

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

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| 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  
CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”)<sup>1</sup> respectfully submits these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Inquiry in the above-captioned proceeding.<sup>2</sup>

**I. INTRODUCTION AND SUMMARY.**

As stated below, CTIA supports retaining the existing rule requiring the forwarding of all 911 calls to a Public Safety Answering Point (“PSAP”), and opposes any regulation that would require Commercial Mobile Radio Service (“CMRS”) providers to block 911 calls from non-service initialized (“NSI”) phones.

While CMRS providers understand and are sensitive to PSAP concerns regarding the impact on resources caused by fraudulent, accidental or harassing 911 calls, many commenters’ purported solutions are either overbroad or ineffective. Requiring CMRS providers to block certain NSI 911 calls would confuse and endanger the public who utilize NSI devices in case of emergency and may inevitably prevent emergency calls

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<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> *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 (April 11, 2008) (“Notice of Inquiry”).

from service-initialized phones that may appear to be non-service initialized for several practical reasons. Furthermore, requiring CMRS providers to block particular NSI 911 calls would not solve the problem of a blocked device in the hands of a legitimate user and may expose carriers to the risk of civil liability. To the extent that the Commission feels it must utilize some form of blocking, CTIA submits that blocking by the PSAP is the more appropriate option. Finally, CTIA suggests that the Commission and Public Safety may be better served by employing education efforts to reduce accidental or fraudulent calls to PSAPs.

**II. THE INCREASING USE OF WIRELESS DEVICES, INCLUDING THOSE THAT MAY APPEAR TO BE NON-SERVICE INITIALIZED, UNDERSCORES THE IMPORTANCE OF DELIVERING ALL 911 CALLS TO PSAPs.**

**A. The public interest in forwarding all 911 calls outweighs any resulting inconveniences.**

Commenters in this proceeding have not provided a sufficient basis for reversing the Commission's prior conclusions and public interest rationale for requiring the transmission of all 911 calls from NSI handsets. Requiring CMRS providers to block 911 calls from NSI devices runs counter to the Commission's mandate under the Communications Act of 1934, as amended, "of promoting safety of life and property through the use of wire and radio communications."<sup>3</sup> Countless individuals rely on NSI devices and reasonably expect that any wireless device is capable of reaching a PSAP.<sup>4</sup> If the Commission were to reverse course now and require wireless carriers to block NSI

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<sup>3</sup> 47 U.S.C. § 151 (2006).

<sup>4</sup> See Comments of CTIA, PS Docket No. 08-51 (filed June 30, 2008) at 3-5.

911 calls from reaching PSAPs, individuals who use a NSI device during an emergency could suffer serious detrimental effects.<sup>5</sup>

PSAP call data submitted in this docket demonstrates the existence of an abundant amount of legitimate 911 calls coming from devices that are classified by PSAPs as NSI. For example, the data submitted for the city of Morehead, Kentucky showed “22.12% of all NSI 911 calls were legitimate.”<sup>6</sup> In King County, Washington, which claims a population of 1.8 million people, the E-911 Program Office’s call tracking data showed that “up to 14% of calls from NSI phones were legitimate calls.”<sup>7</sup> Further, a survey of NSI 911 call data submitted by the State of Maryland reported that nearly seven (7) percent of the total NSI calls received were legitimate emergency calls.<sup>8</sup>

While a significant number of calls are not emergency calls, the data submitted by Public Safety confirms that a substantial number of legitimate emergency calls to 911 come from NSI devices and verifies the Commission’s earlier determination that the public interest is best served when citizens are able to reach 911 from any wireless phone. These legitimate emergency calls from NSI devices represent dozens, if not hundreds or even thousands of people in life threatening situations who are in need of help. Consumers have an expectation of being able to reach 911, making it nearly impossible to reverse course and effectively inform the entire population that some NSI 911 calls may not be forwarded by CMRS providers.

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<sup>5</sup> *See id;* see also Comments of California 911 Emergency Communications Office, PS Docket No. 0-51 (filed June 27, 2008) at 2 (“Not all calls from non-initialized phones are nuisance calls...[D]uring July 2007 a non-initialized phone played a significant role in saving several lives...when [a] disgruntled employee at a publishing company entered the building with a gun and started shooting. The first call to 911 reporting the shooting was placed on a non-initialized phone.”).

<sup>6</sup> Comments of Kentucky Office of the 911 Administrator, PS Docket No. 08-51 (filed June 30, 2008) at 10.

