



CTIA

Building The Wireless Future
Cellular Telecommunications Industry Association

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Michael F. Altschul

Vice President/General Counsel

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July 9, 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

**Re: Ex Parte Presentation
In the Matter of Communications Assistance
for Law Enforcement Act, CC Docket No. 97-213**

Dear Ms. Salas:

On November 5, 1998, the Federal Communications Commission released its Further Notice of Proposed Rulemaking regarding the technical standards that meet the assistance capability requirements of the Communications Assistance for Law Enforcement Act of 1994 ("CALEA" or "Act").¹ The Commission is now completing its review of the implementation issues associated with the individual technical capabilities (the "punch list" items) at issue in this proceeding. In connection with this review, the Cellular Telecommunications Industry Association ("CTIA") seeks to address the appropriate implementation date the Commission should adopt for the CALEA assistance capability requirements.

The FNPRM asserts that "industry will be able to comply with the core requirements of J-STD-025 (excluding the packet mode feature) by June 30, 2000."² It further states that "we will set a separate deadline for compliance with the additional technical requirements that we determine CALEA mandates."³ The FCC thus contemplates a two-phase implementation of the assistance capability requirements of CALEA.

¹ Further Notice of Proposed Rulemaking, *In the Matter of Communications Assistance for Law Enforcement Act*, FCC No. 98-282, CC Docket No. 97-213 (released Nov. 5, 1998) (the "FNPRM").

² FNPRM, ¶ 133.

³ Id.

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The FCC should not adopt a two-phase implementation of the assistance capability requirements. Phased implementation significantly increases the costs of meeting CALEA's assistance capability requirements by requiring two separate "roll-outs" of CALEA-compliant equipment and facilities. By contrast, a simultaneous deployment of both the core requirements and any additional requirements the FCC mandates is demonstrably more efficient than phased development.⁴ In essence, the bifurcated development of additional technical requirements will be the functional equivalent of a second development effort.⁵ Whether borne by law enforcement, through CALEA's cost-reimbursement provision, or carriers, who must then pass these additional costs on to consumers, unnecessary additional costs work against the goals Congress established in enacting CALEA. Higher CALEA compliance costs will needlessly limit the number of "grandfathered" switches law enforcement can afford to upgrade, and increase the already significant costs borne by consumers served by non-grandfathered equipment. Accordingly, the FCC should adopt a unified approach to the implementation of CALEA's assistance capability requirements.

In addition, the FCC should not require compliance with the core requirements of J-STD-025 and any additional technical requirements until December 31, 2001. For several reasons, carriers are unable to implement the revised technical requirements until at least 30 months after promulgation of the Report and Order in this proceeding. First, development of the draft industry standard for any additional requirements will itself take at least six months. Indeed, the Telecommunications Industry Association ("TIA") has stated that it cannot complete required modifications of J-STD-025 within 180 days of release of the Report and Order.⁶ A more realistic assessment is that nine months will be required. According to TIA, at least six months are required simply to develop the draft standard, before any balloting occurs. An additional three months are required for the balloting process.⁷

⁴ Petition for Rulemaking by the Telecommunications Industry Association, CC Docket No. 97-213 (April 2, 1998), at 5-7.

⁵ Comments of the Cellular Telecommunications Industry Association, CC Docket No. 97-213 (May 8, 1998), at 11.

⁶ In the Reply Comments of the Telecommunications Industry Association, CC Docket No. 97-213 (Jan. 27, 1999) ("TIA Reply Comments"), at 10, TIA states that 180 days for a balloted and approved standard is "not possible."

⁷ Comments of the Cellular Telecommunications Industry Association Regarding Further Notice of Proposed Rulemaking, CC Docket No. 97-213 (Dec. 14, 1998) ("CTIA Comments"), at 39.

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Second, as the Department of Justice evidently concedes, industry will require at least 18 months to achieve any of the FCC mandated revisions after those revisions have been promulgated.⁸ In fact, manufacturers usually require at least 24 months from the existence of a stable technical standard to design, develop, test, and make generally available hardware and software necessary to comply with that standard.⁹ Thus, eighteen months is a conservative estimate of the development time necessary in this instance.

Finally, once an upgrade becomes generally available, a period of at least six months is necessary for carriers to purchase, install, and test CALEA-compliant equipment and facilities in their networks.¹⁰ This figure, which the FCC has previously endorsed, is conservative. TIA suggests that actual the figure may be closer to nine to twelve months for the purchase, test, and installation of equipment.¹¹ This is particularly true given the nationwide and industrywide scope of the CALEA requirements.

To accommodate development of the industry standards required to implement any additional features required by the Commission, as well as allow for the design, testing, and manufacture of the products needed, and the purchase, and installation of these products, CTIA believes that the FCC must provide at least thirty months from the date of publication of the Report and Order in this proceeding -- to December 31, 2001 -- for the implementation of any technical requirements additional to the core requirements. Moreover, because of the inefficiencies and unnecessary costs associated with a phased implementation plan, CTIA strongly supports a uniform deadline of December 31, 2001 for compliance with both the core requirements of J-STD-025 and any additional technical requirements mandated by the FCC.

⁸ Comments of the U.S. Department of Justice and Federal Bureau of Investigation, CC Docket No. 97-213 (Dec. 14, 1998), at 29-30.

⁹ TIA Reply Comments, at 12.

¹⁰ Memorandum Opinion and Order, *In the Matter of Petition for Extension of the Compliance Date Under Section 107 of the Communications Assistance for Law Enforcement Act*, FCC No. 98-233, CC Docket No. 97-213 (released Sept. 11, 1998), ¶ 47; CTIA Comments, at 17.

¹¹ TIA Reply Comments, at 12.

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Indeed, even the December 31, 2001 deadline is very ambitious, and will require an aggressive industry effort to accomplish. CTIA would welcome Commission oversight of the industry's progress in implementing the CALEA requirements. We are prepared to provide the Commission with quarterly reports noting completion of individual benchmarks and the industry's overall progress in meeting these important deadlines.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Altschul". The signature is written in a cursive, slightly slanted style.

Michael Altschul

cc: Chairman William Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani