

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

In the Matter of)	
)	
Revision of the Commission’s Rules)	CC Docket No. 94-102
To Ensure Compatibility with Enhanced)	RM-8143
911 Emergency Calling Systems)	

REPLY COMMENTS OF VERIZON WIRELESS

Verizon Wireless submits these reply comments in response to the Commission’s *Further Notice of Proposed Rulemaking* in the above captioned proceeding¹ seeking comment on the development of call back capability for “non-service initialized handsets.” Verizon Wireless opposes any additional regulation of CMRS carriers premised on the technical solutions presented in the *Further Notice*. These ideas have been considered, but rejected by technical groups and standards bodies as unduly complex and unfeasible, or rely upon unproven patents.

The fact remains that there is no generally available, cost effective, viable technical solution to the call back issue for phones that do not have wireless service. The most effective way today of ensuring that all 911 calls can receive a call back is to return to requiring call completion for subscribers only, thereby allowing the normal process of call validation and registration to proceed. Verizon Wireless urges the Commission to either take no action that would require new technical and other requirements for

¹ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Further Notice of Proposed Rulemaking*, FCC 01-175 (rel. May 25, 2001) (“*Further Notice*”).

unsubscribed phones, or to remove the requirement that CMRS carriers complete calls to unsubscribed phones.

BACKGROUND

The *Further Notice* defines “non-service initialized handsets” as phones that are not registered for service with any CMRS carrier.² The *Further Notice* also describes the two major categories of wireless phones that fit this definition: (1) phones that previously had service with a wireless carrier, but service has been discontinued; and (2) newly manufactured 911-only phones that can only make 911 calls and are incapable of receiving incoming calls.³

When the Commission broadened the availability of emergency services by requiring CMRS carriers to forward all 911 calls from all handsets, it stated, “We continue to believe that the public safety will be promoted more effectively if all potential calls are passed through to the PSAP regardless of whether they are made by subscribers.”⁴ To accomplish this, however, wireless networks must complete 911 calls from unsubscribed phones by bypassing the normal call registration, validation, and authentication processes that usually serve to weed out fraudulent use of wireless networks, allow proper call routing, and enable call back. These processes utilize the Mobile Identification Number (“MIN”) and electronic serial number (“ESN”) of the handset to verify that the particular MIN/ESN pair matches information stored in the

² *Further Notice* at ¶ 1, fn 1.

³ *Id.* at ¶ 3.

⁴ *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Memorandum Opinion and Order*, 12 FCC Rcd 22665, ¶ 34 (1997) (“*MO&O*”).

carrier's network for a subscriber. While bypassing these features allows 911 calls from unsubscribed phones to proceed, it disables the very features that enable call back, which the Commission has recognized.⁵

The Commission has reopened this proceeding to examine possible technological enhancements that will allow 911 calls from unsubscribed phones to be called back by PSAPs in emergency situations.

I. ADOPTION OF ADDITIONAL E911 REGULATIONS FOR UNSUBSCRIBED PHONES MUST BE SUPPORTED BY AVAILABILITY OF A PROVEN TECHNICAL SOLUTION

The difficult technical obstacles to providing call back capability for unsubscribed wireless handsets still exist. The state of technological development does not support new regulatory requirements. Verizon Wireless urges the Commission to decline to impose additional regulation in this area unless and until a proven, cost-effective technical solution is available that will not have a detrimental effect on wireless networks. The various technical proposals placed on the record of this proceeding are discussed below.

1. Verizon Wireless Does Not Have a Proven, Technical Solution

The Wireless Consumers Alliance, Inc. ("WCA") asserts that the Zicker patent provides a "tried, tested and effective call back method."⁶ This is inaccurate because the Zicker patent represents an untested and unproven idea. The comments of the WCA

⁵ See *MO&O* at 22680-81, ¶¶ 28 & 30.

