

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

APR 24 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
CTIA Petition for Rulemaking )  
to Establish Fair Location )  
Information Practices )

WT Docket No. 01-72 /

REPLY COMMENTS OF NENA

The National Emergency Number Association ("NENA") hereby replies to the comments of others in the captioned proceeding.<sup>1</sup> Time for reply was extended to April 24th by Public Notice of April 5, 2001, DA 01-887.

We agree that a rulemaking is needed, not just for the privacy purposes cited by CTIA but also to clarify and elaborate upon the permissive and mandatory disclosure of information generated by emergency calls and required for emergency response.<sup>2</sup>

CTIA's petition did not discuss at any length the exceptions allowing or compelling disclosure of Customer Proprietary Network Information ("CPNI") for legitimate purposes of

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<sup>1</sup> In our reading, CTIA has asked for the opening of a rulemaking, and most of CTIA's supporters expect that the Commission, if it grants the request, will call for comment ranging beyond the somewhat cursory privacy principles contained in the CTIA document. The Wireless Telecommunications Bureau staff, however, has assigned the CTIA request a docket number rather than an RM designation, as if the CTIA principles defined the scope of an already-launched rulemaking. For reasons described below, NENA believes that comment must be formally solicited about the line between commercial expectations of privacy and the contrasting "implied consent" to disclosure which is the norm for 9-1-1 communications.

<sup>2</sup> NENA had earlier expressed disappointment with the Commission's decision to defer consideration of these issues. Comments, October 16, 2000, Dockets CC 92-105 and WT 00-110, 2.

emergency calling and response.<sup>3</sup> Several commenters, however, have raised potential conflicts between location disclosure and individual privacy in the 9-1-1 context. These views deserve a response.

In a brief message, the Arizona Coalition Against Domestic Violence, having in mind chiefly the plight of battered women and children, said: “If you don’t provide location protection, it could literally mean their death.” Respectfully, NENA submits that this cannot be the complete answer to a complex problem. If emergency responders are unable to locate a caller in danger, they cannot help her.

We trust the Arizona Coalition is aware that permission to disclose location in the amended Section 222 is restricted by subsections (d)(4)(A) and (C) to the singular purpose of emergency response. A caller concerned about (d)(4)(B), allowing location information to be passed to “members of the user’s immediate family,” could warn a PSAP call taker not to make such a disclosure. Personal information fields in 9-1-1 data bases are capable of expansion to include a pre-set warning of this kind, even if the caller is unable to deliver it. In the end, location disclosure is permissive, not mandatory, and can be tailored to individual circumstances.

We join in the concern expressed by the Texas 9-1-1 Agencies that some wireless carriers, operating under Phase I, have refused to go beyond the release of a 9-1-1 caller’s callback number and the location of the cell site or face initially receiving the call. That is too cramped a reading of the exceptions in Section 222. We note first that Section 222(d) opens:

Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to [CPNI] obtained from its customers, either directly or indirectly through its agents . . .

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<sup>3</sup> Petition, 6, at notes 11, 12, referring to the amendments to Section 222 of the Communications Act contained in the Wireless Communications and Public Safety Act of 1999 (“WCPSA”).

The subsection continues with the previously referenced subsections 4(A), (B) and (C) permitting disclosure of “call location information.”

While the term, call location information, is not defined in the WCPSA, we believe it should be considered in light of the separate provision at new Section 222(g) compelling disclosure of “listed and unlisted information for emergency services.” We look forward to hearing from the wireless carriers, and learning of the FCC’s tentative views, on why disclosure of CPNI in cases of emergency should not be ample enough – including, for example, home address – to meet all the legitimate contingencies of response or rescue.<sup>4</sup>

NENA is unsure of Qualcomm’s intent with respect to the location feature of its gpsOne phones. First, we are told the device “remains in a dormant or ‘OFF’ mode until a customer either dials 9-1-1 or otherwise manually and intentionally activates a position location feature or application.” From this we infer that the dialing of 9-1-1 automatically switches to “ON” the location-determining feature. Next, however, Qualcomm explains:

[T]hat [location information] feature allows that subscriber to decide when and where to initiate or terminate the transmission of his or her mobile location.<sup>5</sup>

This makes it appear that a 9-1-1 caller could switch off the feature while continuing the call. If the dialing of 9-1-1 activates location determination in the phone, that feature should remain active for the duration of the call.

As explained in our reaction to the Arizona Coalition above, public safety communicators would much prefer to know a 9-1-1 caller’s location and to be trusted not to disclose the information to others having no need to know.

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<sup>4</sup> NENA recognizes, of course, that a liberal definition of 9-1-1-related disclosure would put a heavy premium on protecting that information from misuse for unrelated purposes.

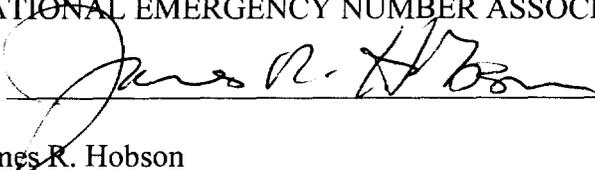
<sup>5</sup> Initial Comments of the Location Privacy Association, 5.

For the reasons discussed, NENA supports the opening of a rulemaking not only to explore the boundaries of commercial privacy but also to distinguish clearly the law's allowance for disclosure of CPNI in emergency calling and response.

Respectfully submitted,

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