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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Ex Parte Presentation Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, GEN Docket No. 00-185; and The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, and Implementation of 911 Act, WT Docket No. 00-110** /

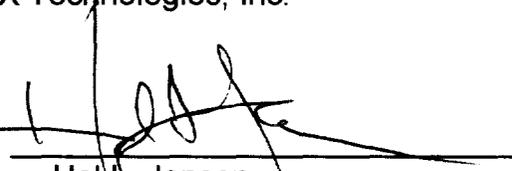
Dear Ms. Salas:

ATX Technologies, Inc. ("ATX") hereby submits ex parte comments for inclusion in the three above-captioned proceedings. These ex parte comments respond to the reply comments of the American Automobile Association filed initially in GEN Docket No. 00-185, and subsequently filed in CC Docket No. 92-105 and WT Docket No. 00-110. Accordingly, ATX requests that its views become part of the record those three proceedings, as well.

Please contact me, if you have any questions.

Respectfully submitted,

ATX Technologies, Inc.

By: 

Hal L. Jensen  
Chief Operating Officer  
ATX Technologies, Inc.

Enclosure

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

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<b>In the Matter of</b>	)	
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<b>Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities</b>	)	<b>GN Docket No. 00-185</b>
	)	
<b>Implementation of 911 Act</b>	)	<b>WT Docket No. 00-110</b>
	)	
<b>The Use of N11 Codes and Other Abbreviated Dialing Arrangements</b>	)	<b>CC Docket No. 92-105</b>
	)	

***EX PARTE* COMMENTS OF ATX**

**Harold Jensen  
Chief Operating Officer**

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**February 16, 2001**

## TABLE OF CONTENTS

	Page
<b>I. INTRODUCTION AND SUMMARY.....</b>	<b>1</b>
<b>II. THE INTEREST OF ATX IN THIS MATTER.....</b>	<b>4</b>
<b>III. THE LEGAL AND POLICY ARGUMENTS OF AAA ARE ERRONEOUS.....</b>	<b>5</b>
<b>A. Telematics, As Provided Today, Has No Place     In The Cable Modem Proceeding.....</b>	<b>5</b>
<b>B. The 911 Act Does Not Confer FCC Jurisdiction Or Require     FCC Regulation Over Telematics.....</b>	<b>6</b>
<b>C. Telematics Is Not Analogous To Any Of The Markets     Where The FCC Has Taken Action To Protect     Consumer Choice.....</b>	<b>10</b>
<b>IV. THE CURRENT STATE OF THE TELEMATICS INDUSTRY.....</b>	<b>12</b>
<b>A. Telematics Offers Motorists Enhanced Safety.....</b>	<b>12</b>
<b>1. First Generation Automatic Crash         Notification/Mayday Systems.....</b>	<b>13</b>
<b>2. The Potential of Second Generation ACN.....</b>	<b>15</b>
<b>B. The Telematics Industry Is Competitive and Growing Rapidly.....</b>	<b>16</b>
<b>V. THE CURRENT TELEMATICS BUSINESS MODEL WILL EVOLVE.....</b>	<b>17</b>
<b>VI. CONCLUSION.....</b>	<b>20</b>

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

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	)	

To: The Commission

***EX PARTE* COMMENTS OF ATX**

ATX Technologies, Inc. (“ATX”) hereby submits these comments in the matter of the Federal Communications Commission’s (the “Commission” or “FCC”) *Notice of Inquiry* in GEN Docket No. 00-185, FCC 00-355, released September 28, 2000 (the “*NOI*”); and the Commission’s jointly issued *Fourth Report and Order and Third Notice of Proposed Rulemaking* in CC Docket No. 92-105 (*Fourth Report and Order and Third NPRM*) and *Notice of the Proposed Rulemaking* in WT Docket No. 00-110 (“*NPRM*”), FCC 00-327, released August 29, 2000.

**I. INTRODUCTION AND SUMMARY**

In the *NOI*, the Commission sought public comment on what regulatory treatment, if any, should be accorded to cable modem service and the cable modem

platform used in providing high-speed Internet access.<sup>1</sup> Because competitors in the high-speed Internet access market use several different technologies, the FCC also solicited comment on the impact any regulation of cable modem service might have on other providers, such as those using wireline, wireless, satellite, broadcast and unlicensed spectrum technologies.<sup>2</sup> Of the many parties filing comments in response to the *NOI*, only one tried to interpret the FCC's interest in a broad record on high speed Internet access as an invitation to constrain, in its infancy, an unrelated industry (telematics) using low speed analog wireless access, usually to a single private call center.