<sup>7</sup> Comments of King County E911 Program Office, PS Docket No. 08-51 (filed June 30, 2008) at 6.

<sup>8</sup> Comments of The State of Maryland, PS Docket No. 08-51 (filed June 30, 2008) at 2-3.

**B. The record demonstrates the lack of clarity regarding what constitutes a NSI device.**

Commenters have pointed out that the number of valid emergency calls that would be blocked is greater than previously thought due to the numerous circumstances in which service initialized phones are mistakenly identified by a carrier's network as a NSI device having no call-back capability.<sup>9</sup> NSI devices are comprised not only of deactivated phones, but also phones with no service contract, old used phones sold by third parties, or 911-only phones distributed through donation programs. Additionally, as T-Mobile has pointed out, service initialized phones may be falsely identified as an NSI device in many situations, such as when a phone is turned on to make an emergency call and reaches 911 before it has finished its network registration.<sup>10</sup>

AT&T also has shown that other conditions, even common network events like system reboots, can cause a call from a service-initialized phone to be identified as a call originating from a NSI device.<sup>11</sup> This number will almost certainly continue to grow because of new technology, devices, and the increasing openness of networks.<sup>12</sup>

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<sup>9</sup> See Comments of Intrado Inc., PS Docket No. 08-51 (filed June 30, 2008) at 6; see also Comments of T-Mobile, PS Docket No. 08-51 (filed June 30, 2008); Comments of AT&T, PS Docket No. 08-51 (filed June 30, 2008).

<sup>10</sup> See Comments of T-Mobile at 1-2 (“Non-service initialized calls are not just from discarded phones that do not subscribe to any carrier’s service, but can result from a number of different circumstances including:…calls placed from areas of weak or no signal for one carrier that receive a signal from another carrier, calls when the handset selects the strongest signal, which may not be the subscriber’s carrier, calls from consumers roaming in areas with or without automatic roaming agreements, calls from foreign phones, and calls by non-subscribers.”).

<sup>11</sup> See Comments of AT&T at 4-5 (“[I]n a roaming situation, the roamed-on carrier might be unable to distinguish NSI handsets from handsets subscribed to carriers with whom the roamed-on carrier does not have an automatic agreement. Likewise, billing errors and unresolved billing disputes may lead to termination of a subscriber-relationship and service initialization of a handset…Additionally, phones occasionally appear non-initialized because of normal network events, system reboots, and other common circumstances.”).

<sup>12</sup> See, e.g., Comments of YMax Corporation, PS Docket No. 08-51 (filed June 30, 2008) at 3-4 (“The next-generation MagicJack device will incorporate a cellular transceiver within the device. [A] 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.”).

**III. THE RECORD CONFIRMS THAT CALL BLOCKING OR FILTERING BY PSAPs IS VIABLE TODAY AND REPRESENTS THE MOST APPROPRIATE BLOCKING OPTION.**

If the Commission determines there must be a blocking option, the record generated in this proceeding from comments by Public Safety entities and others underscores that the most logical option is for PSAPs to implement blocking of NSI devices that make fraudulent calls.<sup>13</sup> PSAP blocking solutions could be implemented without requiring changes to Commission rules, thereby allowing all devices in the hands of the public to continue to reach 911. In addition, PSAPs could perform blocking irrespective of the forwarding network and eliminate the burdensome, time-consuming carrier-coordination process.

PSAPs are better positioned to identify NSI devices that repeatedly make fraudulent 911 calls and address appropriate triggering issues specific to the nature of the calls and PSAP resources. The comments in this docket from 911 organizations illustrate the high level of data that PSAPs are able to gather and track. This stored and real-time data can enable PSAPs to quickly identify calls coming from handsets that cannot be called back and determine whether it is a device that has made repeated fraudulent calls or whether it is a 911 call from someone truly in need of help. In its *Second E911 Memorandum Opinion and Order*, the Commission recognized the importance of PSAPs being able to identify individual NSI devices when it required carriers to forward calls

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<sup>13</sup> See Comments of INdigital Telecom, PS Docket No. 08-51 (filed June 30, 2008) at 4 (“[t]he PSAP is best equipped and is authorized by state and local statutes to make decisions [concerning call blocking.]”); see also Comments of T-Mobile at 7 (“PSAP blocking simplifies logistical issues...it does not matter which carrier delivers the 911 call...and PSAPs are generally protected from liability exposure...”); Comments of AT&T at 6 (If carriers are to participate in blocking, “[i]n order to minimize carrier liability exposure, the Commission must ensure that the discretionary components of any blocking scheme rest solely with government actors...”).

