

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

In the Matter of)	
)	
Revision of the Commission's)	CC Docket No. 94-102
Rules to Ensure Compatibility)	
With Enhanced 9-1-1 Emergency)	
Calling Systems)	
)	
Amendment of Parts 2 and 25 to)	IB Docket No. 99-67
Implement the Global 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)	
Emission Limits for Mobile and Portable)	
Earth Stations Operating in the)	
1610-1660.5 MHz Band)	

**REPLY COMMENTS OF
THE AMERICAN AUTOMOBILE ASSOCIATION**

In its initial comments filed in the above-captioned proceedings, the American Automobile Association ("AAA") explained that as the nation's largest motoring and travel services organization and leading provider of roadside assistance, it recognizes the important role that location information technology, including sophisticated location tools such as telematics, will play in promoting public safety today and in the future. AAA also described its model of telematics, with a call center reached via a special GPS-capable CMRS handset, and how that differs in significant ways from the telematics model described in the *Further Notice*. AAA submits these reply comments to underscore the concerns of numerous other commenters and to

urge the Commission to heed the recommendation of telecommunications expert Dale N.

Hatfield¹ and refrain from extending its Phase II E911 rules to telematics service providers until it resolves issues relating to the rollout of E911 services by underlying wireless carriers.

Burdening location information providers with new regulations—requirements “creep,” as the *Hatfield Report* calls it—risks jeopardizing the entire Phase II implementation process and could lead to E911 implementation delays.²

As AAA explains below, the Commission should refrain from extending E911 rules to telematics providers at this time for three principal reasons. *First*, telematics service providers are not wireless carriers and therefore should not be regulated as such under the E911 rules. *Second*, it is premature to extend E911 regulations to new technologies before resolving the Phase II implementation difficulties faced by Public Safety Answering Points (“PSAPs”) and by underlying wireless carriers, on whose networks AAA’s model of telematics relies. *Third*, entities currently implementing telematics have successfully provided location information services, including automatic crash notification (“ACN”) services, to many Americans absent any regulation requiring such deployment, and regulating new service providers at this time

¹ Dale N. Hatfield, *A Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced 911*, at 40 (Oct. 15, 2002) (recommending the FCC avoid adding new regulations), available at http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6513296239 [*Hatfield Report*]. In late 2001, the FCC charged Mr. Hatfield with leading an inquiry into the technical and operational issues affecting the deployment of wireless E911 services. His findings are reflected in the *Hatfield Report*, which will be used as the basis of the FCC’s recently announced Enhanced 911 Coordination Initiative aimed at speeding the deployment of E911 services. The first meeting commencing the initiative, to be held at the end of April, will follow up on the findings and recommendations of the report. FCC, Press Release, *FCC to Launch E911 Coordination Initiative* (March 5, 2003), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-231747A1.pdf (last visited March 7, 2003).

² *Hatfield Report* at 40.

would only serve to stifle location technology innovation and discourage manufacturers from increasing their investment in the rollout of telematics services.³

I. TELEMATICS PROVIDERS ARE NOT WIRELESS CARRIERS AND SHOULD NOT BE REGULATED AS WIRELESS CARRIERS.

As numerous participants in this proceeding explain, including Toyota, Mercedes-Benz and ComCARE, telematics services generally are not an interconnected service providing wireless voice service to the public.⁴ Instead, telematics services ride on top of the wireless network. A telematics service like AAA's would rely on the infrastructure of wireless carriers that already are subject to E911 requirements, making AAA's call center just another point on the public switched network. The telematics user would not have the ability to make calls other than to the AAA call center without signing up for additional voice service. Thus, telematics service without add-on voice service is not an interconnected service and as such it does not give "subscribers the capability to communicate or receive communication from all other users on the public switched network."⁵ If a telematics service provider added a voice service feature, then presumably it would be regulated as another reseller of mobile services.

Basic telematics services provide subscribers with a package of safety and security services, such as air bag deployment notification, stolen vehicle tracking, remote

³ As AAA explained in its comments in this proceeding, if the Commission does decide to regulate telematics services, it should consider taking steps to ensure that telematics providers have access to all appropriate information, subject to consumer consent, that will allow them to deliver telematics services to their customers. *See, e.g.,* Comments of AAA at 8.

⁴ Comments of Toyota Motor North America, Inc. at 14-16 [*Toyota*] (noting that "telematics services are call center-based and are not generally intended to make 'interconnected service' available to the public"); Comments of Mercedes-Benz USA, LLC at 17-19 [*MBUSA*]; Comments of the ComCARE Alliance at 32 [*ComCARE*]. Further, ComCARE notes that when it was involved in developing the 911 Act, the regulation of telematics under this legislation was not contemplated. *ComCARE* at 48.