In Reply Comments in GEN Docket No. 00-185, as noted below, the American Automobile Association ("AAA") argued that consumers currently have no choice among the service providers delivering or poised to deliver telematics services and, based on this assertion, that the FCC should regulate the field.<sup>3</sup> ATX takes issue with the views of AAA.<sup>4</sup> Although ATX believes that neither the *NOI*, nor the notices in the other two proceedings, can be construed to include consideration of telematics, the views expressed by AAA warrant a response.

In these comments, ATX points out that AAA fails to show that the FCC has any jurisdiction over telematics, save perhaps through its sparingly used jurisdiction over wireless telecommunications carriers, which transport information to and from telematics-equipped vehicles. Even if it did somehow have jurisdiction, the Commission is well aware of how its regulatory forbearance with respect to commercial mobile radio

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<sup>1</sup> *NOI* at ¶ 1.

<sup>2</sup> *Id.*, at ¶¶ 2-3.

<sup>3</sup> Reply Comments of the American Automobile Association, GEN Docket No. 00-185, filed January 10, 2001 ("*AAA Reply Comments*") at 6. AAA itself has decided to enter the telematics service business through an entity called Response Services Center LLC, which competes with ATX, General Motors' OnStar and Cross Country Group, and others, to provide car manufacturers' telematics offerings.

service (“CMRS”) over the past 15 years has helped create the enormously successful commercial wireless industry. It is this success, in part, which helps make telematics possible today, and that model of regulatory forbearance should be applied to this new industry as well. Finally, the AAA ignores the automotive industry’s ongoing efforts, with standards bodies and otherwise, that will broaden entry and competition.

The Commission does have an interest and responsibility in this area, but it is not to regulate how parties outside its jurisdiction offer a new service. In the recent 911 legislation, Congress did instruct the FCC to encourage the deployment of advanced emergency communications technologies, including Enhanced 911 (“E911”) and automatic crash notification (“ACN”), a common telematics feature.<sup>5</sup> It is quite clear, however, that Congress intended the Commission to encourage states to lead the upgrade of public emergency communications capabilities so they can receive sophisticated data from E911 and ACN systems. Nothing in the 911 Act suggests the FCC should regulate the internal terms of telematics offerings, or confers new jurisdiction on the Commission.

ATX also provides a picture of the growth and competitive nature of the telematics industry. This picture belies AAA’s assertion of industry concentration and lack of consumer choice. ATX explains how telematics enhance driver safety and provide automatic emergency location (the goal of the FCC’s E911 efforts), and will do so for millions of Americans without resort to government regulation. Wireless carrier provision of E911 service, combined with Internet or other data access will offer service features similar or identical to those offered by telematics. Beyond competition within

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<sup>4</sup> Because AAA has also submitted its Reply Comments in the records of WT Docket No. 00-100 and CC Docket No. 92-105, ATX is filing these *ex parte* comments in all three matters.

<sup>5</sup> Pub. L. No. 106-81, enacted Oct. 26, 1999, 113 Stat. 1286, amending the Communications Act of 1934, 47 U.S.C. §§ 222, 251 (“911 Act”).

the current telematics industry itself, these carrier-provided services will present a strong competitive element to the telematics industry.

AAA does not identify or allege any harm to consumers related to the current manner in which telematics is provided. AAA does not allege that telematics customers have only one source for telematics services or that they are being overcharged for service. In fact, the real harm faced by consumers today is the significant delay in response in the event of a traffic crash or other emergency, due to the absence of notice of the emergency, and/or of accurate, automatic location. Telematics effectively addresses this real harm. Significant private investments are being made to solve this problem, without any government regulation or direction. **If the FCC were to grant AAA's request in this matter, the business incentives to deploy telematics across a broader range of vehicle types would be inhibited and the related public benefits delayed.**

Given the absence of any legal or policy basis for FCC regulation of telematics, ATX asks the FCC to dismiss AAA's unfounded contentions and reject its request for regulation of telematics.

