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FILED ELECTRONICALLY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 94-102 (Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems); IB Docket No. 99-67

Dear Ms. Salas:

In the *Further Notice of Proposed Rulemaking* in the above-captioned proceedings,[1] the Commission seeks comment on whether to extend its enhanced 911 rules to other activities, including the provision of telematics. The *Further Notice* lays out the Commission's understanding of telematics and the telematics industry and invites comment on how the Commission should treat telematics systems that provide E911 services and automatic crash notification, and whether the Commission even has jurisdiction to regulate telematics offerings. Though the American Automobile Association ("AAA") is not an FCC license holder and currently provides no telecommunications services via telematics, AAA has a strong interest in the growth and development of telematics to provide important safety and other features to the driving public. Commission determination of the issues raised in the *Further Notice* has the potential to alter that development. Consequently, AAA, through its undersigned counsel, files these comments to present its view of how telematics can be provided to consumers — a scenario that the Commission must consider as it reviews possible new rules — and also to suggest that the Commission should first resolve issues relating to wireless carriers' compliance

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[1] *See In re* Revision of the Commission's Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emissions Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band, *Further Notice of Proposed Rulemaking*, FCC 02-326 (rel. Dec. 20, 2002) ("*Further Notice*").

with the Commission's E911 requirements before extending these regulations beyond their current scope.

I. AN ALTERNATIVE MODEL FOR DELIVERING TELEMATICS SERVICES

AAA, the nation's largest motoring and travel services organization and leading provider of roadside assistance, is a not-for-profit federation of 80 automobile clubs and full-service travel agencies serving more than 45 million members throughout the United States and Canada. AAA clubs provide their dues paying members with a core package of services that includes emergency roadside assistance, travel related services, and member publications. AAA's experience in handling millions of calls annually from motorists looking for travel information and emergency roadside assistance for their vehicles provides compelling evidence that American consumers and drivers would benefit greatly from the use of sophisticated location tools such as telematics. Of course, with every technology comes new challenges and new responsibilities, and location devices are no different.

The *Further Notice* describes one model for delivering telematics to consumers based on the service offered by OnStar.[2] The Commission explains that telematics rely in most instances on a console-based device that cannot be removed from a vehicle.[3] Under this scenario, a consumer accesses a telematics provider's call center via an appropriately labeled "hot button" inside the vehicle, which connects the user to a national call center operated by the telematics service provider.[4] The call is transmitted via a wireless network that has been selected by the telematics provider. In fact, the telematics provider has purchased bulk minutes and, in the view of the *Further Notice*, in essence resold this CMRS service to the telematics customer. Once the call is delivered to the call center via the resold wireless network, the call center representative communicates with the subscriber and as appropriate may contact emergency service providers to render assistance.[5] Alternatively, if the customer subscribes to wireless voice service via its telematics provider, he or she may also dial 911 directly.[6] The *Further Notice* also discusses dispatch services, such as those provided by Specialized Mobile Radio (SMR) services, and notes that these dispatch services also provide compliant E911 service by connecting the calling party to the appropriate emergency response entity.[7]

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2 *See Further Notice* ¶¶ 58-63.

3 *See id.* ¶ 60.

4 *See id.* ¶ 61.

5 *See id.*

6 *See id.* ¶ 63.

7 The entities that provide dispatch services are covered by Section 20.18(a) of the Commission's rules because they meet the regulatory classification of one of the regulated entities, most likely SMR. *See* 47 CFR 20.18(a). But the obverse is not necessarily true: an entity that provides just "dispatch service," used somewhat imprecisely in the *Further Notice*, is not necessarily regulated under Section 20.18(a).

