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

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

To: The Commission

COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By: *__/s/ Alan R. Shark_____*
Alan R. Shark, President
1130 Connecticut Ave., N.W., Suite 325
Washington, D.C. 20036

Of Counsel:
Elizabeth R. Sachs, Esq.
Lukas, Nace, Gutierrez & Sachs, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

February 19, 2003

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") rules and regulations, respectfully submits its Comments in the above-entitled proceeding.[1] The FNPR requests comments on whether the Commission should promote access to emergency 911 services by expanding its basic and enhanced 911 (E911) rules to include various services, one of which is the Automated Maritime Telecommunications Systems service ("AMTS").[2] For the reasons detailed below, the Association does not believe AMTS systems should have an E911 obligation based on the criteria proposed in the Notice for determining whether a particular service or product should be subject to E911 requirements. In the event the FCC concludes otherwise, AMTA recommends that the Commission impose the obligation only to the extent that a particular AMTS system falls within the existing "covered carrier" definition.

I INTRODUCTION

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators holding site-specific and/or geographic authorizations, as well as commercial licensees in the 217-220 MHz, 220-222 MHz and 150-512 MHz bands. AMTA has participated actively in the FCC rule making proceedings relating to the applicability of E911 requirements to the Association's members, and has a substantial interest in the outcome of this proceeding.

---

[1] *Further Notice of Proposed Rulemaking,* CC Docket No. 94-102 , FCC 02-326 (rel. Dec. 20, 2002) ("FNPR" or "Notice")

[2] *See* 47 C.F.R. § 20.18.

II BACKGROUND

As described in the FNPR, both the general population and the emergency personnel that serve them have come to rely on 911 access to provide timely responses to requests for emergency care. Wireline 9-1-1 service has become an integral part of American life over the past forty years. As wireless communications increasingly supplement, or in some cases even supplant, wireline service, the Commission has continued to explore the extent to which consumers have retained an expectation of E911 access despite their substitution of wireless devices for traditional wired handsets and the costs associated with meeting that expectation. The instant Notice frames this issue by noting that the FCC is "...mindful of the need to balance the expectations of consumers to have access to 911 service with the need to continue to foster growth and competition in the telecommunications marketplace."[3]

The Notice describes the Commission's determinations in respect to imposing E911 obligations on non-wireline services over the past decade.[4] Historically, the FCC has distinguished services that are used by consumers generally from those that provide a specialized offering to a more limited customer base with concomitantly different expectations. In general, the Commission has differentiated between services such as broadband PCS, cellular and certain SMR systems with the spectrum capacity and technical capability to be perceived by consumers as an extension of or a substitute for wireline telephone service (collectively "broadband CMRS") from systems that

---

[3]FNPR at ¶ 2.

[4]*Id.* at ¶¶ 3-9.

include an interconnection component, but nonetheless fill a narrower, more defined telecommunications need.[5]

One such market niche distinguished by the Commission are interconnected systems with dispatch capability such as those traditionally licensed in the FCC's Part 90 services.[6] The FCC first determined that systems providing primarily dispatch service should be exempt from E911 requirements entirely, except those with the in-network switching capability identified as the key determinative factor in identifying systems likely to compete with cellular and broadband PCS for the consumer-oriented mobile telephone market and therefore considered "covered carriers".[7] Even then, however, the Commission also acknowledged that covered carriers providing dispatch service would be permitted to satisfy their E911 obligations by "...direct 911 dialing, or alternatively, by routing dispatch customers' emergency calls through a dispatcher."[8]

The instant Notice represents another step in the FCC's E911 deliberations. It proposes a methodology by which the Commission would determine whether the E911 requirements should be applied to services or devices not currently subject to those obligations, and identifies several specific voice services and devices for examination pursuant to the proposed criteria. Specifically, the FNPR proposes analyzing each service or device based on whether:

> (1) it offers real-time, two-way voice service that is interconnected to the public switched network on either a stand-alone basis or packaged with other telecommunications services; (2) the customers using the service or device have a

---

[5]*See* 47 C.F.R. § 20.18(a).

[6]*See* 47 C.F.R. § 90.1 *et seq.*

[7]*Memorandum Opinion and Order,* CC Docket No. 94-102, 12 FCC Rcd 22665 (1997).

[8]FNPR at ¶ 10.

> reasonable expectation of access to 911 and E911 services; (3) the service competes with traditional CMRS or wireline local exchange services; and (4) it is technically and operationally feasible for the service or device to support E911.[9]

These criteria are not identical to the factors enumerated in the current "covered carrier" definition. Nonetheless, they preserve a focus on what AMTA considers the key elements in making the determination: whether the service or device competes with CMRS or wireline offerings and, therefore, whether users have a reasonable expectation of access to 911 and E911 capability when using the service or device.[10] In accordance with the proposed criteria and for the reasons described below, the Association does not believe AMTS should be subject to E911 requirements or, if it is, the obligation should arise only if the particular system also meets the "covered carrier" definition.

III AMTS DOES NOT COMPETE WITH BROADBAND CMRS OR WIRELINE SERVICE AND CUSTOMERS USING THE SERVICE WOULD NOT EXPECT 911 ACCESS.

