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Marlene H. Dortch, Secretary
Federal Communications Commission
Room TW B-204
445 12th Street, S.W.
Washington, DC 20554

**Re: Analog Cellular Sunset
WT Docket No. 01-108
RM-11355**

EX PARTE LETTER

Dear Ms. Dortch,

The Alarm Industry Communications Committee (AICC), by its attorney, hereby responds to recent ex parte communications by CTIA – The Wireless Association® (“CTIA”) and other developments in the above-reference proceedings. As discussed below, AICC and ADT Security Services, Inc. (“Petitioners”) filed a May 24, 2007 Supplement that has introduced a significantly narrower AMPS extension plan, which would exempt 60.4 percent of the population and an even greater portion of the geography of the United States from any delay in shutting down AMPS. Those still subject to an extension of the AMPS sunset would now face only a nine-month delay. In the intervening two weeks, neither CTIA nor any other entity has introduced into the record any evidence that the revised extension plan is unworkable.

Moreover, Petitioners have openly invited the cellular industry to make suggestions as to how the revised plan can be tailored to better accommodate the needs of cellular carriers that are not exempt. Supplement at p. 7. However, no feedback has been received from the cellular industry.

It is respectfully requested that the Commission facilitate a meaningful discussion of Petitioners’ drastically narrower proposal, for the sake of the hundreds of thousands of consumers whose safety will be impacted by the AMPS shutdown.

CTIA's May 24, 2007 ex parte letter continues to argue that the alarm industry is somehow "at fault" for not accomplishing its digital conversion in the allotted five-year transition period. However, nowhere has the cellular industry refuted the following facts demonstrating due diligence by the alarm industry:

- The cellular industry already had its digital equipment developed when it requested a sunset of the AMPS requirement, while alarm equipment manufacturers had to start from square one in developing digital replacement alarm devices.¹
- Alarm manufacturers had every incentive to develop digital equipment at the earliest possible time. In essence, the government mandated that every customer buy a new alarm radio device well before the useful life of the existing AMPS radios had passed. Any alarm manufacturer that did not respond with best efforts risked a loss of market share.
- Despite these best efforts, the earliest availability of digital replacement radios was Spring 2006, and production volume did not reach a significant plateau until Honeywell was able to introduce its replacement equipment in October 2006. The two primary manufacturers of replacement radios have had to engage in equipment recalls since that time.²
- Even if equipment had been available in unlimited numbers, problems associated with cellular systems would confound efforts to convert AMPS alarm radios to digital. AT&T/Cingular did not complete its merger of incompatible networks until Fall 2006; and when ADT attempted AMPS customer conversions on the Cingular network, it experienced significant cellular network issues that were not resolved until January 26, 2007, only a year before the AMPS sunset.³

Thus, the notion that the alarm industry is "at fault" for needing an extension of the AMPS sunset is misplaced. Indeed, the alarm industry cannot be held accountable for issues associated with the cellular networks. More importantly, regardless of the circumstances that led to the present situation, *the Commission's focus must be on the safety of the consumers that will be adversely affected by the AMPS sunset*. It is for this reason that the vast majority of public safety organizations in the United States have gone on record as supporting an AMPS sunset extension.⁴

CTIA quotes telematics provider ATX for the proposition that others have been able to accomplish the conversion process. While ATX is to be congratulated for its efforts, this does little to help affected AMPS alarm users. Moreover, the Chicago Tribune has reported that two million telematics users (GM OnStar customers) will in fact be adversely affected by the AMPS sunset. See *id.* at para. 6.a. While many of these customers will trade in their affected vehicles in the coming months, it is projected that several hundred thousand did not plan to do so and will be left stranded. Moreover, neither CTIA nor the relevant cellular carriers have refuted the fact

¹ See February 6, 2007 AICC Reply Comments at p. 19.

² See April 27, 2007 AICC Ex Parte Presentation at para. 4.a.