## **II. THE INTEREST OF ATX IN THIS MATTER**

ATX is a privately held corporation based in Irving, Texas. ATX is a vendor of telematics services to automobile manufacturers (also referred to as original equipment manufacturers or "OEMs"), including Mercedes-Benz, Ford, Nissan and Jaguar. After General Motors' OnStar service, ATX is the second leading telematics services provider in the United States. OEMs have no ownership interest in ATX.

The highly trained staff of the ATX Response Center use the latest in communications and computer technology to respond to the emergency and other needs

of the telematics customers of its various OEMs. Using the vehicle's exact location and a sophisticated directory of 911, police, fire and other public agencies, in emergencies ATX staff locate the right public responders, and work with them to ensure an appropriate, timely and accurate response to emergencies. Additional data about the vehicle and the driver are also available to the emergency responders using off-vehicle customer databases (*e.g.*, customer-provided emergency contacts and medical information). ATX also assists in the delivery of non-emergency roadside assistance (*e.g.*, flat tire service), and provides a variety of other security, navigation and information services designed to provide consumers a safer driving experience. ATX recently developed a highly sophisticated Interactive Voice Recognition ("IVR") system to allow telematics customers to obtain information services (*e.g.*, directions, weather, traffic alerts, news) using only voice instructions so that a driver's hands stay on the wheel and both eyes stay on the road.

### **III. THE LEGAL AND POLICY ARGUMENTS OF AAA ARE ERRONEOUS.**

AAA incorrectly asserts that the FCC has jurisdiction over telematics based on an over-broad and incorrect reading of the 911 Act. AAA's reliance on ancillary jurisdiction is also misplaced.

#### **A. Telematics, As Provided Today, Has No Place In The Cable Modem Proceeding.**

AAA's attempt to include telematics within the Commission's cable modem service docket is misguided. Unlike the services enumerated in the NOI,<sup>6</sup> telematics is neither a high-speed nor an advanced telecommunication service. Telematics services are

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<sup>6</sup> In addition to cable modem services, the *NOI* contemplates application of similar regulatory treatment to wireline, wireless, satellite, broadcast and unlicensed spectrum technologies. *See NOI* at 2.

currently provided using analog wireless technologies. Although wireless carriers are rapidly deploying digital technologies, analog service will likely remain the predominant medium for telematics for some time, primarily due to the need for broad geographic coverage for safety-related features, such as ACN. Currently, analog voice transmission speeds range up to 9.6 kilobits per second (“kbps”). Digital mobile data speeds, which could perhaps be employed for non-safety-related telematics service features, are not expected to exceed 144 kbps before 2002.<sup>7</sup> Both of these transmission ranges are considerably below the 200 kbps benchmark the FCC has adopted for high-speed services.<sup>8</sup>

**B. The 911 Act Does Not Confer FCC Jurisdiction Or Require FCC Regulation Over Telematics.**

The purpose of the 911 Act is to “encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation’s public safety and other communications needs.”<sup>9</sup> In furtherance of this goal, the 911 Act establishes 911 as the national emergency telephone number, provides protection from liability where wireless service is concerned that is equal to that accorded landline telephone service in the provision of emergency communications,<sup>10</sup> limits the use of customer-related location information by such carriers, and instructs the Commission to encourage the states to lead efforts to upgrade their emergency communications systems, involving a wide range of stakeholder groups.

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<sup>7</sup> See Comments of the Cellular Telecommunications Industry Association, GEN Docket No. 00-185, filed December 1, 2000, at 2, n. 4.

<sup>8</sup> See *NOI* at 10-11, n. 43.

<sup>9</sup> 911 Act at Section 2(b), 47 U.S.C. § 615.

The 911 Act recognizes and encourages the development of carrier and PSAP networks and private sector technologies such as ACN. However, FCC authority to regulate ACN or any other non-telecommunications feature of telematics, or FCC imposition of regulatory requirements on automobile manufacturers, cannot be construed from the 911 Act. The 911 Act does not give the FCC authority to regulate in any way beyond the authority it has pursuant to Title II of the Communications Act. In fact, the 911 Act contains a savings clause stating that “[n]othing in this subsection shall be construed to authorize or require the [FCC] to impose obligations or costs on any person.”<sup>11</sup>

The 911 Act explicitly focused the attention of the Commission, not on regulating automobile companies or service providers like ATX, but on helping the states and other parties improve emergency communications “infrastructure.” The reason is quite simple and critically important. Congress was underlining the importance of 911 centers (and other emergency response and public safety entities) upgrading their facilities and networks so they can receive E911 and sophisticated crash information from ACN systems (which few can today).