⁵ *Toyota* at 23 (citing 47 C.F.R. § 20.3(b), which defines "interconnected service").

diagnostics, and emergency services.⁶ In a 1998 Report to Congress, the FCC stated that where a user “can receive nothing more than pure transmission, the service is a telecommunications service [but where a user] can receive enhanced functionality, such as manipulation of information and interaction with stored data, the service is an information service.”⁷ Thus, where telematics users are linked to the call center via an underlying wireless carrier, “the provisioning of these services is not a pure transmission service offered for a fee. Rather, they are more appropriately characterized as ‘information services,’ which are not subject to CMRS-type regulations.”⁸

Not only do commenters agree that telematics is an information service that should not be regulated in the same way as CMRS, but the *Hatfield Report* recommends that “additional flexibility—rather than rigid rules—may, in some cases at least, actually facilitate the rollout of wireless E911 services.”⁹ Because telematics services generally do not provide interconnected service but do provide crash notification, location, and other information, AAA believes the points made by ITSA, Mercedes-Benz, Toyota, and others that telematics providers are not wireless service providers and therefore should not be subject to E911 rules should be strongly considered.

⁶ Comments of the Intelligent Transportation Society of America at 8 [*ITSA*].

⁷ *MBUSA* at 19 (citing Federal-State Joint Board on Universal Service, *Report to Congress*, 13 FCC Rcd. 11501, 11529 (1998)).

⁸ *ITSA* at 8 (internal footnotes to 47 U.S.C. §§ 153(20) and 153(46) (defining telecommunications services and information services) omitted).

⁹ *Hatfield Report* at 45.

II. THE COMMISSION SHOULD RESOLVE PENDING E911 ISSUES BEFORE TURNING TO NEW INDUSTRIES.

At this time, wireless carriers' networks are not generating and receiving location information to the extent required by the E911 rules. In fact, most wireless carriers have been unable to meet the Commission's Phase II location technology requirements, and as a result, the Commission has approved waivers of these requirements for more than 100 wireless carriers, including all six nationwide carriers.¹⁰ Moreover, many PSAPs are not equipped to receive this information and so are not even requesting that wireless carriers roll out these services. As a result, many commenters, as well as the *Hatfield Report*, urge the Commission to refrain from extending its Phase II regulations to new technologies.¹¹ AAA agrees with Motorola which cautions that "[c]onsidering the tremendous difficulties that have arisen in the development of the current E911 requirements to date," the imposition of new requirements "promises a future of further confusion in expectations and requirements for E911 services."¹²

Even if wireless carriers were meeting the Phase II requirements, local PSAPs are not yet capable of receiving location information with E911 calls. The *Hatfield Report* notes that PSAPs are struggling to fulfill their E911 responsibilities and are not receiving adequate funding for the costs involved in preparing their systems to accept location information.¹³ For example, a number of wireless carriers noted in their waiver compliance reports that they have not received

¹⁰ Indeed, one of the major wireless carriers was fined for noncompliance last year. *In re AT&T Wireless Services, Inc.*, Order, 17 FCC Rcd. 19938, ¶ 17 (2002).

¹¹ *MBUSA* at 14-15; *ComCARE* at 46; *Hatfield Report* at 40; Comments of ATX Technologies, Inc., at 19. Some of the delays on the part of wireless carriers and PSAPs in deploying wireless E911 stem from factors such as a lack of funds available to PSAPs, the large number of stakeholders involved in implementing E911, and the various and sometimes incompatible technologies employed by wireless carriers. *Hatfield Report* at 18-19.

¹² Comments of Motorola, Inc. at 3 [*Motorola*].

¹³ *Hatfield Report* at 29.

Phase II requests from PSAPs for location information or that many PSAPs that had requested information were not actually ready to receive it.¹⁴ PSAPs' problems are exacerbated by the fact that, in certain areas, underlying networks of incumbent local exchange carriers are not capable of delivering location information from a wireless network to a PSAP.¹⁵ As ComCARE explains, expanding the scope of the Phase II E911 regulations at this time would be counterproductive, since "[a]ny further burden forced upon PSAP managers at this time can only slow the deployment and implementation of Phase II E9-1-1."¹⁶

In light of the E911 implementation delays on the part of wireless carriers and PSAPs, the *Hatfield Report* explicitly recommends that while carriers and PSAPs continue to work to resolve the problems delaying E911 implementation, the Commission should "avoid the addition of new requirements during this critical stage of the rollout."¹⁷ MBUSA concurs that if the FCC were to require telematics providers to deliver information that PSAPs are not even capable of receiving, the Commission "runs the risk of re-living the experience currently being endured in the broader E911 context, where CMRS carriers have repeatedly been unable to comply with overly optimistic timelines set by the Commission for the development and deployment of Phase II capabilities."¹⁸ Accordingly, AAA joins MBUSA and ComCARE, among others, in suggesting that it is not realistic to expect telematics providers to comply with

¹⁴ See, e.g., Cingular Wireless LLC, *Fifth Quarterly E911 Implementation Report for GSM Networks*, at 2 & n. 3 (Feb. 3, 2003) (noting that several PSAPs that submitted requests for information were not capable of receiving the information because of readiness problems).

