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April 24, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 -12th Street, S.W.
Washington, D.C. 20054

**RE: Reply Comments of the Wireless Location Industry Association
WT Docket No. 01-72**

Dear Ms. Salas:

Pursuant to §1.419(b) of the Commission's rules, enclosed please find an original and eleven copies of the Reply Comments of the Wireless Location Industry Association in the above-referenced docket. Ten copies are for distribution to the Commissioner's offices, the bureau, the information office, and your own office as provided in the rules. Please stamp as received and return the eleventh copy via the courier service provided.

Sincerely,

A handwritten signature in black ink, appearing to read 'John W. Jimison', is written over the typed name.

John W. Jimison, Esq.
Executive Director and General Counsel
Wireless Location Industry Association

cc: The Honorable Michael K. Powell, Chairman
The Honorable Harold Furchtgott-Roth, Commissioner
The Honorable Susan Ness, Commissioner
The Honorable Gloria Tristani, Commissioner

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

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

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

**REPLY COMMENTS OF THE
WIRELESS LOCATION INDUSTRY ASSOCIATION**

Pursuant to the Public Notice issued by the Wireless Telecommunications Bureau on March 16, 2001, the Wireless Location Industry Association (“WLIA”) hereby provides its reply comments on the Petition of the Cellular Telecommunications & Internet Association (“CTIA”) for a Rulemaking to Establish Fair Location Information Practices.

WLIA replies to initial comments relating to: (1) the need for the proposed rulemaking, (2) the scope of appropriate regulation, and (3) preemption of state privacy laws.

Are FCC-Adopted Privacy Rules Required?

WLIA filed initial comments supporting the CTIA’s proposal that the FCC adopt general rules setting forth privacy principles the regulated carriers would uphold. WLIA’s intent, as is spelled out in our initial comments, is to adopt parallel privacy standards as an association to apply to association members, enforced through a certification, consumer redress, and self-regulation process. WLIA’s draft standards were attached to the initial comments. In other parties’ initial comments, a number of major carriers and participants in the wireless industry

asserted that FCC-adopted rules were unnecessary, because they too would be motivated to self-regulate and maintain high privacy standards without the mandate of their regulatory agency.

In light of these comments, WLIA wishes to clarify that its position is not that there should be privacy regulations adopted by the Commission for application to regulated carriers because there would otherwise be abuses of customer privacy. Quite to the contrary, WLIA assumes that the carriers would be as strongly motivated as WLIA's own members to protect consumer privacy to assure the confidence that is required to allow the commercial development of location-based services. WLIA's support for the CTIA petition was intended to support the embodiment of that intent to protect privacy in whatever form the industry found most helpful and most likely to develop that confidence among the general public. For a regulated industry, it may be that the general public would expect and be most confident with standards adopted and, if necessary, enforced by the regulatory agency. On the other hand, there is no reason for the public to distrust the motivations of the regulated carriers with regard to privacy of their individual data, including location data, and certainly no reason to adopt superfluous regulations. Thus WLIA's support should be interpreted as support for the effective embodiment of privacy standards relating to location into the business practices of the regulated industry, not for regulations *per se*. WLIA would be fully comfortable with a decision by the Commission that self-regulation would work among its regulated companies, as it hopes that the Commission like the public will be comfortable with the premise that self-regulation will work among non-regulated participants in this industry, including WLIA's current members.

Regulatory Scope Should Not Be Expanded

This leads to the second point. Among the initial comments, there were two that appeared to call for the adoption of privacy standards through regulations to apply not merely to the companies currently subject to the Commission's regulations, but also to call for the extension of those regulations beyond currently regulated carriers to cover an undefined group of companies active in location technologies or services. WLIA opposes any such extension of FCC regulation as unnecessary, burdensome, and contrary to the public interest in allowing new technological benefits to be realized. In the event that WLIA's and other efforts at self-regulation break down, and there are manifold abuses of privacy based on location services – a highly unlikely event in WLIA's view – then the question of the need for government regulation by the Commission, the FTC, or another body could be posed to the Congress, which would in any event be required to provide for such an extension of regulatory oversight. To preemptively seek to impose expanded regulation whole classes of companies of various descriptions because they are involved in technical activities that could conceivably threaten privacy in this field would be an enormous mistake, and a severe overreaching of the Commission's current authority.

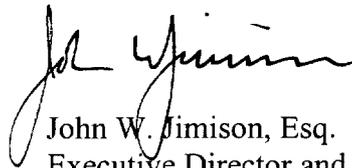
Make no mistake: in WLIA's view, any abuses of privacy from these technology are highly unlikely because that is so strongly against the best business interests and customer relations interests of the companies involved. WLIA's members can readily support meaningful privacy standards because none of their business models would have any intent of breaching such standards. However, because some consumers and advocacy groups are concerned about the potential for such abuses, it is well worth adopting standards and possibly regulations to deter

and preclude what is unlikely to occur anyway in order to create public confidence and receptiveness to the new services. To impose heavy-handed controls on the technologies or the companies seeking to develop them could potentially prevent real benefits from getting to the public in the name of preventing abuses that are at best hypothetical.

Federal Policy Should Preempt Potentially Inconsistent State Policies

Finally, WLIA supports those commenters who indicated that the Commission should preempt state privacy laws applying to wireless location privacy with its own national standards. There is no reason an increasingly national and international industry should have to try to deal with a proliferation of differing requirements in each state, and it would not be feasible to do so. Any state with a particular interest has the opportunity to bring that interest before the Commission. If it is compelling, the Commission may adopt it nationally. Perhaps the single best reason for the adoption of general privacy standards by the Commission would be to preempt the adoption of fifty different privacy standards at the state level.

Respectfully submitted,



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