stateof911reportnowavailable> (last visited June 5, 2015).

spoofed ANI through wireless and VoIP devices, and fraudulent calls placed from VoIP accounts.

Second, there appear to be new products that rely on NSI devices to reach 911 in the event of an emergency. For example, Direct 911 is a “smart, unobtrusive and subscription-free device,” that can be installed in a home and apparently relies on an NSI device to reach 911.²⁰ While Direct 911’s funding campaign did not succeed, similar devices are available on Amazon²¹ and other websites.²² While it is possible that fewer individuals rely on traditional NSI devices today than they did in 2008,²³ it is unclear whether these new devices have been widely distributed, whether there are additional products in the pipeline that may soon be available to the public and will rely on the same NSI devices, or how the Commission’s proposal would impact the ability of these devices to reach a PSAP in an emergency. But the availability of these new devices contradicts the suggestion that technological advancements have reduced the need to provide NSI devices with access to 911.

B. The Commission Should Prioritize Solutions that do not Prevent NSI Devices from Dialing 911

The Commission recognizes that “sunsetting the NSI rule is not the only means of reducing the incidence of fraudulent calls to 911 from such devices.”²⁴ Though MCP does not endorse any specific alternative solution, it urges the Commission to carefully review possible alternatives that would alleviate this problem without barring access to 911 from all NSI devices.

²⁰ See, <https://www.indiegogo.com/projects/direct-911-the-new-way-to-save-lives#/story> (last visited, June 3, 2015).

²¹ The Emergency Call Box is available at Amazon.com. See, <http://www.amazon.com/Emergency-Phone-Call-Box-Weatherproof/dp/B00CDXG2F4> (last visited, June 3, 2015).

²² 911Phone.net offers emergency 911 cellular phones and 911 wearable home phones. See, <http://www.911phone.net/> (last visited, June 3, 2015).

²³ NPRM at ¶¶18-20, citing a decrease in NSI handset donation programs and the decreased cost of service-initialized devices.

²⁴ *Id.* at ¶38.

For example, the Commission has considered the possibility of blocking NSI devices used to make fraudulent 911 calls while retaining the NSI rule itself.²⁵ Call blocking, – as well as throttling or deprioritizing calls from problematic devices – are potential solutions. The Commission should give careful consideration to these options in the event it determines that the majority of fraudulent calls placed from NSI devices originate on a small handful of those devices.

Another potential solution is to limit the number of 911 calls that can be placed from an NSI device in a given period of time. Currently, it would be problematic for the Commission to limit the number of 911 calls an NSI device could make to, for example, one per hour since these devices do not provide PSAPs with call back information. If an emergency call from an NSI device is dropped, a PSAP would be unable to call the user back and the user would be unable to dial 911 for an additional hour. It may now be technically possible, however, for carriers to develop a mechanism for enabling call back capabilities when an emergency call is placed from a mobile phone. The Commission determined 13 years ago that it was not possible for a carrier to provide a PSAP with call back information for a call placed from an NSI device.²⁶ However, what was impossible then may now be possible with the advancements of wireless communication technologies since 2002. The Commission should explore this issue further and, while it is being explored, could mandate that carriers forward no more than 10 non-emergency 911 calls from a single NSI device in an hour or that subsequent calls be sent to a recording

²⁵ *Id.*

²⁶ In Re Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Report and Order*, ¶ 3 (rel. Apr. 29, 2002).

similar to laws that have been enacted in Tennessee.²⁷ It could further reduce the number of calls per hour to one or two if a technical solution to the call back problem is developed.

One potential solution to the call back problem would be to adopt a registration system similar to the one adopted in Canada for text with 911.²⁸ In Canada, the service is available for members of the deaf, deafened, and hard of hearing or speech impaired communities. These T9-1-1 users are required to register their phones. When they dial 911 in an emergency, the PSAP is alerted that the user is a T9-1-1 registrant and communicates with the user via text message. A similar registration program could be implemented in the United States for NSI devices.

