

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

In the Matter of)	
)	
Petition for a Notice of Inquiry Regarding 911)	PS Docket No. 08-51
Call-Forwarding Requirements and Carriers’)	
Blocking Options for Non-Initialized Phones)	

REPLY COMMENTS OF YMAX CORPORATION

YMax Corporation (“YMax”), through its attorneys, hereby respectfully submits its Reply Comments responding to comments filed in the above-captioned proceeding.¹ YMax specifically addresses the Commenters that, like YMax, recognize the ongoing public interest benefits of ensuring that legitimate emergency calls continue to be passed through by CMRS providers, even when the CMRS provider does not have a direct relationship with the caller. As these Comments highlight, the Commission should ensure that any rules it adopts in this proceeding do not imperil legitimate, potentially life-saving 911 calls made from phones that do not fit within the Commission’s narrow definition of “non-service initialized phones.”²

¹ See *In re Petition for a Notice of Inquiry Regarding 911 Call-Forwarding Requirements & Carriers’ Blocking Options for Non-Initialized Phones*, Notice of Inquiry, 23 FCC Rcd. 6097 (2008) (the “*Notice*”). All comments referenced in these Reply Comments were filed in this proceeding in response to the *Notice*.

² The Commission defines NSI handsets as “phones donated by carriers that are not currently service initialized, as well as handsets manufactured and sold as ‘911-only’ phones.” *Id.* n.1; see also 47 C.F.R. § 20.18(1)(3)(i) (defining NSI handsets under the rules governing licensees that donate a handset for purposes of providing access to 911 services as “[a] handset for which there is no valid service contract with a [CMRS] provider”).

A number of Commenters warned the Commission about a far-reaching rule change that possibly could prevent the completion of legitimate emergency calls.³ For instance, wireless carriers identified situations where they might not be able to distinguish whether an emergency call is made from an NSI phone or a service-initialized phone. These Commenters cautioned that if the Commission were to broadly require that wireless carriers block 911 calls from NSI phones, this rule could have the effect of inadvertently blocking potentially legitimate calls from, among others, subscribers roaming on another carrier's network; foreign phones; lapsed subscribers; incomplete initialized handsets; initialized users that the carrier incorrectly views as NSI due to billing disputes or network events; and calls when a subscriber's handset gets a better signal from another carrier.⁴ In T-Mobile's stark terms: "[e]liminating the requirement for all carriers to handle all compatible 911 calls means that a customer standing on the wrong side of the building may no longer be able to get her 911 call through. The same is true when driving down the highway."⁵

YMax likewise demonstrated in its Comments that similar concerns are raised with respect to 911 calls that will be made by users of the next-generation magicJack® device, which will incorporate a cellular transceiver within the VoIP device in order to make a 911 call using a

³ See Comments of CTIA - The Wireless Association at 3-4, 8-9 (filed June 30, 2008) ("CTIA Comments"); Comments of AT&T Inc. at 2 (filed June 30, 2008) ("AT&T Comments"); Comments of T-Mobile USA, Inc. (filed June 30, 2008) ("T-Mobile Comments").

⁴ See, e.g., CTIA Comments at 9 (noting that many categories of phones might be viewed in a broader definition of non-service initialized phones); AT&T Comments at 4-5 (stating that roaming situations, billing disputes and normal network events could prevent AT&T from distinguishing between NSI and service-initialized calls); T-Mobile Comments at 2 (noting that mandatory blocking of NSI phones could encompass 911 calls from roamers, foreign phones, lapsed subscribers, incomplete initialized handsets, and calls when the handset selects the strongest signal, which may not be the subscriber's carrier).

⁵ T-Mobile Comments at 6-7. CTIA explained that recent industry developments – such as carriers accepting compatible handsets for attachments to wireless networks and “open access” or “open device” requirements – could further complicate efforts to identify NSI phones that should be blocked. CTIA Comments at 3-4.

cellular signal.⁶ As YMax explained in its Comments, the 911 call will be sent directly from the radio transceiver in the magicJack® device and will be perceived by a local CMRS system as any other 911 call from a device not registered to one of its customers. This 911 calling capability, which will be available in the marketplace soon in the next-generation magicJack® device and to other VoIP service providers, will enable a public safety answer point (“PSAP”) to obtain location information and the VoIP phone number of the caller. These features will help to prevent abusive 911 calls by subscribers with magicJack® devices or other nomadic VoIP devices that incorporate this technology. Moreover, YMax’s technology also serves the public interest by introducing a near-term, viable ALI solution for 911 calls made by nomadic VoIP subscribers – a potentially life-saving solution that the industry and the Commission have been seeking for years. No one else has suggested a viable ALI solution for 911 calls made by nomadic VoIP subscribers that will be workable until years from now.

As YMax and other Commenters have demonstrated, not every wireless 911 call from a caller that is not registered to a CMRS provider has the characteristics that have been identified as problematic in this proceeding and that the Commission has used to define NSI handsets for these purposes. The Commission should seek a narrowly-targeted solution to the potential problem of fraudulent and abusive 911 calls made on the narrowly-defined NSI handsets that are the Commission’s focus in this proceeding.⁷ The Commission’s focus should be on NSI handsets for which call back and location information is not available and for which the users do

⁶ The cellular transceiver will not be involved in any of the VoIP calls made over the customer’s broadband connection, unless the customer dials “911.” If the customer dials 911, however, if there is a cellular signal, the call will be routed to the cellular transceiver rather than to the broadband connection.

⁷ See, e.g., T-Mobile Comments at 5-8 (advocating that PSAP blocking of particular device generating abusive traffic is a much more tailored solution and will be the most effective means of addressing fraud).

not subscribe to any provider's service. The Commission should ensure that CMRS providers continue to serve the public interest and enable life-saving calls by passing through all other 911 calls to PSAPs and that any rule change not threaten completion of such calls.

Respectfully submitted,

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