⁶ See Comments by the Wireless Consumer Alliance, Inc., CC Docket 94-102, filed July 8, 2001 at 2-3 ("WCA Comments").

leave the impression that the problems and obstacles associated with call back capability for unsubscribed handsets are solved and that Verizon has a tried, true, and tested, albeit patented “solution” that the Commission should readily adopt.⁷ The patented “idea” referenced by the WCA was developed by Robert G. Zicker for GTE Mobilnet Service Corporation. However, to Verizon Wireless’ knowledge, the Zicker patent idea has not been tested and is far from being the technically proven and workable solution described by the WCA. Moreover, the use of this idea would not resolve many of the issues presented in this proceeding.

First, it would not be appropriate for the Commission to mandate the use of a patented technology as the basis for a far-reaching regulatory requirement. The Commission appropriately avoids regulation that rewards patented technology, but prefers to promote interoperability among carriers with varying over-the-air interfaces and technological platforms by encouraging the development of open standards. The importance of the gate-keeping function of open industry standards can not be overstated because it ensures interoperability and wide availability of technical solutions that all manufacturers can build upon.

Additionally, the Zicker idea was designed for A side and B side cellular systems. The language of the patent expressly refers to cellular systems. Applicability to PCS systems is uncertain. Nor does the patent account for the impact of the MIN/MDN separation, which is required for wireless number pooling. In short, this patented idea has remained just that -- a patented idea.

⁷ See WCA Comments at 2-3.

2. TLDNs, Pseudo MINs, and Roamer Ports Do Not Provide Feasible Methods for Achieving Call Back Capability

Many commentors have informed the Commission of the technical unfeasibility of using TLDNs, psuedo MINs, or roamer ports to temporarily assign a dialable number to unsubscribed phones for call back purposes.⁸ Recognized technical TIA bodies have reviewed and rejected using TLDNs and roamer ports. Specifically, TIA TR-45.2 considered and rejected using TLDNs because this solution is complex, incomplete, and has several deficiencies.⁹

TIA TR-45.2 considered and rejected the use of roamer ports because of a number of problems with that solution as well. According to Cellular Networking Perspectives Ltd., the PSAP community favored dismissal of this potential solution because they would have had to maintain a database of roamer port phone numbers based on the identity of the wireless system sending the emergency call. Placing a call back to phones that have churned to another provider's system would not be possible using this technology.¹⁰ Even the PSAPs have recognized that the cost, complexity, and limited utility of some solutions should be a bar to implementation. In addition to the inherent technical problems of using TLDNs and psuedo MINs, their use directly conflicts with the Commission's efforts to conserve and promote efficient use of scarce numbering resources.

⁸ See Comments by Cellular Networking Perspectives Ltd. at 5; CTIA at 4-7; Sprint PCS at 11-13; Cingular Wireless at 3-7.

⁹ See Comments by Cellular Networking Perspectives Ltd. at 5 (citing deficiencies, among others, such as: (1) call back is not possible outside the phone's coverage area for the area in which the call was made; (2) call back to the wrong mobile is possible after the TLDN is reassigned; and (3) call back is not possible to phones without unique MINs.

¹⁰ See Cellular Networking Perspectives Ltd. at 5.

The comments by Cellular Networking Perspectives Ltd. further explain how other decisions by the FCC and the Public Safety community may impede a technical solution for unsubscribed wireless phones. Apart from the number conservation concern, other examples of decisions which have increased the complexity and difficulty of developing call back capability for unsubscribed phones include: (1) the Commission's rules require pooling and local number portability, which require separation of the MIN from the MDN and (2) the PSAPs' preference to receive an Emergency Services Routing Key ("ESRK") instead of Emergency Service Routing Digits ("ESRD") for Phase I E911 location capability.¹¹ The fact remains that there is no proven technically feasible and generally available solution for call back capability for unsubscribed handsets.

3. Wireless Carriers Are Already Voluntarily Addressing The Lack of A Technical Solution For Unsubscribed Phones

Understanding the technical limitations associated with the use of unsubscribed phones, the wireless industry has sought ways to mitigate this problem by volunteering to initialize the handsets that they donate. The program run by CTIA's Wireless Foundation, for example, requires that donated phones are service initialized and allow call back. Many donation programs administered nationally require that donated handsets are activated with a unique dialable telephone number and have the capability of being called back by the PSAP.¹² The Commission must not give short-shrift to current efforts by the wireless industry to donate reliable emergency communication devices to those in need, but who may not be subscribers of any service.