The fact that telematics services may enhance driver safety through the provision of ACN also does not bring telematics within the ambit of the 911 Act. Telematics providers are not providers of 911 service, and even if they were, the 911 Act makes clear that jurisdiction over 911 services rests with State and local authorities.<sup>12</sup> In addition, the

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<sup>10</sup> The 911 Act also provides protection from liability with respect to wireless services for users of 911 services (Good Samaritans) and Public Safety Answering Point (PSAP) personnel that is equal to that accorded them with respect to wireline services in each state.

<sup>11</sup> 47 U.S.C. § 251(b).

<sup>12</sup> 911 Act at Section 2(b), 47 U.S.C. § 615 (“The Federal Communications Commission shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable

fact that wireless communications service is a component of telematics service is not enough to subject the telematics industry to Title II regulation.

AAA notes that “delivery of telematics involving vehicle location devices is provided predominantly by OEMs today.”<sup>13</sup> Somehow, AAA overlooks the fact that OEMs are not common carriers over which the FCC has jurisdiction. As has been noted, automobile manufacturers providing telematics package or “bundle” wireless service, which they acquire from a carrier, with non-communications services, such as location-based services (ACN, driving directions, local restaurant listings, weather forecasts, among others), Internet access, and information services (e.g., calendar reminders, news headlines). Wireless carriers are not selecting automobile companies and service providers like ATX to provide telematics.

Even if wireless carriers were to directly enter the telematics market by offering the non-carrier services enumerated above, only the underlying telecommunications service would be subject to Title II requirements, most of which the FCC has forborne from applying. Those other non-communications services are “information” services, defined as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing or making available information *via telecommunications*.”<sup>14</sup> Stated another way, information services convey content *via telecommunications*. The Commission has confirmed that the categories of

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wireless telecommunications networks and enhanced wireless 911 service. In encouraging and supporting that deployment, the Commission shall consult and cooperate with State and local officials responsible for emergency services and public safety, the telecommunications industry (specifically including the cellular and other wireless telecommunications service providers), the motor vehicle manufacturing industry, emergency medical service providers and emergency dispatch providers, transportation officials, special 911 districts, public safety, fire service and law enforcement officials, consumer groups, and hospital emergency and trauma care personnel (including emergency physicians, trauma surgeons, and nurses. . .”).

<sup>13</sup> AAA Reply Comments at 10.

<sup>14</sup> 47 U.S.C. § 153(20).

“telecommunications service” and “information service” are mutually exclusive under the Communications Act of 1996.<sup>15</sup> The FCC further stated that “Congress intended to maintain a regime in which information service providers are not subject to regulations as common carriers merely because they provide their services ‘via telecommunications.’”<sup>16</sup>

Nor can AAA rely on ancillary jurisdiction to persuade the FCC to impose regulation over telematics. The assertion of such jurisdiction must be reasonably ancillary to the effective performance of its responsibilities for the regulation of a subject matter over which it has direct jurisdiction.<sup>17</sup> In the case of telematics, then, the FCC would have to determine that its effective regulation over wireless telecommunications could not be achieved without regulating telematics, and specifically the decisions of automobile companies on their service offerings. AAA’s mere assertion that imposition of open access requirements over telematics would “promot[e] the safety of motorists who rely on telematics, a technology employing radio communications,”<sup>18</sup> is not enough. AAA seems to forget that the FCC’s power over radio carriers where safety is concerned has been limited to requiring that carriers improve their networks to enable reliable location-based information to be transmitted to providers of emergency services. However, other than those requirements on carriers, state and local authorities, not the Commission, control the provision of those safety services.

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<sup>15</sup> *Federal-State Joint Board on Universal Service, Report to Congress*, 13 FCC Rcd. 11,501, 11,507-11,508.

<sup>16</sup> *Id.*

<sup>17</sup> *U.S. v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968).

<sup>18</sup> *AAA Reply Comments* at 27.