Under such a program, NSI device users would register their device with a centralized database. MCP speculates that under such a solution, the wireless carrier switches would recognize the handset being an authorized NSI device and route the call. PSAPs could reference the database to identify a fraudulent user if such a call is made from an NSI device, undoubtedly reducing the problem of fraudulent 911 calls placed from NSI devices.

Admittedly, it could be burdensome and expensive to establish such a registration system. However, it would preserve the utility of NSI devices and limit fraudulent 911 calls placed from those devices while retaining universal access to 911 for NSI device users. The Commission's outreach and education initiative could inform consumers that NSI devices will only be able to dial 911 after the transition period if they have registered their device. NSI devices not registered by the conclusion of the transition period would be unable to reach 911 unless and until they were registered.

²⁷ See Tennessee Code Ann. § 7-86-316. This statutory provision limits the number of non-emergency calls that can be placed to 911 from NSI devices to 10 in a single hour or 20 in a 24-hour period. A PSAP may authorize the harassing calls placed to 911 from NSI devices to be diverted to an entity designated to receive such calls for a period of 12 hours.

²⁸ See, <http://textwith911.ca/how-to-make-a-t9-1-1-call/>

A further solution the Commission should explore is whether there is a technical solution that would make an NSI device work like a service-initialized device only when the user dials 911.

MCP does not endorse any of these proposed solutions or suggest that they can or should be implemented immediately. However, it urges the Commission to explore all reasonable alternatives before completely barring NSI devices from access to 911.

C. If the Commission Adopts the Proposal, it Should Carefully Consider and Coordinate the Transition Period

The Commission “believes that a uniform, nationwide deadline to sunset the NSI requirement would best address the concerns that have been raised in the record regarding the prevalence of fraudulent calls from NSI devices.”²⁹ The Commission suggests a six-month transition period during which it will educate consumers and other interested parties.³⁰ If the Commission adopts the proposal, it should carefully consider and coordinate the transition period.

MCP is concerned about the ramifications of a hard cutover at the conclusion of the transition period. The company recommends the Commission require carriers to provide an NSI device user with a recorded message or fast busy signal when dialing 911 from an NSI device that is incapable of reaching a PSAP. This is similar to the rules adopted for text-to-911 in areas where PSAPs are unable to communicate via text message.³¹

In addition, the Commission should ensure that the outreach and education program is completed thoroughly. It is likely that confusion and hysteria will result when users initially

²⁹ NPRM at ¶28.

³⁰ *Id.* at ¶¶30-31.

³¹ 47 C.F.R. §20.18(n)(2).

learn that certain wireless devices will be unable to dial 911. It will be difficult to educate the population and overcome their initial reaction during a relatively short, six-month transition period. This is especially true considering NSI device users may not be the most technologically savvy or financially secure segments of the population. Many may rarely turn on their device but enjoy the peace of mind in knowing that it is available to them in the event of an emergency. It is imperative that the Commission gain a better understanding of the number of NSI devices currently deployed and ensure that all NSI device users understand that these individuals will be unable to dial 911 from their NSI device at the conclusion of the transition period.

The Commission also should consider whether an aggressive public outreach and education program will exacerbate the fraudulent call problem during the transition period. If the Commission, carriers, and community organizations are educating consumers that NSI devices have flooded PSAPs with untraceable 911 calls, it may increase the number of those calls during the transition period. This is another reason MCP urges the Commission to consider all possible technological solutions to the problem that would retain the ability for NSI devices to dial 911 in an emergency.

IV. CONCLUSION

MCP applauds the Commission for addressing the problem of fraudulent 911 calls placed from NSI devices. The company encourages the Commission to explore all technological solutions and consider the potential solutions outlined above. It is not in the best interests of the PSAP community or the general public to bar legitimate access to 911 from any device. The Commission should only adopt the proposed rule and prevent NSI devices from reaching 911 if it determines the problem is acute, will impact only a very small number of legitimate consumers, and there are no workable technological solutions to fix the problem while retaining

911 access for NSI devices. Based on the record in this proceeding, it is not clear the Commission has enough information to make these determinations. At this time, MCP recommends the Commission not eliminate the 911 call forwarding rule for NSI devices until the concerns raised herein have been remedied.

Respectfully submitted,

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