

September 12, 2002

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Ex Parte Presentation*
In the Matter of Revision of the Commission's Rules to Ensure
Compatibility with Enhanced 911 Emergency Calling Systems – Petition
of City of Richardson, Texas
CC Docket No. 94-102

Dear Ms. Dortch:

The Cellular Telecommunications & Internet Association (“CTIA”) hereby writes to express its strong support for the clarifications to Section 20.18(j) of the Commission’s Rules¹ recommended in the August 19, 2002 letter from Verizon Wireless to the Commission (“Verizon Letter”).² CTIA believes that these clarifications will eliminate the current threat of enforcement actions against CMRS carriers who cannot complete E-911 Phase II deployment due to events beyond their control, while still preserving express targets for Phase II deployment.

Section 20.18(j), as modified in the *Richardson Order*,³ currently provides that a Public Safety Answering Point (“PSAP”) Phase II service request is valid if the PSAP “can demonstrate that it has ordered the necessary equipment and has commitments from suppliers to have it installed and operational within the six-month period . . . and can demonstrate that it has made a timely request to the appropriate LEC for the necessary trunking and facilities.”⁴ Section 20.18(j) also provides that, in the alternative, a PSAP will be deemed Phase II capable if it is “Phase I-capable using a NCAS methodology, and if it can demonstrate that it has made a timely request to the appropriate LEC for the ALI database upgrade necessary to receive the Phase II information.”⁵

¹ 47 C.F.R. § 20.18(j).

² See Letter from John T. Scott, III, Vice President and Deputy General Counsel, Verizon Wireless to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Aug. 19, 2002).

³ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems – Petition of the City of Richardson, Texas, Order*, 16 FCC Rcd 18982 (2001), *recon. pending* (hereinafter “Richardson Order”).

⁴ 47 C.F.R. § 20.18(j).

⁵ *Id.*



In setting out these factors, the Commission clearly expected that a PSAP making a Phase II request would, in fact, be Phase II capable at the end of the six-month period following such a request. Based on this assumption, the Commission also set strict deadlines for carriers to comply with Phase II requests within six months.⁶ As Verizon's experience shows, however, a PSAP request often does not result in actual PSAP readiness at the end of the six-month period for two reasons.

First, with regard to PSAP readiness, Section 20.18(j) only requires that PSAPs receive "commitments from suppliers" that the necessary Phase II equipment be installed and operational within six months of a request. As detailed in the Verizon letter and other submission to the Commission, however, "supplier commitments" often do not lead to actual completion at the end of the six-month request period due to a variety of problems, including suppliers' failure to deliver proper or adequate facilities.⁷

Second, the problem of PSAP readiness is often also compounded by the inability or unwillingness of the LEC to either provide necessary facilities or ALI database upgrades during the six-month period after a Phase II request is made. For example, certain LECs have refused to make certain services required for Phase II functionality in the absence of a tariff addressing such services.⁸ At the same time, however, these same LECs often make no effort to file such tariffs in an expeditious manner, placing CMRS carriers in a "Catch-22" situation where it is impossible to test Phase II equipment, or provide Phase II information to PSAPs at the end of the six-month deadline.

Unfortunately, while both PSAP, LEC and vendor readiness problems are completely beyond the control of a CMRS carrier, neither Section 20.18(j), nor any of the Commission's orders stating that carriers will be "deemed noncompliant" if they do not provide Phase II service by the deadline, provide any exception for PSAP, LEC or supplier actions that prevent a CMRS carrier from offering Phase II service by an applicable deadline.⁹ Accordingly, Section 20.18(j) places a number of CMRS carriers at risk of violating the Commission's E-911 Phase II implementation mandates, and

⁶ See, e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Waiver by Verizon Wireless, Order*, 16 FCC Rcd 18364, 18369 (2001) (hereinafter "Verizon Order") (imposing December 31, 2002, deadline for all valid PSAP requests received on or before June 30, 2002, except in markets served by Motorola switches); *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers, Order to Stay*, CC Docket No. 94-102, FCC 02-210, (rel. July 26, 2002) (setting deadlines for completing "valid" PSAP requests for Tier II and Tier III carriers).

⁷ See Verizon Letter at 3 (noting "delays in upgrading the PSAPs CPE").

⁸ See *id.* at 5-7.

⁹ See, e.g. Verizon Order at 18377 ("If Verizon does not have the compliant Phase II service available on the dates set forth herein, it will be deemed noncompliant and referred to the Commission's Enforcement Bureau for possible action. At that time, an assertion that a vendor, manufacturer, or other entity was unable to supply compliant products *will not excuse noncompliance.*") (emphasis added).

Marlene H. Dortch
September 12, 2002
Page 3

incurring Notices of Apparent Liability and/or forfeitures for actions that are completely beyond their control.

CTIA believes that the current ambiguity in Section 20.28(j), along with the threat of enforcement against action against CMRS carriers that, through no fault of their own, fail to meet Phase II deadlines can only frustrate efforts to deploy this service in a timely manner. The clarifications to Section 20.28(j) proposed in the Verizon Letter retain the Phase II implementation deadlines for PSAPs that are Phase II capable at the end of the six-month period, while limiting the liability of CMRS carriers where Phase II capability cannot be provided due to circumstances beyond their control. Therefore, CTIA strongly urges the Commission to adopt the Section 20.28(j) clarification delineated in the Verizon Letter.

Respectfully submitted,



Michael Altschul