This model is in use today to provide telematics, but it is not the only means to offer telematics to the public. For example, AAA anticipates that its eventual telematics customers will be able to reach a knowledgeable and helpful voice while they are on the road by using either an in-vehicle device or what is essentially an adapted cellular phone that is a fully portable handset and can be removed from the vehicle. To illustrate, AAA envisions Jane Doe dialing 800-AAA-HELP, or using a one-key dialing scheme, to reach the AAA call center. Jane Doe's wireless carrier handles that call and routes the call to AAA just as it would with any other call. Thus, under this scenario, the AAA call center is simply another destination on the public switched network. Once connected to the AAA operator, the customer will be able to notify AAA of a breakdown or emergency situation or request travel information, trip guidance or reservations. If needed, the AAA operator can instruct the member on how to transmit his or her location information to AAA. Generally this will be done by pressing a "hot button" on the special phone to transmit the subscriber's GPS-generated location to the AAA operator. This location information is generated by the handset and could travel through the same (and existing) communications path as could other information generated during a call (such as hitting the "pound key"). The AAA operator will receive and interpret the GPS data in order to pinpoint the customer's location and better provide information or assistance.[8] Consequently, AAA's telematics offering is that of an end user which utilizes the existing CMRS infrastructure, along with geo-location capability, to provide information and assistance to calling parties.[9]

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AAA takes the time to review the details of its model because it is important for the Commission to realize that not all telematics providers follow the model set forth in the *Further Notice*. Instead, some telematics features will be provided to consumers as simply another destination in the public switched network. The Commission should take into account these various models as it contemplates the scope of its jurisdiction and what rules, if any, should apply to this new area.

II. THE COMMISSION SHOULD RESOLVE PENDING E911 ISSUES BEFORE EXTENDING THESE RULES

E911 provides a critical public service, ensuring that emergency personnel are able quickly and efficiently to locate wireless callers. Although born of the best of intentions, implementing the Commission's E911 requirements has not been easy. In fact, as discussed in more detail below, every major wireless carrier, as well as any number of smaller carriers, have sought waivers or extensions of time to comply with the rules. The Commission would be best

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[8] In AAA's field test scenario, the location feature of the telematics service is activated only when a customer pushes the hot button on the handset's battery pack, which means that AAA would not be able to track a subscriber's location unless the customer has affirmatively triggered that feature.

[9] In the future, AAA may also deliver telematics without a voice element or human agent participation. In this scenario, calls would be handled using pure data or automated text-to-speech technology.

advised to fix the problems encountered by the underlying wireless carriers, who serve 110 million customers, before extending its E911 regime.

A. Wireless Carriers Have Been Unable To Meet The Deadlines In The FCC's Current E911 Rules.

The Commission's Phase II E911 rules take effect on the later of October 1, 2001, or six months after service is requested by a public safety answering point ("PSAP") and require licensees to: (1) begin selling and activating location-capable handsets by March 1, 2001; (2) ensure that 50 percent of all new handsets activated are location-capable by October 1, 2001; (3) ensure that 95 percent of all new digital handsets activated are location-capable by October 1, 2002; (4) once a request is received from a PSAP, ensure that 100 percent of all new handsets activated are location-capable and implement any steps necessary to locate the handsets by the later of October 1, 2001 or six months after receiving the PSAP's request; and (5) by the later of December 31, 2004 or within two years, undertake reasonable efforts to achieve 100 percent penetration of location-capable handsets among subscribers.[10]

Many wireless carriers have been unable to meet the Commission's Phase II E911 accuracy standards and deployment deadlines for handset and network automatic location identification ("ALI") technologies due to equipment vendor delays, delays by local exchange carriers in upgrading underlying networks, and delays by PSAPs in upgrading their systems to be able to accept location technology. In response to carriers' difficulties in meeting the Phase II requirements, the FCC has approved waivers of the regulations for more than 100 carriers, including all six of the nationwide wireless carriers—AT&T Wireless, Cingular Wireless, Nextel Communications, Sprint PCS, Verizon Wireless, and T-Mobile USA (formerly VoiceStream Wireless).[11] The FCC also has approved individual consent decrees with AT&T Wireless and Cingular Wireless that establish compliance plans and graduated financial penalties if the established benchmark compliance deadlines in those consent decrees are not met.[12]

The majority of the carriers' waiver requests sought extensions of Phase II deployment deadlines, while some carriers have received relief from the FCC's accuracy requirements for handset-based location technologies. Among the nationwide carriers, AT&T

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[10] *See* 47 C.F.R. § 20.18.