from NSI devices using a unique identifier.<sup>14</sup> The most logical final phase in this process is for a PSAP to use this information to initiate its own block on an offending device.<sup>15</sup>

Blocking at the carrier level would not solve the problem of NSI devices operating on a different network after they have been blocked from another. This problem is solved when blocking can occur irrespective of the wireless carrier. PSAP blocking can occur without any assistance from the wireless carriers, thus solving the cumbersome process of having each individual PSAP coordinate for a block on every possible network. Instead of spending vital time and resources attempting to coordinate a block with carriers, a PSAP could simply enter the desired block on its own network.

Moreover, any assumption by the Commission or Public Safety that the burden on PSAPs of fraudulent calls can be resolved by addressing calls originating only from CMRS networks is misplaced. Unfortunately, a truly malicious prank caller has a variety of available options, including pay phones, voice over Internet Protocol and other media, such that blocking certain wireless calls may not mitigate the problem. Moreover, in the wireless context, CTIA previously noted that future technology developments will surely complicate the problem.<sup>16</sup> The numerous dual mode wireless devices that permit users to communicate using either CMRS or unlicensed spectrum, *e.g.*, WiFi-enabled devices, highlight the complexity of the problem.

Additionally, some carriers indicate they currently lack the ability to block individual NSI handsets.<sup>17</sup> Carriers' moves toward allowing the attachment of any

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<sup>14</sup> 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*, 18 FCC Rcd 23383, 23388 ¶ 12 (2003) ("*Second E911 Memorandum Opinion and Order*").

<sup>15</sup> See Comments of INdigital Telecom at 2 (offering an example of a system in use by Indiana PSAPs to address fraudulent NSI 911 calls at the PSAP level).

<sup>16</sup> See Comments of CTIA at 9.

<sup>17</sup> See Comments of AT&T at 2.

compatible handset underscores the tenuous connection carriers may have with numerous devices and corresponding blocking decisions.

**IV. PROPOSED SOLUTIONS THAT WOULD REQUIRE CARRIERS TO BLOCK, DELAY OR DISABLE LEGITIMATE 911 CALLS COULD JEOPARDIZE THE PUBLIC INTEREST AND EXPOSE CARRIERS TO LIABILITY.**

Suggestions calling for 911 call prioritization or the routing of 911 calls to centralized databases or clearinghouses do not address the substantial risks of keeping legitimate emergency calls from quickly reaching a 911 operator. A number of proposals outlined by commenters involve routing a 911 call from a NSI device to an interactive voice response system or prerecorded message, completely blocking a call, or forwarding a call to an intermediary call center. CTIA expresses concern over the viability of these solutions. As Public Safety is well aware, every second counts in a true emergency and any unnecessary delay or additional procedures could jeopardize lives and property. Indeed, the Commission's finding that the public interest would be best served by requiring carriers to forward all 911 calls was supported by similar procedural burdens imposed by the call validation process that could "unnecessarily delay or defeat the dispatch of help in emergencies."<sup>18</sup>

Both Intrado Inc. and Telecommunications Systems, Inc., suggest placing identifying information from NSI devices flagged as placing fraudulent calls in a database and using this database to implement filtering within the CMRS provider network.<sup>19</sup> American Roaming Network advances an "answering center" approach in which *all* NSI 911 calls are routed to a call center, where they are processed via an

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<sup>18</sup> *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Memorandum Opinion and Order, 12 FCC Rcd 22665, 22682 at ¶¶ 33-34 (1997).

<sup>19</sup> See Comments of Intrado Inc., PS Docket No. 08-51 (filed June 30, 2008) at 4-5; Comments of Telecommunications Systems, Inc., PS Docket No. 08-51 (filed June 30, 2008) at 4-5.

interactive voice response system, with the goal of filtering out non-legitimate calls.<sup>20</sup> CTIA is concerned that, under each of these approaches, there is significant risk that a person dialing 911 from a blocked NSI handset (a fact that may be unknown to the person) will be unaware that the call may not be forwarded directly and immediately to a PSAP or at all, putting lives and/or property at risk. Carrier filtering solutions that provide an intercept message instructing the caller that the phone is blocked and offering instructions on how to successfully reach 911 are inadequate. Emergency calls are made in the hopes – and with the expectation – of receiving immediate help in life-threatening situations where every second matters.