**C. Telematics Is Not Analogous To Any Of The Markets Where The FCC Has Taken Action To Protect Consumer Choice.**

With the exception of the underlying carrier facilities element, telematics is neither licensed nor within the ambit of the FCC's authority. Even if it had jurisdiction, the predicate for FCC imposition of an open access requirement would be market power and that is absent from the telematics market. Other than its flawed assertion that customer choice is precluded, AAA has not shown that any provider of telematics has market power or that the FCC has the authority to rectify any such market power. In fact, it is AAA, with its account relationship with 42 million motorists, which could be viewed as having the greatest advantage in marketing its telematics offering to consumers.

AAA cites several instances where it alleges that the Commission took action to safeguard consumer choice among service providers.<sup>19</sup> Even if for some unlikely reason, the FCC were to assert jurisdiction over automotive telematics, the analogies proffered by AAA are inapposite. Each of AAA's examples involved situations where there was market concentration, or an entity or industry segment possessed market power or tied service and equipment to preclude or restrain competitive entry. It is simply wrong to compare the nascent and highly competitive telematics market to the bundling practices the Commission and courts addressed as they sought to introduce competition in the highly concentrated local exchange and long distance telephone industry.<sup>20</sup>

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<sup>19</sup> *AAA Reply Comments* at 15-21.

<sup>20</sup> The FCC's imposition of the analog compatibility requirement for cellular handsets at the beginning of the mobile wireless industry is also not analogous to the current automotive telematics market. In cellular, only two providers per market were licensed initially (one of which was the monopoly incumbent local telephone company) and the Commission found it prudent to assure that all analog handsets could operate on any provider's network. However, as the industry developed rapidly, new technologies became available and new players entered the marketplace, the Commission has chosen not to enforce the old analog standard. Again, in the case of the initial analog cellular licensees, the inherent potential for abuse of established market power in a field where the FCC has clear and direct jurisdiction played a significant role in the FCC's actions.

In addition, those analogies fail with respect to telematics, because as stated above, the FCC has no jurisdiction over the automotive industry or the means by which that industry packages its products. Neither the automotive OEMs nor the service providers like ATX are FCC licensees. The wireless carriers are not bundling telematics products or services. Also, as demonstrated in greater detail below, nothing in the current business model for telematics precludes a consumer from accessing the telematics services of a provider not associated with the offerings provided by the manufacturer of a particular car, via an installed wireless telephone, a handheld telephone, a personal digital assistant (“PDA”) or some other wireless device.<sup>21</sup> Finally, AAA itself acknowledges that the telematics industry is developing rapidly and that new key players, such as wireless service providers, are certain to play a more direct role in telematics as they implement location-based services as part of their E911 requirements.<sup>22</sup>

A good regulatory analogy for telematics is the home security industry. In many respects, telematics can be viewed as the mobile version of home security and monitoring. As with home security, telematics services monitor the subject area (the car) and act upon messages or alerts received from that source. Although, home security

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<sup>21</sup> AAA would have the FCC treat telematics as it treated satellite digital audio radio service (“satellite DARS”). See *AAA Reply Comments* at 20-21. In the case of satellite DARS, the FCC imposed an interoperability requirement on the two licensees authorized to provide the service so that subscribers would be able to access the service and programming of either provider. This requirement was intended to foster competition and decrease the cost of equipment. However in the case of telematics, AAA wants the FCC to go much further than mandating interoperability. AAA would have the FCC assert jurisdiction over non-carriers in order to prohibit bundling of telematics service elements and interfere with the contractual arrangements between automobile manufacturers and their vendors, established through competitive bid solicitation and negotiations, simply because AAA has been unsuccessful in its attempts to win such contracts. The only similarity between satellite DARS and telematics is their use of radio spectrum.

<sup>22</sup> *AAA Reply Comments* at 11-12.

services also use telecommunications services, both wireless and wireline, FCC has chosen not to regulate either the equipment or service components of that industry.<sup>23</sup>

#### **IV. THE CURRENT STATE OF THE TELEMATICS INDUSTRY**

The telematics market has just begun. Less than one million American vehicles currently utilize telematics technologies.<sup>24</sup> This is about one-half of one percent of all the cars and light trucks (which includes sport utility vehicles) on our highways. General Motors' OnStar service currently serves about 800,000 customers. ATX, through its privately labeled services to Mercedes-Benz, Ford, Lincoln, Jaguar and Nissan Infiniti, services over 200,000 motorists. All other OEMs serve less than 25,000 customers. Although the telematics market is small at present, consumer demand and commercial interest in telematics is growing at a remarkable pace.<sup>25</sup> These optimistic predictions for the telematics industry do not contemplate the FCC or other government intervention or regulation in defining telematics services or circumscribing the manner in which they are provided.