[11] The FCC has granted waivers to more than 100 Tier II and Tier III non-nationwide wireless carriers. *See In re* 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 (July 26, 2002) ("*E911 Small Carriers Order*"). According to the FCC, Tier II carriers—carriers with more than 500,000 subscribers at the end of 2001—include ALLTEL, U.S. Cellular, Western Wireless, Leap Wireless, Qwest, Centennial Cellular, CenturyTel, Dobson Communications, Triton PCS, American Cellular, Rural Cellular, and Price Wireless. *See id.* at 7 & n.34. Tier III carriers are those qualifying for the small business standard. *See id.* at 8.

[12] *See In re* AT&T Wireless Services, Inc., *Order and Consent Decree*, 17 FCC Rcd. 19938 (Oct. 9, 2002); *In re* AT&T Wireless Services, Inc., *Order and Consent Decree*, 17 FCC Rcd. 11510 (June 18, 2002); *In re* Cingular Wireless, LLC, *Order and Consent Decree*, 17 FCC Rcd. 8529 (May 9, 2002).

Wireless, Cingular Wireless, and T-Mobile USA indicated in their November 2002 compliance reports[13] that they face delays in meeting the FCC's accuracy requirements because of incompatibilities between the underlying network infrastructure and their hybrid network and handset-based enhanced observed time difference of arrival ("E-OTD") technology.[14] There is also evidence that requests for waivers will continue as new technology is developed. For example, the FCC on January 3, 2003, noticed for comment a request by Sprint PCS for an extension of time to comply with the digital handset requirements of the E911 rules.[15]

B. The FCC Should Ensure That Wireless Carriers Are Able To Comply With The E911 Rules Before Extending Them.

Telematics services rely on the underlying wireless carrier's network. As a result, the ability of wireless carriers to obtain location information remains critical to the vitality of an effective emergency response system. But as demonstrated above, wireless carriers have not been able to meet the ALI requirements set by the E911 rules on the FCC's timetable, which means that the wireless carriers' networks are not generating and receiving location information to the extent required by the E911 rules.

The Commission should ensure that the CMRS industry, which is a relatively mature industry, is able to comply with the Commission's E911 requirements, and it should work out the details for that service before looking to expand the scope of the rules to other services, such as telematics, that utilize the underlying wireless infrastructure to varying degrees. If changes to existing rules are required to acknowledge the existing state of E911 technology in the wireless sector, the Commission should make those changes before expanding the scope of its regulations. Solving the problems that underlying carriers are experiencing with both network and handset-based E911 services is a more effective and logical approach to setting the stage for successful and widespread deployment of technologies relying on that infrastructure.

Given that telematics providers today successfully offer high-quality emergency services to a moderately growing base of customers, the public would not be harmed by the Commission proceeding deliberately. Indeed, the record of success of today's fledgling telematics industry to deliver emergency services should be applauded by the Commission, especially in light of the difficulty that wireless carriers have experienced. This does not suggest a need for regulation at this time. Nonetheless, if the Commission does decide to regulate telematics services, it should consider measures to ensure that, subject to consumer consent, underlying wireless carriers share their location information with telematics providers.

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[13] Federal Communications Commission, *Enhanced 911 Phase 2 Waiver Compliance Plans*, *available at* http://www.fcc.gov/911/enhanced/reports/phase2-waiver.html (last visited Jan. 25, 2003).

[14] The FCC has allowed Tier II and III carriers employing E-OTD technology to met the same accuracy requirements as the nationwide carriers. *See E911 Small Carriers Order* at 13.

[15] Wireless Telecommunications Bureau Seeks Comment on Request by Sprint for Six Month Extension of Deadline for 100% Location-Capable Handset Activation, *Public Notice*, CC Docket No. 94-102, DA 03-20 (Jan. 3, 2003).

Otherwise, while telematics subscribers may call their telematics provider in an emergency, the location information generated by such a call would reside with the underlying wireless carrier.

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AAA agrees with the Commission that telematics likely will play an important role in public safety. But to ensure that the highest level of safety contemplated in the E911 Act is ultimately achieved, the Commission must consider the different models for delivering telematics, how each model is performing today, the scope of its jurisdiction over each model, and the appropriateness of rules, if any, for each model. Equally important, it would be prudent for the Commission first to ensure that the underlying wireless infrastructure is properly deployed and developed to respond to emergency needs, a state that has not yet been attained. In the meantime, AAA looks forward to continuing to develop telematics services that will keep our roads safer while also offering other benefits and conveniences to consumers.

Respectfully submitted,

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