¹¹ *Id.* at 6-7.

¹² *See, e.g.*, CTIA Comments, Docket No. 94-102, filed June 19, 2000, at 9.

In other contexts individual carriers may limit the use of donated initialized phones to avoid wholesale use by non-subscribers who do not pay for the service.¹³ One commentor, Mid-Missouri Cellular, pre-programs each donated phone with several commonly used emergency service numbers for a particular area and then blocks all incoming calls.¹⁴ Presently, Verizon Wireless donates initialized phones that are preprogrammed to dial at least one non-emergency number and one emergency number. Verizon Wireless places some restrictions on outgoing calls from donated phones, but provides many donated phones which do allow incoming calls, in order to facilitate call back from emergency services. CMRS carriers are finding other ways to deal with technology limitations and do not require additional regulations to do so.

II. THE FCC MUST CONSIDER THE COSTS AND BENEFITS OF ANY ADDITIONAL REGULATORY REQUIREMENTS FOR UNSUBSCRIBED PHONES

As an initial matter, the Commission should define the scope of the problem requiring a remedy. As indicated above, the universe of non-service initialized phones to be addressed is likely narrower than first perceived because many carrier-donated phones are service initialized, and some do allow call back. The population of phones that may always defy solution are those phones without wireless service, the so called "unsubscribed, non-service initialized legacy phones" that are recycled among friends and relatives by individuals or sold/traded at flea markets or distributed by organizations. These are passed along to others simply because the Commission's rule requires CMRS carrier to complete all E911 calls from all phones. With respect to these unsubscribed,

¹³ Phones are either initialized with a MIN and ESN or they are not. There is no such thing as a "phone that is initialized on a limited basis." Instead, initialized phones may be limited in their use by

non-service initialized phones, neither wireless carriers nor the Commission have any control over their use or dissemination. In fact, the Commission's rule encourages continued use of these phones, since it is the only remaining possible use once the service subscription with a carrier is terminated. The actual incidence or percentage of calls from these phones, for which call back capability was necessary to render emergency services, should be established. The Commission must avoid an arbitrary and capricious decision by first establishing a demonstrable need sufficient to support any proposed solution.¹⁵

The corollary to such analysis is a determination that the benefit, given the scope of the problem, is aligned with the costs. The present record does not justify additional regulatory requirements mandating costly solutions that have already been vetted and rejected by technical committees as unfeasible and/or complex. Currently, there is only one known way of ensuring that 100 percent of callers to enhanced emergency services are capable of receiving a call back: revoke the requirement that CMRS carriers complete calls from non-subscribers altogether. One commentator, Intrado, supports elimination of the use of unsubscribed handsets because public safety is not furthered by the proliferation of these phones. Specifically, the use of these phones burdens the E911 network, promotes fraudulent use and leads users to falsely believe that emergency help is available to the same extent it is for other mobile users.¹⁶ Verizon Wireless agrees that the problem of unsubscribed wireless phones is intractable because no technically proven solution is available to the industry. All indications are that overcoming the technical

preprogramming and/or blocking calls.

¹⁴ Mid-Missouri Cellular Comments at 2-3.

¹⁵ See Comments of CTIA at 8 (citing *Home Box Office, Inc. v. F.C.C.*, 567 F.2d 9 (D.C. Cir. 1977)).

difficulties will be both costly and complex, even though doing so has not been justified with evidence of a demonstrable need for this service. Moreover, this problem actually results from the Commission's earlier regulation. One obvious fix is to simply remove the requirement that CMRS carriers complete 911 calls to unsubscribed wireless phones.

CONCLUSION

For the reasons provided above, additional regulation of wireless carriers predicated on unproven, complex or costly technical solutions is not justified and therefore the Commission should take no action that would add new technical and other requirements for unsubscribed phones. Alternatively, the Commission should remove the requirement that CMRS carriers complete calls to 911 from unsubscribed wireless handsets.

Respectfully submitted,

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¹⁶ Intrado comments at 1-2.