¹⁵ AT&T Wireless Services, Inc., *Letter* (accompanying Quarterly Report) at 3 (Nov. 1, 2002).

¹⁶ *ComCARE* at 46.

¹⁷ *Hatfield Report* at 40.

¹⁸ *MBUSA* at 15.

E911 rules when the wireless carriers on whose networks AAA's telematics service relies are not in compliance and when the PSAPs that must receive location information are not able to do so.¹⁹

III. TELEMATICS PROVIDERS ARE ACHIEVING LOCATION INFORMATION SUCCESS ABSENT REGULATION, AND REGULATION WILL IMPEDE THE GROWTH AND DEVELOPMENT OF TELEMATICS SERVICES.

AAA joins several commenters in reminding the Commission that, on a purely voluntarily basis, telematics providers are making great progress in providing location information technology to their customers. Even where Phase II E911 location information technology is not available via wireless telephones, individuals with telematics devices can take advantage of such technology at this time, regardless of PSAP readiness.²⁰ This is because “[u]nlike wireless service, where the absence of automatic location is a serious and growing problem, there is no crisis in the provision by telematics services of emergency information to public safety.”²¹ In fact, functioning telematics service providers “are already meeting or exceeding the Phase II location requirements.”²² Numerous commenters, including MBUSA and

¹⁹ Even Nextel, which would have the Commission treat all location information services alike under the E911 requirements, urges the Commission to “refrain from injecting more regulation, more complexity and more cost into the E-911 equation until all necessary parties—both telecommunications and public safety—overcome the substantial hurdles they currently face in Phase II deployment.” Comments of Nextel Communications, Inc., at 2. And Nextel acknowledges that “extending E-911 obligations to additional types of services” will not advance widespread E-911 availability until PSAPs are able successfully to receive Phase II data from CMRS providers. *Id.* at i.

²⁰ *Toyota* at 1-2; *ComCARE* at 29; *Motorola* at 3 (citing Comments of ComCARE to the OnStar Petition, CC Docket No. 94-102).

²¹ *ComCARE* at 28. ComCARE notes that “the primary safety concern with telematics at the current time is that most automobile companies are not yet deploying these systems. ComCARE believes that at this point there is no basis for the Commission to be alarmed about those companies which are deploying or servicing telematics.” *Id.* at 29.

²² *ITSA* at 10.

ComCARE, observe that the threat of regulation could prevent manufacturers from investing in telematics or could freeze technological developments in an industry that is still creating new products, methods of service delivery, and business models.²³ According to ITSA, “[a]dding heavy regulatory burdens such as CMRS-type requirements would be a substantial disincentive to deploying telematics services.”²⁴ The Commission should pay careful attention to these points, especially when considering the dozens of wireless carriers that have sought waivers of the Phase II E911 requirements in part due to on-going development and testing of new location information technology solutions.²⁵ Finally, as AAA previously urged, if the FCC nonetheless decides to regulate telematics services with respect to E911, it should consider adopting measures to ensure that, subject to consumer consent, underlying wireless carriers share the location information they receive with telematics providers.

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For the foregoing reasons, AAA urges the Commission to recognize the public safety benefit that the effective, voluntary deployment of location information technology by telematics can offer and to refrain from extending E911 regulations to telematics providers while

²³ *ITSA* at 3; *MBUSA* at 11; *ComCARE* at 30. MBUSA notes that the Association of Public-Safety Communication Officials International (“APCO”) opposes legislative mandates on telematics and states that “the freedom for continual development of this life saving technology will better serve public safety needs than premature regulation.” *MBUSA* at 16 (citing APCO, Press Release, *APCO Telematics Resolution Takes Non-Regulatory Approach to Emerging Life-Saving Devices* (Jan. 3, 2003)).

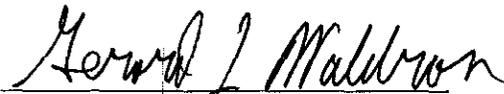
²⁴ *ITSA* at 5.

²⁵ See, e.g., Nextel Communications, Inc., *Phase I and Phase II E911 Quarterly Report* (Nov. 1, 2002) (noting that a waiver of the E911 rules was needed due to the timeframe for developing and testing its location technology); T-Mobile USA, Inc., *October 2002 Semi-Annual Report on E911 Phase II Implementation Plan (Corrected)* (Oct. 1, 2002) (observing that a wide variety of location technologies are used by wireless carriers and that some wireless carriers may transition from one type of network interface to another on a going-forward basis).

the underlying wireless carriers and PSAPs subject to the requirements are unable effectively to
deploy Phase II location information technology.

Respectfully submitted,

American Automobile Association



Gerard J. Waldron

Amy L. Levine

Emily Hancock

COVINGTON & BURLING

1201 Pennsylvania Ave., N.W.

Washington, D.C. 20004-2401

(202) 662-6000 (phone)

(202) 662-6291 (fax)

Its Attorneys

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