##### **A. Telematics Offers Motorists Enhanced Safety**

Emergency medical leaders are particularly hopeful regarding the benefits that broad availability of telematics will provide. With their emergency notification systems, telematics offer an important new source of safety to the public. Automobile crashes remain the leading killer of Americans aged five to twenty-nine and claim roughly 42,000

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<sup>23</sup> The FCC has addressed the provision of home security services by the local exchange carriers, given their market power in the provision of the telecommunications element of home security services. See 47 U.S.C. § 275(a); Implementation of the 1996 Telecommunications Act: Telemessaging, Electronic Publishing, and Alarm Monitoring Services, 12 FCC Rcd. 3824 (1997).

<sup>24</sup> According to Strategis Group, there were nearly one million telematics users at the end of 2000. See Strategis Group News Release dated November 7, 2000, <http://www.strategisgroup.com/press/pubs/2000/tmatics.html>.

lives a year. More lives can be saved on America's roads if emergency response times are reduced and if the appropriate care is dispatched. Telematics systems can immediately provide emergency personnel with the notice, location, and information they need to dispatch the appropriate care as quickly as possible.

### **1. First Generation Automatic Crash Notification/Mayday Systems**

Similar to safety benefits provided by the standard factory installation of seat belts and air bags, telematics-based automatic crash notification (“ACN”)/Mayday systems represent the next generation of in-vehicle safety technology. ACN service automatically notifies a private telematics call center, such as GM OnStar, ATX, Cross Country Group or AAA’s Response Services Center, that a vehicle's air bag or emergency tensioning restraint has been deployed. “Mayday” service signals the call center when the motorist pushes the emergency call button. Upon activation, ACN/Mayday systems immediately open a voice connection between the motorist and the operator in a private ACN/Mayday call center and simultaneously send the center the vehicle’s location and other data. The telematics center operator can then notify the appropriate 911 or emergency dispatchers about the incident, the apparent condition of the passengers, the vehicle description and the exact location of the crash as identified by the GPS antenna attached to the vehicle. The telematics operator can also monitor the situation in the vehicle until help arrives and can immediately notify third parties (e.g., family) whom the vehicle owners want contacted in an emergency.

Immediate access to real-time, location-based information enables responders to react more quickly to an emergency situation. First, emergency responders are

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<sup>25</sup> By 2005, The Strategis Group estimates that 84% of new cars sold will have telematics available as optional or standard equipment and that telematics subscribers will exceed 11 million. *See id.*

automatically notified of a crash, whether or not the victim is able to call for help. Second, they do not bear the burden of inadequate location information. All too often in emergency situations, public safety dispatchers receive wireless calls from victims or Good Samaritans alerting them to an emergency, but the caller often fails to provide accurate vehicle description or location information due to unfamiliarity with the area or distraction caused by the crash's commotion. Third, because of proprietary databases developed and maintained by the telematics service providers, the correct emergency help is notified, thereby eliminating the need (and time) to transfer calls.

The Commission is well aware of these problems. Since 1995 it has mandated wireless carrier provision of automatic location of mobile 911 callers through its rulings in CC Docket No. 94-102. Wireless E911 will provide solutions to the second and third challenges faced by emergency services providers. When it is deployed, however, E911 service will not provide automatic notification of a crash, which obviously can be of critical importance in certain instances.

In-vehicle wireless voice connection to the vehicle's passengers enables telematics operators to begin to gauge the severity of the emergency. Victims, if able to speak, can immediately advise operators about the number of victims and any apparent injuries sustained, giving emergency responders firsthand information about the crash prior to arriving at the scene, thus improving their ability to dispatch suitable resources to administer the appropriate level of care. Today, all providers of OEM factory-installed telematics offer these first generation ACN/Mayday systems.