³ *Id.* at para. 5.a-b.

⁴ *Id.* at para. 11.

made apparent in the latest AMPS transition reports: Neither Verizon or Cingular/AT&T have ensured that all of the AMPS phones that they have donated for emergency-only users have been replaced with digital phones. Indeed, Verizon admits in its latest report that while it has donated 40,000 phones since 2001, it only started making sure that donated phones were digital in 2005, years after the AMPS sunset was established. And no indication is given of any effort to track down and replace AMPS phones donated in the prior four years. Moreover, none of the reporting carriers addressed the fact that untold numbers of persons use unsubscribed analog phones for emergency-only protection, outside of any formal donation program.⁵ Thus, the rest of the AMPS-using industry sectors have not been entirely successful in meeting the transition deadline.

CTIA inexplicably argues “AICC and ADT have never claimed that they cannot transition their customers from analog to digital radios.” May 24, 2007 ex parte letter at p. 2. To the contrary, the Petitioners have made it clear all along that:

- “As discussed below, central station alarm companies simply will not be able to transition more than a million consumers, businesses and government facilities from analog service to digital alternatives that are only now being developed. *Even if digital replacement radios were available in unlimited numbers today, the time it will take to identify all of the specific locations of analog radios and schedule a truck roll to replace them would be well over two years.*” AICC February 21, 2006 Comments in WT Docket No. 01-108 (emphasis added).
- “As described above, the alarm industry was unable to embark on the process of replacing AMPS-based alarm radios for the first three years of the five year transition period because there was no equipment; and during the fourth year of the transition period, the supply of GSM-based digital alarm radios has been growing from a trickle to a volume that still provides only a portion of the replacement radios needed, due to the demand for new digital installations. This leaves the alarm industry less than fifteen months to obtain all of the necessary replacement radios, and install and activate these radios in the protected premises. This last step will prevent the alarm industry from avoiding the adverse affects of the AMPS sunset, even if it is assumed that the equipment supply becomes unlimited in the immediate future. *There is simply not enough time to replace more than a million alarm devices.*” November 30, 2006 Petition for Rule Making, WT Docket No. 01-108, at pp. 15-16 (emphasis added).
- “Currently, there are *no* alarm radio units commercially available that operate on the CDMA air interface. This lack of CDMA replacement equipment will leave many alarm customers without adequate coverage. There are geographic areas that have only CDMA coverage, and other areas where CDMA is the only network with sufficient signal strength to provide reliable monitoring services.” November 30, 2006 Petition for Rule Making, WT Docket No. 01-108, at p. 15.

⁵ The Commission unequivocally stated that protection of emergency-only AMPS users was a ground for revisiting the Sunset date. *See, e.g., Year 2000 Biennial Review – Amendment of Part 22 of the Commission’s Rules*, WT Docket No. 01-108, *Report and Order*, 17 FCC Rcd. 18,401 (2002) (“*AMPS Sunset Order*”) at para. 22.

Thus, contrary to CTIA's claim, this is not a case where the transition of AMPS alarm customers is achievable but merely "cumbersome". There is not enough time or trained and certified technicians to accomplish the conversion in a timely manner; and the lack of CDMA equipment still creates situations in which the replacement GSM radios cannot be used.

Indeed, in their May 24, 2007 Supplement to Petition for Rule Making, the Petitioners provide the Commission with a more precise assessment of the situation, given the benefit of experience in trying to convert AMPS alarm customers since replacement equipment became available. Petitioners pointed out that "based on industry estimates, it is still expected that approximately 500,000 to 600,000 alarm systems will not be converted by the February 2008 Sunset date." *Id.* at p. 2. This grim assessment is based in part on the simple lack of time to conduct the truck rolls necessary to replace fixed alarm radios installed inside homes and businesses, as discussed at length in the Petition for Rule Making.⁶ The lack of time is exacerbated by the difficulties that the alarm service providers are encountering when contacting their customers to attempt to arrange a replacement visit. Many consumers are confusing the analog cellular sunset with the analog television sunset, and therefore believe that the real transition date is February 18, 2009. Despite best efforts by the alarm providers, many of these customers think that they are being forced to convert to digital prematurely. Consumer confusion regarding the digital upgrade process is reflected in the following excerpt of a transcript from recent telephonic outreach efforts by ADT:⁷

Customer discussing possible removal of AMPS radio:

"[What] if somebody cuts the telephone line?"

