

**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 VERIZON WIRELESS

When the Commission began this Notice of Inquiry (“NOI”), it requested information regarding whether it should: 1) require blocking of harassing calls by all carriers, 2) require call-back for Non-Service Initialized (“NSI”) phones, assuming there is a technical solution available; or 3) eliminate the all-calls rule.¹ Some commenters have introduced a fourth option: screening and/or re-routing offending NSI calls to a non-emergency call center, recorded message, or fast-busy signal to avoid taxing the Public Safety Answering Point (“PSAP”) with prank or harassing calls.² While several commenters present various approaches, it is evident that PSAPs are in the best position to determine which calls, and under what circumstances, get re-routed away from the PSAP. In contrast, wireless carriers cannot determine which calls are or are not legitimate emergency calls, whether for the re-routing or blocking of individual calls intended for the local PSAP. PSAPs, and their call-takers, are uniquely able to judge how

¹ Petition for a Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers’ Blocking Options for Non-initialized Phones, *Notice of Inquiry*, FCC 08-95, 23 FCC Rcd. 6097 ¶ 9 (2008). See 47 C.F.R. §20.18(b).

² See Comments by Telecommunication Systems, Inc.; Intrado, Inc.; American Roaming Network, and INdigital Telecom.

to deal with prank or harassing calls from NSI devices. No new or revised FCC rule is necessary for that outcome since the FCC has already determined that this is the proper role of PSAPs.

I. INTRODUCTION AND SUMMARY

The FCC's decision in 1997³ requiring carriers to bypass account validation and transmit all 911 calls to PSAPs has provided access to emergency services for anyone possessing a workable and usable handset, where coverage and battery life permit a 911 call to be made. After many years of providing broad access to 911 regardless of account status, a clear customer expectation has been established that is now part of the wireless experience in this country, no less associated with wireless phones than bucket (minutes of use) plans or ring tones.⁴ Legitimate emergency calls are, as public safety notes, made from NSI phones. On the other hand, nettlesome policy and technical issues are created by the "all calls rule" for both carriers and PSAPs.⁵ In the past, public safety supported the adoption of the all calls rule and the wireless industry, foreseeing the challenges posed by bypassing validation including an increase in fraudulent or prank 911 calls, opposed its adoption.⁶

Ironically, while the wireless industry is not seeking revisions to the all calls rule,⁷ public safety is seeking reconsideration of the rule, or some other modification,⁸ to

³ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Memorandum Opinion and Order*, 12 FCC Rcd 22665 (1997) ("*First MO&O*"). In that decision, the FCC determined that PSAPs, rather than carriers, could implement procedures to deter and prevent fraudulent 911 calls. *Id.* at 22684, ¶¶ 36-37.

⁴ The FCC has contributed to this expectation. See *FCC Consumer Facts – Wireless E911 Services*, <http://www.fcc.gov/cgb/consumerfacts/wireless911srv.html>.

⁵ See 47 C.F.R. § 20.18(b).

⁶ *First MO&O* at ¶¶ 16-17 (1997) (citing petitions by Ameritech, CTIA and PCIA).

⁷ Instead, industry comments have discussed the concerns with removing a feature that customers have come to expect after many years. See Comments by CTIA at 1; Comments by T-Mobile at 3.

resolve the problem of prank or harassing calls to 911 made from NSI phones -- precisely because of the inability to tie them to a particular user. All options before the Commission pose concerns: 1) blocking individual NSI calls raises legal and technical challenges for carriers; 2) there is no viable and open technical solution to enable call-back capability for NSI phones; 3) elimination of the all-calls rule likely provides the path of least resistance from a technical and operational standpoint for carriers, but may be problematic for consumers in distress; 4) lastly, the screen and re-route option presented by vendors, if not administered properly, also has the potential to ensnare legitimate calls and/or to introduce unnecessary delay. For that reason, screening and re-routing calls coming into the PSAP is not a solution that carriers can or should implement, but rather should be the province of PSAPs.

Verizon Wireless believes that public safety can best determine how to deal with harassing or prank NSI calls coming into the PSAP.⁹ This is consistent with the Commission's original policy formulation for the likely incidence of NSI calls.¹⁰ The new screening and call-routing options presented by several vendors could facilitate this role for the PSAP.

⁸ See Petition for a Notice of Inquiry Regarding 911 Call-Forwarding Requirements and Carriers' Blocking Options for Non-initialized Phones, CC Docket No. 94-102 (filed February 14, 2008) ("Petition").

⁹ See Comments by CTIA at 1, 11-14; Comments by T-Mobile at 1, 5-8.

¹⁰ See *infra* note 3.