## **2. The Potential of Second Generation ACN**

Second generation ACN technology shows potential to further enhance emergency response, providing emergency responders with additional data that could indicate the severity of the crash and predict the nature of injuries sustained. In the event of a crash, an installed second generation ACN device could automatically transmit, in real-time, crash data retrieved from vehicle sensors as well as additional information about the driver and vehicle occupants.

Such second generation ACN data may include the principal direction of force, the difference in pre- and post-crash velocity, the number of vehicle occupants, whether seat belts are engaged and whether or not the vehicle rolled over. Coupled with location information and a vehicle description, enhanced, real-time crash data could help emergency responders dispatch the right care, such as Medivac helicopters and advanced life support if the data predict severe injury, or just a squad car and tow truck if not. Second generation ACN data could also let emergency medical technicians and hospital staff anticipate and prepare treatment for a victim, on-site and in the hospital, immediately after a crash. The data emitted by second generation ACN devices gives responders an accurate depiction of the situation they will encounter, further refining their ability to respond and to administer the most appropriate and effective medical care. As PDAs and laptop computers, or telematics-based IVR systems, are increasingly installed in ambulances, the initial crash data can be updated by emergency technicians en-route to the hospital, further honing the medical response and treatment procedure.

ACN is the kind of life-saving innovation many contemplated that E911 systems would make possible. Yet several years after the FCC mandated E911 deployment it has

hardly begun. In sharp contrast, without any government role, the automotive industry has begun to deploy technologies and equipment that enhance driver safety and greatly assist emergency and medical personnel in their critical work.

A central public interest question is how to accomplish the ubiquitous deployment of both first and second generation ACN technology. ATX respectfully suggests that the answer for government, at a minimum, should be to not create investment disincentives by regulating the structure of a market, or of market offerings, of a service that has a penetration of one half of one percent.

**B. The Telematics Industry Is Competitive And Growing Rapidly.**

Many players are involved in the provision of telematics. In addition to the OEMs, *e.g.*, General Motors, Mercedes-Benz, Ford, BMW, Volvo and Infiniti, equipment providers, including Clarion, Motorola, Delphi, Denso, Nokia, Siemens and Visteon, are also playing an important role. Virtually every major wireless carrier has created telematics sales teams. AT&T, Verizon and Sprint have competed for and won contracts with various OEMs to provide wireless connectivity to their cars.

In short, in this nascent market serving less than one-half of one percent of the target market, there are multiple car companies offering different telematics packages that integrate content from multiple vendors, hardware from multiple manufacturers, communications by several wireless companies, and location-based services from several OEM-affiliated or independent service providers like ATX. OEMs are soliciting competitive bids from interested suppliers of telecommunications services (transport), hardware, location, technologies and telematics services. For example, AAA's new Response Services Center will provide AAA with the ability to deliver wireless mobile

emergency assistance and travel information through telematics. On top of those, scores of information and location service companies are working out agreements to provide content to telematics customers through OEMs, through telematics service providers, and independently.

In the very near future, the telematics market will not be limited to OEMs and the equipment and service providers they select. Software, hardware and services businesses, as well as auto parts suppliers, are poised to enter the telematics marketplace directly. For example, AAA is expected to market a portable wireless device to its 42 million members which will provide some telematics services. Similarly, Delphi Automotive Systems, an auto parts supplier, has announced that it is working with Palm and Ericsson on a plug-in system called the Communiport Mobile Productivity Center. This system will combine a wireless telephone and a PDA to give drivers hands-free access to information in Palm V devices.

ATX believes the foregoing is only a small sample of the entities currently involved in or soon to enter the telematics marketplace. Nonetheless, even the firms noted above evince a growing and competitive industry in a still unproven market.

## **V. THE CURRENT TELEMATICS BUSINESS MODEL WILL EVOLVE.**

AAA mistakes partnering and bundling of telematics features for industry consolidation. OEMs, the leading providers of telematics, bundle equipment and location-based safety (ACN), information and navigation features with wireless service to offer value and convenience to their customers. OEMs are committing significant resources to engineer in-car telematics devices to develop a safer driving experience. It cannot be overemphasized that this combination of equipment and service is a crucial

element of an OEM's marketing strategy. In the fiercely competitive automobile marketplace, the OEMs believe that they must have control of the telematics hardware and the basic telematics service provided.<sup>26</sup> Others may choose differently, but the automotive OEMs seek to sell service and information, not a piece of equipment. The FCC must not take lightly a request that it bifurcate the elements of an automobile OEM's new product offering.