(ADT "then it will go to your backup system")

"If I don't have a backup system they can cut the telephone line and you won't know anything about it . . . Is this the same thing that's involved with the, the TV's? I thought that wasn't until 2009."

CTIA now argues that an AMPS extension would impose "crushing costs" on cellular carriers. However, Petitioners' new AMPS extension proposal would significantly reduce any costs in two ways: First, the length of the requested extension has been reduced from two years to nine months, which reduces cellular costs by 62.5 percent. Second, 60.4 percent of the population and an even greater percentage of the geographic area of the United States would be exempt from any extension.⁸ This should result in substantial further reductions in cellular costs, and will create a ready supply of cheap used analog equipment with which to maintain current systems for nine months. Petitioners propose to allow cellular systems in the top 25 Metropolitan Statistical Areas (where spectrum congestion is no doubt worst) and all Rural Service Areas to proceed with a timely sunset of AMPS.⁹

The Petitioners have proposed this alternative approach in a good faith effort to address

⁶ November 30, 2006 Petition for Rule Making, WT Docket No. 01-108, at p. 15-18.

⁷ A recording of the relevant conversation will be furnished to the Commission upon request, with the identity of the customer redacted for confidentiality.

⁸ See May 24, 2007 Supplement to Petition for Rule Making at p. 7, and Attachment B.

⁹ Tower rental and other operational costs for AMPS will also be highest in the top 25 markets, so the cellular carriers will be able to maximize their cost savings under the new proposal.

the concerns of the Commission, the cellular industry and certain members of Congress. It is respectfully submitted that the Commission should now invite the cellular industry to engage in meaningful discussions with Petitioners and the Wireless Bureau staff as to the workability of the revised AMPS extension plan, and to place reasonably detailed information into the record as to the impact that the proposed plan would have on cellular transition costs and rollout of digital services.¹⁰ As noted in their Supplement, Petitioners have offered to consider modifications to the new proposal, so as to better accommodate cellular carriers while protecting the estimated 500,000 to 600,000 alarm customers that would be adversely affected if the current AMPS sunset moves forward. Basic principles of administrative law call for a full and fair consideration of the revised proposal, especially where the safety of American consumers is concerned.¹¹ In general, the Commission must “demonstrate the rationality” of its decision making process by responding to those comments that are “relevant and significant”¹² and by considering all important aspects of the problem.¹³ The revised proposal is a tailored response to feedback from the Commission and the other commenters in this proceeding, and addresses the issues raised about an extension of the AMPS sunset date.

Please direct any questions to the undersigned.

Sincerely,



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cc: FCC Commissioners
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¹⁰ CTIA also claims that the proposed AMPS extension will undermine efforts to provide E-911 Phase II service to cellular customers. It is not readily apparent why this would be the case, since cellular carriers have been under an obligation for several years now to fully implement their E-911 capability. Nothing about the proposed AMPS extension would require a delay or dismantling of this capability.

¹¹ 47 C.F.R. Section 1.425 provides that “The Commission will consider all relevant comments and material of record before taking final action in a rule-making proceeding and will issue a decision incorporating its finding and a brief statement of the reasons therefor.”

¹² 5 U.S.C. §553. See National Small Shipments Traffic Conference, Inc. v. ICC, 725 F.2d 1442, 1450 (D.C. Cir. 1984).

¹³ See Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Ins. Co., 463 U.S. 29, 43 (1983).