

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

In the Matter of)	
)	
Communications Assistance for Law Enforcement Act and Broadband Access and Services)	ET Docket No. 04-295 RM-10865
)	

COMMENTS OF CTIA-THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”)¹ submits these comments in response to the Petition for Reconsideration and Clarification of the *CALEA Applicability Order* filed by the United States Telecom Association (“USTA”).² For the reasons set forth in this reply, CTIA supports USTA’s request that the Commission reconsider its decision to begin the 18-month Communications Assistance for Law Enforcement Act (“CALEA”) compliance clock on November 14, 2005.³ Instead, CTIA urges the Commission to commence the 18-month compliance period after the FCC determines the CALEA capability requirements for facilities-based broadband Internet access providers and interconnected VoIP service providers. Only when the Commission has established the lawful intercept capabilities the newly covered entities

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS and ESMR, as well as providers and manufacturers of wireless data services and products.

² United States Telecom Association, Petition for Reconsideration and Clarification of the *CALEA Applicability Order*, ET Dkt. 04-295, RM-10865 (Nov. 4, 2005) (“USTA Petition”); Petition for Reconsideration and Clarification Filed in the *Communications Assistance for Law Enforcement Act and Broadband Access and Services* Proceeding, *Public Notice*, ET Dkt. 04-295 (rel. Dec. 7, 2005).

³ USTA Petition at 1.

and providers of newly covered services must support can the carriers, service providers, and their vendors start their efforts towards meeting the needs of law enforcement agencies.

DISCUSSION

The Commission has taken a two-step approach to the issue of CALEA obligations for broadband providers and has determined that the issues of applicability and capability will be addressed in separate orders.⁴ In its first step, the Commission identified facilities-based broadband Internet access providers and interconnected VoIP service providers as services and entities subject to CALEA.⁵ The Commission also established a timeframe of 18 months from the effective date of the *CALEA Applicability Order* in which the newly covered entities and providers of newly covered services must be in full compliance with CALEA requirements.⁶ Yet, the *CALEA Applicability Order* is limited in scope and does not provide the essential details of providers' CALEA requirements.⁷ While the clock already is ticking, providers must wait for the Commission to take the second step of addressing their obligations in an upcoming CALEA capabilities order before they can move forward and deploy the lawful intercept requirements the Commission may impose on broadband and VoIP providers.

Many questions concerning the required assistance capabilities must be answered before providers can reasonably begin working to develop CALEA solutions that are both achievable for providers and responsive to the needs of law enforcement agencies. At the present time, the Commission contemplates the imposition of different compliance standards for different classes

⁴ *In re* Communications Assistance for Law Enforcement Act and Broadband Access Services, First Report and Order and Further Notice of Proposed Rulemaking, ET Dkt. No. 04-295, RM-10865 at ¶¶ 3, 46 (rel. Sept. 23, 2005) (“*CALEA Applicability Order*”).

⁵ See *CALEA Applicability Order* at ¶ 24.

⁶ See *id.* at ¶¶ 3, 46.

⁷ *Id.*

of providers.⁸ The Commission also seeks input on what procedures the Commission should adopt, if any, to implement CALEA's exemption provision as well as the appropriateness of requiring something less than full CALEA compliance for certain categories of providers.⁹ While providers already are investigating how to best respond to law enforcement needs, the task of developing standards for CALEA compliance is daunting without the Commission's direction on what obligations must be fulfilled.¹⁰ The aforementioned issues and numerous others should be resolved before service providers and law enforcement agencies can effectively work together to develop CALEA solutions. For this reason, CTIA encourages the Commission to postpone the deadline for broadband and VoIP providers' CALEA compliance and set the target date for 18 months after the Commission finalizes its rulemaking establishing providers' obligations.

⁸ *See id.* at ¶ 52.

⁹ *See id.* at ¶ 49.

¹⁰ *See* USTA Petition at 2; *see also* Reply Comments of the Satellite Industry Association, ET Dkt. 04-295, RM-10865 (Dec. 21, 2005).

CONCLUSION

CTIA respectfully requests that the Commission grant the United States Telecom Association's Petition for Reconsideration and for Clarification of the *CALEA Applicability Order*. The Commission should establish that the 18-month compliance time period commence on the effective date of the forthcoming CALEA capabilities order.

Respectfully submitted,

CTIA - The Wireless Association®

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