As described in the Notice, AMTS is a long-standing, highly specialized system of coast stations authorized to provide integrated and interconnected voice and data services for marine traffic on waterways. More recently the FCC rules have been modified to permit AMTS licensees to provide land-based services so long as marine-originated communications continue to receive priority within the system.[11] The Commission also has implemented geographic licensing, auction

---

[9] *Id.* at ¶ 13.

[10] AMTA also suggests that the last of the four criteria be expanded to include a determination of whether it is economically possible for the service to support E911 requirements. The cost at which E911 access becomes technically or operationally feasible may make either the E911 access or the service itself, encumbered by that obligation, economically impractical.

[11] *Second Report and Order and Second Further Notice of Proposed Rule Making,* PR Docket No. 92-257, 12 FCC Rcd 16949 (1997).

provisions, construction/coverage requirements and a variety of other licensing procedures for AMTS as it now has for virtually all commercial services, irrespective of the amount of spectrum available to licensees, the type of system typically operated on the spectrum or the user base to which the system is marketed.[12]

Thus, there are two distinct facets to an AMTS licensee's potential offerings. The first is interconnected service for maritime traffic. As noted in the FNPR, maritime services, including AMTS, have "well-established response systems that users of maritime services are familiar with and that comply with internationally mandated maritime communications safety standards."[13] It is highly unlikely that marine users would even consider using the AMTS system to transmit emergency communications. Indeed, doing so might well violate maritime communications safety requirements. Because AMTS marine offerings do not compete with traditional CMRS or wireline local exchange services and users of the system do not have any expectation of accessing, or need to access, 911 service, no E911 obligation should be imposed.

The Association believes a similar rationale argues against imposing E911 requirements on land-based AMTS offerings. Although the FCC indicated that permitting AMTS to serve land-based units could enable them to compete more effectively with the types of broadband CMRS systems classified as "covered carriers" for E911 purposes, there are a number of reasons that land-based

---

[12]*See, e.g., Fourth Report and Order and Third Further Notice of Proposed Rule Making,* PR Docket No. 92-257, 15 FCC Rcd 22585 (2000) and *Second Memorandum Opinion and Order,* PR Docket No. 92-257, 17 FCC Rcd 6685 (2002).

[13]FNPR at ¶ 109.

AMTS offerings focus on dispatch rather than interconnected traffic.[14] First, the Commission's rules mandate that marine-originated traffic must have priority access on an AMTS system. This would make it enormously difficult, if not impossible, to market AMTS mobile telephone capability as in any way competitive with CMRS, much less traditional wireline service. It simply would not be possible to position the service effectively in that marketplace once users were advised that their telephone communications would be secondary to any marine-originated traffic. By contrast, dispatch users do not view their radios as replacements for or an extension of the wireline telephone network. They are accustomed to transmitting brief, non-discursive messages, a communications pattern well-suited to the hierarchical ranking dictated by the Commission's rules.

The amount of spectrum available to any AMTS licensee also ensures that their systems could not provide meaningful competition to the broadband CMRS offerings on which the FCC has imposed E911 requirements. The entire, useable AMTS allocation is only 1 MHz paired, sub-divided into two .5 kHz paired blocks, and populated by a combination of site-specific and overlay geographic authorizations that are not necessarily held by the same entity in a single geographic area. By comparison, each cellular licensee enjoys 15 MHz of unencumbered, paired spectrum. PCS licensees are authorized for either 5 MHz or 15 MHz of unencumbered spectrum, while Nextel Communications, Inc. has claimed almost 10 MHz of paired spectrum in the 800 MHz band alone, most of which is encumbered only by its own site-specific authorizations. The reality is that the amount of spectrum available to an AMTS licensee would not justify an investment that would permit deployment of a system competitive with broadband CMRS.

---

[14]The FCC staff has indicated informally that individual AMTS land-based units are not required to have interconnection capability as long as the system itself has that capability.

Instead, AMTS is proving to be well-suited to serve the needs of the dispatch community, a user group that traditionally has contacted the fleet dispatcher or another unit in the fleet in the event of an emergency. This type of service is not marketed to consumers, but to a specific niche of customers that would not expect to have E911 access. As such, AMTS is indistinguishable from other dispatch-oriented systems that the FCC already has determined should not be subject to E911 obligations. Even in the unlikely event technology is developed that would permit an AMTS licensee to meet the "covered carrier" definition already established in the E911 rules, such a licensee should have the same options already available to entities providing dispatch service as set out in FCC Rule Section 20.18(k).

IV CONCLUSION

For the reasons described above, AMTA recommends that the FCC not impose E911 requirements on AMTS licensees. Should it nonetheless determine to do so, AMTS should be included in the Section 20.18(a) definition of potentially "covered carriers" and subject to the same rights and obligations as all other such licensees.

CERTIFICATE OF SERVICE

I, Loren Costantino, an employee in the law offices of Lukas, Nace, Gutierrez & Sachs, Chartered, do hereby certify that I have on this 19th day of February, 2003, sent by hand-delivery, a copy of the foregoing COMMENTS to the following:

Michael K. Powell, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Kathleen Q. Abernathy, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Michael J. Copps, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Kevin J. Martin, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Jonathan S. Adelstein, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Jared Carlson, Deputy Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Gregory Guice, Attorney Advisor
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

David Siehl, Attorney Advisor
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Qualex International*
Portals II
445 12th Street, S.W., CY-B402
Washington, D.C. 20554
qualexint@aol.com

/s/ *Loren Costantino*
Loren Costantino

*via email