Delaying and/or blocking legitimate 911 calls are exactly the types of situations that have the potential to subject carriers to civil liability for all responsible parties. CTIA highlighted, and numerous commenters acknowledged, the problem of state laws that expose wireless carriers to significant liability if they block a NSI device that eventually makes a legitimate 911 call and a feasible solution to this concern has not been advanced.<sup>21</sup>

Furthermore, the approach advocated by the Livingston County Sheriff's Office 911 Center, in which a CMRS provider would transmit a signal to the device terminating its operation<sup>22</sup> represents an aggressive solution that – even if lawful and could be implemented – may not be technically feasible for all existing wireless devices. Moreover, to the extent it may be technically feasible for some handsets, a person likely

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<sup>20</sup> See Comments of American Roaming Network, PS Docket No. 08-51 (filed June 30, 2008) at 1-2 (“ARN asserts that this [a caller is first connected to an answering center] is the best solution...Specifically, ARN proposes to serve as a national clearinghouse for all NSI 911 calls.”). American Roaming Network also suggested the potential for a solution in which calls are answered by a live operator, or some combination of an interactive voice response – live operator integrated solution.

<sup>21</sup> See Comments of CTIA at 10-11; *see also* Comments of AT&T at 7; Comments of T-Mobile at 9-10.

<sup>22</sup> See Comments of Livingston County Sheriff's Office 911 Center, PS Docket No. 08-51 (filed Apr. 29, 2008) at 3.

would have to take affirmative steps to upgrade the device, which would be unusual for owners of NSI devices.

The solutions discussed above focus on the device, not the user, and to date, commenters have not addressed a solution to overcome the problem of a blocked device unknowingly in the hands of a legitimate user.

**V. EDUCATIONAL EFFORTS TO REDUCE ACCIDENTAL OR FRAUDULENT CALLS FROM NSI DEVICES SHOULD BE PURSUED.**

CTIA appreciates and understands that accidental and fraudulent calls are a significant drain on PSAP operator resources. CTIA suggests that the Commission and Public Safety entities, with the support of wireless carriers, should take steps to address the source of the problem through increased education efforts. These education efforts should include local 911 agencies providing information emphasizing that in many cases, using the 911 telephone system for any reason other than a real emergency is criminal behavior that will result in punishment.<sup>23</sup> Also, the public should be reminded of what qualifies as an actual emergency because PSAP resources can become strained when they receive 911 calls for non-emergency situations. A need for educating the public about the ability of old phones to connect to 911 is reflected in comments on the record stating fraudulent 911 calls from NSI devices can be made by children who may be using – or may have been given – the phone as a toy.<sup>24</sup>

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<sup>23</sup> See, e.g., Cal. Penal Code § 653y (2005) (“Any person who knowingly allows the use of, or who uses, the 911 telephone system for any reason other than because of an emergency is guilty of an infraction. The penalty for the first and second violation of that provision is a written warning, as specified. The penalty for a 3rd, 4th, 5th or subsequent violation, depending upon the violator’s ability to pay, is \$50, \$100, and \$200, respectively. Also, a parent of legal guardian of a minor who violates section 653y shall be jointly and severally liable with the minor for any fines imposed pursuant to this section.”). A pending amendment to this statute calls for raising the penalties for violations of the statute in an effort to further deter 911 abuses.

<sup>24</sup> See Comments of NATOA, PS Docket No. 08-51 (filed June 2, 2008) at 3 (“It appears these calls [fraudulent 911 calls from children] are made on discarded phones given to them by their parents,

Education programs could also benefit the organizations that donate phones by drawing attention to the limitations of NSI phones, such as the lack of call-back capability, and suggesting ways organizations could move toward providing service initialized phones. In the *NOI*, the Commission asked for information detailing whether carrier donation programs used service initialized phones and if not, whether they should be mandated.<sup>25</sup>

The phone donation programs supported by the wireless industry involve only service-initialized devices. In fact, the Commission has already provided guidance on carriers' participation in service-initialized phone donation programs.<sup>26</sup> *The Wireless Foundation* is an example of a successful donation program.<sup>27</sup> Since 1996, *The Wireless Foundation's* CALL TO PROTECT program has distributed only service-initialized wireless phones, with the service donated by wireless carriers supporting the program. Today, *The Wireless Foundation* currently distributes grants to participating local domestic violence organizations, which are often used to purchase service-initialized phones to be distributed to individuals in need.<sup>28</sup> In addition, several major carriers,

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oftentimes to be used as toys.”); *see also* Comments of Clinton County Emergency Telephone Systems Board, PS Docket 08-51 (filed June 29, 2008) at 2.

