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

In the Matter of	)	
	)	
CTIA Petition for Rulemaking	)	WT Docket No. 01-72
	)	
Establishing Fair Location Information Practices	)	
	)	
	)	

Comments of the Rural Telecommunications Group

The Rural Telecommunications Group ("RTG'),[1] by its attorneys, hereby urges the Federal Communications Commission ("FCC" or "Commission") to implement the wireless consumer location protection principle proposed by the Cellular Telecommunications and Internet Association ("CTIA").

I. INTRODUCTION

RTG agrees with CTIA that the Commission should commence a stand-alone rulemaking proceeding to implement Sections 222(f) and (h) of the Communications Act of 1934, as amended ("the Act"). RTG believes that the ability to use the real time location of wireless consumers to create new commercial services will prove to be a boon to mobile commerce and other wireless services. However, the ability of these customers to control access to and use of their actual location is essential. While these services have incredible potential, the potential for

[1] The Rural Telecommunications Group is a group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG's members provide wireless telecommunications services, such as cellular telephone service, Personal Communications Services ("PCS"), and Multichannel Multipoint Distribution Service ("MMDS") to their subscribers. Many of RTG's members also hold Local Multipoint Distribution Service ("LMDS") licenses and have started to use LMDS to introduce advanced telecommunications services and competition in the local exchange and video distribution markets in rural areas. Other RTG members seek to acquire spectrum or to be able to utilize the spectrum of others. They have found it difficult to acquire spectrum through auctions or to structure management or lease arrangements due to FCC rules, policies and case precedent. RTG's members are all affiliated with rural telephone companies.

abuse is just as great. The privacy issues raised by CTIA are similar for consumers in both rural and urban areas and RTG believes this matter calls for a national solution.

RTG urges the Commission to accept CTIA's Petition and adopt a rule that incorporates a customer consent rule for transactional, one-time transactions and services, as well as generic access to the customer's location information. Whatever the means used, carriers must provide clear notice of their privacy policies and procedures and ensure that customers are given the opportunity to provide knowing consent before divulging location information. RTG agrees that by adopting clear information privacy principles, carriers can protect a consumer's location information while they develop and implement new location-based services and applications.

Congress amended the Communications Act in 1999 by adopting amendments to Section 222.[2] Revised Section 222 incorporates customer location information within the definition of customer proprietary network information ("CPNI"). With this amendment, carriers and others may not use or disclose a customer's call location information or automatic crash notification information without the express prior authorization of the customer.

Wireless location-based services allow mobile consumers to receive messages based on their geographic location, position or known presence. This advanced technology has great commercial benefits. Congress clearly intended for the FCC to consider both the safety and privacy concerns of customers in allowing access to this specialized type of CPNI. Apart from these obvious public interest concerns, a properly structured notice and consent regime will promote consumer's confidence in location-based services and increase their willingness to use these products.

II. DISCUSSION

CTIA has set out four location privacy principles that it believes a carrier should implement in order to ensure safe and secure location-based services. These are carrier notice, customer consent, security and integrity of the collected information, and technology neutral applicability. RTG comments briefly on these principles.

[2] Wireless Communications and Public Safety Act of 1999, Oct. 26, 1999, P.L. 106-81, § 2, 113 Stat. 1286.

A. Notice

RTG agrees with CTIA that location service providers must give the customer fair, obvious notice regarding the location information that is collected and how the collection process is done. This notice must occur before any disclosure or use of location information takes place. CTIA suggests several ways a service provider could inform its customers about their location information practices. RTG does not have a preference regarding which method or practice a carrier uses to inform its customers. RTG believes the FCC should adopt a flexible approach, allowing carriers to choose any method so long as that method effectively and fairly informs a customer.

B. Consent

Under Section 222 of the Act, carriers are obligated to obtain express authorization from a customer prior to any information collection.[3] The Act does not define "express authorization;" therefore carriers can presumably obtain authorization from a consumer in written, oral, or electronic form. Again, RTG is not concerned with the exact form of the customer's authorization. It is concerned, however, with the nature of the consent. RTG strongly believes that consumers must give knowing, informed, and overt consent prior to relinquishing their location anonymity. The ability of carriers and affiliated information and service providers to know of, record and market the real-time location of a consumer requires the clearest form of consent before this essential privacy right is forfeited.

A consumer should give its express consent prior to using a particular location-based service. This "transactional" consent should not substitute for a customer's generic consent for the same service provider or other providers to use the location of that consumer. Therefore, a carrier should obtain both generic consent and transactional consent, providing a consumer with more control over who has access to its location information.

[3] Sections 222(f) and (h) establish limited exceptions to the "prior authorization" requirement by permitting use of CPNI to initiate, render, bill, and collect for telecommunications services; to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service. WCPSA also added a location information specific exception to permit disclosure for emergency situations.

While it may be that combining generic consent with transactional consent will cause consumers to more readily waive their location privacy rights, RTG believes that consumers should not be forced to make this choice in order to enjoy access to the next generation of mobile products and services.

C. Security & Integrity

RTG agrees with CTIA that location service providers should maintain the security and integrity of their consumers' location information. The FCC should require carriers to establish a high standard of care in preventing unauthorized access and disclosures to third parties for obvious safety and security reasons. Unauthorized access and use of traditional CPNI can cause annoyance and property loss. Real time access to an individual's location not only impinges on a fundamental privacy right, but can threaten that individual's safety as well.

D. Technology Neutral Principles

Many different technologies have been (or will be) developed to determine a consumer's location information. RTG supports CTIA's view that location protection principles should be technology neutral. Privacy protection should not be limited or ignored based upon the methodology, radio frequency, CPE or access regime employed by a carrier.

III. CONCLUSION

RTG supports CTIA's request for the FCC to initiate a rulemaking regarding location information privacy principles. While there are numerous benefits of location-based information services, RTG believes that consumers' privacy and security, and their express consent in revealing their location, should be the FCC's greatest concern. The Commission, therefore, should adopt privacy policies that incorporate both generic and transactional consent requirements along with a carrier's clear notice of location use policies and procedures.

These common sense principles will guarantee the protection of a consumer's legitimate expectation of location privacy while promoting the use of revolutionary location-based services and applications.

Respectfully submitted,

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April 6, 2001

CERTIFICATE OF SERVICE

I, Fatmata B. Deen, an employee with the Law Firm of Bennet & Bennet, PLLC hereby certify that copies of the foregoing "Comments of the Rural Telecommunications Group" have been sent to the recipients listed below on April 6, 2001.

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