The current business models in today's telematics market include a vertically integrated model and one that is based on the use of suppliers chosen by competition. Of course, even a vertically integrated telematics model does not preclude consumer choice. These arrangements with suppliers will not preclude the driver or passenger in such a telematics-equipped car from accessing another telematics or location-based services provider. Another TSP (or ISP) can be reached via laptop computer, personal digital assistant or handheld wireless phone. But these will not be the only approaches employed. In fact, AAA and at least two OEMs are planning to offer a portable, after-market wireless device with location capability for exactly this purpose.

AAA's own efforts, as well as the interest of wireless carriers, PDA suppliers and others, illustrate that the OEMs' bundled offerings do not preclude customer choice. After-market, retrofit devices are being developed. Equipment and service could also be offered independently. At this juncture, with the telematics market so new and undeveloped, ATX believes market forces should be allowed to determine the business models that will best deploy this important safety equipment in all American cars.

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<sup>26</sup> An additional reason for some degree of exclusivity in these arrangements is potential liability, related to the provision of ACN, in addition to the need for incentives to deploy the ACN equipment in the first place.

AAA also ignores the automotive industry's efforts to broaden entry and competition through work with standards-making bodies and other activities.<sup>27</sup> The array of potential outcomes given the wide range of possible features and data available from or to a car should clearly support letting the market develop on its own. It is impossible to say that this point what the best after-market system will be.

The telematics industry leaders have also demonstrated willingness to work closely and effectively with public and private leaders to develop solutions to public policy issues. ATX, OnStar and AAA were the leading telematics participants in the highly successful National Mayday Readiness Initiative (NMRI) co-sponsored last year by the ComCARE Alliance and US Department of Transportation.<sup>28</sup> NMRI is an excellent model for developing flexible rules to govern this rapidly developing new industry in a cooperative, public/private context.

Given the youth of the telematics industry, the very small number of customers today, and the good faith efforts of the industry and non-industry participants to resolve policy questions, there is clearly no need for Commission action or even concern. Moreover, considering the pace of market entry and the lack of evidence of market power, or market failure, the Commission has no basis to assert itself in this field.

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<sup>27</sup> In late 1998, a subset of automobile manufacturers formed the Automotive Multimedia Interface Collaboration ("AMI-C") to facilitate the development, promotion and standardization of electronic gateways to connect automotive multimedia, telematics and other electronic devices to motor vehicles. AMI-C quickly grew to include manufacturers representing 97% of passenger and light truck vehicles worldwide. Soon thereafter, the automotive and consumer electronics industries began to collaborate in addressing these issues. These joint efforts led to the establishment of the Intelligent Transportation System Data Bus ("IDB") Forum in 1999. The IDB Forum, with over 75 members worldwide, continues working to develop open interoperability through architecture specifications that will offer consumers a stable environment for adding new devices without disrupting vehicle integrity. All specifications that are developed are available without license to all users and will be forwarded to various standards developing standards for their use in drafting international standards.

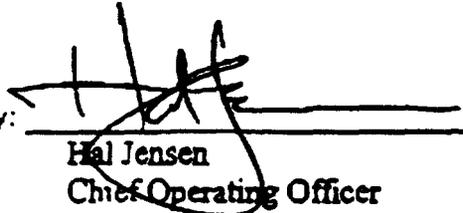
<sup>28</sup> For a discussion of the process and detailed recommendations of the National Mayday Readiness Initiative, see [www.Nmri.net](http://www.Nmri.net). During this lengthy public policy process AAA did not raise the concerns detailed in its filing with the Commission.

**VI. CONCLUSION**

For the reasons discussed above, imposition of an open access requirement on telematics would be inconsistent with law and FCC policy and would harm consumers by chilling the development and deployment of life-saving telematics features, such as ACN. Even if the FCC had jurisdiction, its consistent policies and precedents would not justify action in this case. For these reasons, ATX urges the Commission to deny AAA's request for inclusion of telematics in the cable modem proceeding and to reject AAA's call for regulation of the automobile industry's telematics services.

Respectfully submitted,

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