<sup>25</sup> *See* Notice of Inquiry at ¶ 21.

<sup>26</sup> *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order, 17 FCC Rcd 8481 at ¶¶ 25-37 (discussing carriers' broad participation in service-initialized phone donation programs and describing programming, labeling and education requirements).

<sup>27</sup> *See* <http://www.wirelessfoundation.org> (last accessed July 29, 2008) (“The Wireless Foundation is a non-profit organization established by the membership of CTIA-The Wireless Association® in 1991. Working with wireless carriers, manufacturers and supplier companies, the Foundation manages philanthropic programs that use wireless technology to help make American communities safer.”).

<sup>28</sup> The Wireless Foundation currently gives national Domestic Violence organizations grants that they can use at their discretion, many times to purchase pre-paid service initialized phones. *See, e.g.*, NCADV Donate-A-Phone program, available at [http://www.ncadv.org/takeaction/DonateAPhone\\_234.html](http://www.ncadv.org/takeaction/DonateAPhone_234.html) (last accessed July 29, 2008) (“The National Coalition Against Domestic Violence (NCADV) has partnered with The Wireless Foundation for over seven years through the CALL TO PROTECT program which was created to provide victims of domestic violence who may encounter emergency situations with free cell phones for that use.”).

including AT&T, Sprint Nextel, T-Mobile and Verizon Wireless operate programs that collect no-longer-used wireless phones in any condition, which are then refurbished and sold or disposed of in an environmentally sound way. These carriers do not donate the actual used phones, thereby ensuring that no NSI devices are re-circulated to charitable organizations. Rather, proceeds from these programs are used to provide new service-initialized wireless phones and cash grants to local shelters, non-profit organizations that focus on domestic violence prevention and awareness, educational organizations or prepaid calling cards for military personnel.<sup>29</sup>

## VI. CONCLUSION.

As discussed above, CTIA respectfully recommends that the Commission: (1) continue to support the forwarding of all 911 calls to PSAPs; (2) reject any solution that would require CMRS providers to block 911 calls from devices identified as NSI; (3) if it believes that some level of blocking is necessary, permit blocking by PSAPs; and (4) engage in education efforts with Public Safety to reduce accidental or fraudulent calls.

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<sup>29</sup> See The Wireless Recycling Network, *available at* <http://www.recellular.com/recycling/recyclingPartners.asp> (last accessed July 29, 2008). See also AT&T Supports Cell Phones for Soldiers, *available at* <http://www.att.com/gen/press-room?pid=7930> (last accessed July 29, 2008) (“A long-standing mission of AT&T is helping connect military families. Cell Phones for Soldiers ... uses funds from recycled cell phones to buy prepaid phone cards for active duty military members – to help connect them with their families”); Sprint Project Connect, *available at* [http://www.sprint.com/citizenship/communities\\_across/project\\_connect.html](http://www.sprint.com/citizenship/communities_across/project_connect.html) (last accessed July 29, 2008) (“All of the net proceeds from Sprint Project Connect help to keep kids safer online through Sprint’s 4NetSafety program in partnership with the National Center for Missing & Exploited Children, the NEA Health Information Network, and others.”); T-Mobile Safety, Community & Sponsorships, *available at* [http://www.t-mobile.com/Company/Community.aspx?tp=Abt\\_Tab\\_HandsetRecycling](http://www.t-mobile.com/Company/Community.aspx?tp=Abt_Tab_HandsetRecycling) (last accessed July 29, 2008) (“The goal of the program is to protect the environment through reuse or proper disposal of wireless equipment and accessories. 100% of net proceeds from recycling efforts will be used to support T-Mobile selected charities. At this time, all net proceeds will go to the charitable efforts of the *T-Mobile Huddle Up* program.”); Verizon Wireless Hopeline Phone Program, *available at* [http://aboutus.vzw.com/communityservice/Phone\\_Program.html](http://aboutus.vzw.com/communityservice/Phone_Program.html) (last accessed July 29, 2008) (“HopeLine® phones are provided to participating domestic violence agencies and organizations nationwide, for use by victims and survivors as they rebuild their lives. The HopeLine phones have 3000 anytime minutes of airtime with calling features including: Nationwide coverage, Call-Forwarding, Call-Waiting, 3-Way Calling, Caller-ID, and Basic Voice Mail.”).

Respectfully submitted,

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