II. THE COMMENTS DEMONSTRATE THAT CARRIER BLOCKING OF NSI CALLS IS HIGHLY PROBLEMATIC BECAUSE OF LEGAL AND PRACTICAL IMPLEMENTATION CONCERNS

Today, blocking calls is not a global solution to the problem of NSI calls. First, not all carriers have the capability to block these calls.¹¹ Second, calls from a particular device can be blocked using the ESN, pseudo ESN, or MEID of the device, but only in a limited fashion.¹² For example, a switch-level block implemented by Verizon Wireless can be evaded by roaming onto another carrier's network or by going outside the geographic area covered by the switch or switches that have been programmed to block the particular device. Third, some methods of blocking, such as blocking based on the pseudo ESN, are not effective.¹³ Blocking requires carrier resources to set-up, review/manage, and tear-down the block – potentially across the nation for a community of more than 6,000 PSAPs. As others' comments noted, blocking is also highly problematic for wireless carriers because of legal concerns.¹⁴

Verizon Wireless does not dispute that given the ubiquity of cell phones, that some number of prank or harassing calls from NSI phones are made to the local PSAP. The potential for this problem was clear from the outset; now, the solution is not to shift

¹¹ Comments by AT&T at 2.

¹² The Commission's NOI also requested input re technical concerns related to blocking such as whether calls would be blocked on one tower or multiple towers, one PSAP or multiple PSAPs, etc. NOI at 14. Verizon Wireless can only block at the switch level and is not able to block handsets using Pseudo ESNs or MEIDs.

¹³ Pseudo ESNs are not tied to one handset, but represent multiple devices – making blocking using this value highly problematic.

¹⁴ See CTIA Comments at 4, 10; Comments by T-Mobile at 8-10; Comments by AT&T at 5-7. Moreover, in the absence of a court order addressing duration and scope of the block, legal and practical questions arise regarding when one can tear-down a block and how expansive a block needs to be. In addition, if the harassing calls stop upon blocking, the carrier tears down the block, and then some time later the harassing calls begin again: does the former authorization cover the subsequent behavior and if so, for how long? What type of authorization is necessary short of a court order? See Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Report and Order*, 11 FCC Rcd. 18676, ¶¶ 99-100 (1996) (declining to address civil liability associated with E911) (“*First R&O*”).

the burden of implementing procedures to deal with such calls to the industry through widespread blocking absent clear legal protections and answers to practical and logistical problems created by such a requirement. Moreover, it is not at all clear that the FCC alone, through the rulemaking process, can completely address, for example, what constitutes a legal authorization for blocking and immunity from civil liability for mistaken blocks.¹⁵

III. THERE IS NO OPEN STANDARD OR OTHERWISE COMMERCIALY AVAILABLE TECHNICAL FIX TO SUPPORT CALL BACK CAPABILITY FOR NSI PHONES

Verizon Wireless is not aware of any workable and/or generally available technical fix for the problem of call-back to NSI phones. Verizon Wireless provided reply comments in 2001 in response to the Commission's *Further Notice of Proposed Rulemaking* regarding the development of call-back capability for NSI phones.¹⁶ At that time, the Wireless Consumer Alliance ("WCA") asserted, disputed by Verizon Wireless, that the Zicker patent provided a tried, tested and effective call-back method.¹⁷ The Commission declined to require implementation of a call-back solution because there was no technically feasible approach.¹⁸ The NENA Technical Information Document referenced in the NOI is based on another patented solution, by Lucent, entitled E911-M.¹⁹ Regardless of the bona fides of a given patented solution, Verizon Wireless maintained then, and still holds the position today, that it would be inappropriate for the

¹⁵ See, *First R&O*, ¶ 100 (1996).

¹⁶ See Reply Comments of Verizon Wireless, CC Docket No. 94-102, dated August 8, 2001.

¹⁷ *Id.* at 3.

¹⁸ See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Non-initialized Phones, *Report and Order*, 17 FCC Rcd. 8481 (*Report and Order*).

¹⁹ See Comments of T-Mobile at 10. According to T-Mobile, industry standards review and adoption of Lucent's E911-M solution is unlikely because the solution is too difficult, would waste numbering resources, and would require new equipment both by wireless carriers and PSAPs.

Commission to mandate the use of a patented technology as the basis for a far-reaching regulatory requirement.²⁰

IV. THE RECORD DOES NOT SUPPORT ELIMINATION OF THE ALL CALLS RULE

In 2001, when the Commission last looked at requiring call-back capability for NSI phones, Verizon Wireless stated that the most effective way of ensuring that all 911 calls can receive a call back was to return to allowing call completion for subscribers only, by allowing call validation and registration to proceed as they do on non-911 calls. In that context, when faced with a possible choice between implementing an unproven, patented solution and turning back the clock on the all calls rule, Verizon Wireless supported the latter as the best alternative.²¹ After all, removal of this requirement would provide some network efficiencies as well as the ability to call-back and trace all calls to 911. However, the FCC would need to reverse its finding in 1997 that validation procedures would delay or defeat the dispatch of emergency help.²² Even if this concern were mitigated or allayed, the industry would still need to effectively deal with the following concerns:

- Problems distinguishing NSI phones from roamer phones;
- Unresolved billing disputes that result in disconnection;
- Normal network timeouts or service loss that, until the network recovers, will treat a validly subscribed phone appear to the network to be a NSI phone.

In addition, concerns regarding customer re-education are also valid. Simply put, after eleven years of the all calls rule, it is not so easy to “put the genie back in the

²⁰ See Reply Comments of Verizon Wireless, CC Docket no 94-102, at 4.

²¹ *Id.* at 2, 9.

²² See *First MO&O*, ¶¶ 33-34 (1997).

bottle.” Public safety has not adequately addressed in this proceeding how it proposes to help the FCC accomplish this feat given the optics not only of a reversal of policy on 911, but one that purports to take away something that some consumers have come to expect.²³ Not only do their comments not address this concern, several public safety commenters concede that some NSI calls have been for critical emergencies in which the NSI phone was the only option to call for help.²⁴

V. THE PSAP COMMUNITY SHOULD DETERMINE, WITHOUT THE NEED FOR AN FCC RULE, WHETHER TO ADOPT THE CALL SCREENING AND RE-ROUTING PROCEDURES AT THE PSAP SUGGESTED BY VARIOUS VENDORS

Verizon Wireless agrees with the comments of CTIA and T-Mobile that PSAPs are in the best position to manage harassing or prank calls from NSI devices.²⁵ Many PSAPs have filed comments cataloging, in detail, both the number and cause of harassing or prank calls that they have received.²⁶ Carriers would never be in a position to have such information firsthand. The type of the information provided in this proceeding demonstrates that PSAPs have the ability and the incentive to develop policies and procedures to protect against illegitimate NSI calls. Whereas in the past such call screening and/or re-routing may not have been practicable, now several vendors have

²³ See Comments by CTIA at 3-4. See also Comments by The Washington State E911 Administrator at 4 (stating, “Consumers had a right to expect that they could call 911 from their cell phone and the original ruling made it clear that carriers should embrace that expectation.”).

²⁴ See Comments by the California 9-1-1 Emergency Communications Office (indicating that calls from NSI phones have saved many lives); Comments by The Hamilton County Communications Center (admitting that they do receive legitimate calls for help from NSI phones).

²⁵ See Comments by CTIA at 12-13; Comments by T-Mobile at 1, 5-7.

²⁶ See Comments by The State of Montana Dept. of Administration, Information Technology Services Division; Comments by Tracy Felty, Saline County (IL) E911; Comments by The King County E911 Program; Comments by Amelia County, VA; Comments by the Kentucky Office of the 9-1-1 Coordinator; Comments by the Clinton County (IL) ETSB; Comments by the City of Laredo, TX; Comments by the Maryland Emergency Number Systems Board.

filed comments describing ways in which call screening and/or re-routing of non-emergency NSI calls can be accomplished.²⁷ The PSAP community should seriously explore the relative merits of the various vendor proposed solutions.²⁸ Such solutions would not require a new FCC rule or a modification or reversal of the existing all calls rule.

Moreover, wireless carriers can continue to complete calls to PSAPs without validation as they do today. Having adapted wireless networks to this purpose, which requires ongoing research and development to ensure that new products and services adhere to this requirement of network design, wireless carriers should not be required to both send all the calls and then shoulder the burden, legal or financial, of blocking, screening, or re-routing some portion of those calls. The FCC correctly determined in 1997 that wireless carriers must send all calls and the PSAPs must act against prank or harassing calls.²⁹ As T-Mobile notes, managing the calls at the PSAP is more effective.³⁰ For example, if call blocking is implemented by the PSAP, it covers all carriers and all air-interfaces, regardless of the caller's location. By contrast, carrier blocking must be done by each carrier, may only be done at the switch-level, if at all, and is not effective calls made while roaming. That critical role played by the PSAPs should continue.

²⁷ See *infra*, note 2.

²⁸ This should include weighing any policy concerns regarding call handling and any technical or economic concerns.

²⁹ See *First MO&O* at ¶¶ 33-34 (1997).

³⁰ See Comments by T-Mobile at 5, 7.

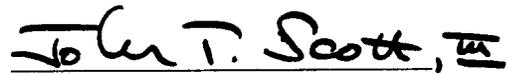
VI. CONCLUSION

For the foregoing reasons, Verizon Wireless submits that public safety should determine at the PSAP level how best to deal with prank and harassing NSI calls.

Respectfully submitted,

VERIZON WIRELESS

By:

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July 29, 2008