

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

In the Matter of)
)
Implementation of the NET 911 Improvement) WC Docket No. 08-171
Act of 2008)

REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”)¹ respectfully submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding implementing the New and Emerging Technologies 911 Improvement Act (“NET 911 Improvement Act”).² While CTIA applauds the Federal Communications Commission’s (“FCC” or “Commission”) goal of improving 911 service, a number of the proposals in the NPRM stray from Congress’s limited mandate to the Commission and should be investigated outside the accelerated timeframe established by the NET 911 Improvement Act. In particular, CTIA is concerned by (1) the Commission’s reliance on a single carrier’s network model as a foundation for potential rules applicable to all carriers, (2) its consideration of pricing standards and technical network issues, and (3) the risk of varying and potentially inconsistent enforcement that could result from FCC delegation of its enforcement authority to state

¹ 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 Services, PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

² *Implementation of the NET 911 Implementation Act of 2008*, Notice of Proposed Rulemaking, FCC 08-195 (rel. Aug. 25, 2008) (“NPRM”).

and/or local authorities. To the extent these issues warrant further consideration, the short timeframe and limited scope provided by Congress leaves consideration of these issues better suited to other currently pending proceedings or on a case-by-case basis. Addressing these issues in other proceedings would allow for a more detailed analysis by the Commission and ensure that the Commission meets its statutory deadlines in the current proceeding.

I. INTRODUCTION AND BACKGROUND

The NET 911 Improvement Act was enacted “to promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E-911 services, encourage the Nation’s transition to a national IP-enabled emergency network, and improve 911 and E-911 access to those with disabilities.”³ Under the NET 911 Improvement Act, each IP-enabled voice service provider must provide 911 service and E-911 service in accordance with Commission requirements. The NET 911 Improvement Act further provides that the Commission must adopt regulations ensuring that IP-enabled service providers have access to the capabilities necessary to fulfill their statutory obligation.⁴ The NET 911 Improvement Act requires the Commission to issue these regulations by October 21, 2008.⁵

The duties imposed by Congress on the Commission were aimed at ensuring that VoIP providers would be on equal ground with CMRS providers in terms of their ability

³ New and Emerging Technologies 911 Improvement Act of 2008, Pub. L. No. 110-283, __ Stat. __, Preamble (“NET 911 Improvement Act”) (amending Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (“Wireless 911 Act”).

⁴ NET 911 Improvement Act at § 101(2); Wireless 911 Act at § 6(c)(1).

⁵ *Id.* The NET 911 Improvement Act was signed into law on July 23, 2008 and allows the Commission 90 days to enact the necessary rules.

to comply with 911 and E-911 requirements. Nothing in the NET 911 Improvement Act can be read as a directive that the Commission must complete a comprehensive rulemaking regarding wireless 911 or other services within the timeframe prescribed by the Act. Nonetheless, the Commission has sought comment on a variety of issues relating to the provision of 911 and E-911 service, including roaming and autolocation, pricing, technological, and network security issues. While CTIA and the wireless industry strongly support the improvement of 911 and E-911 service, some of the Commission's proposals in the NPRM are beyond the scope of the NET 911 Improvement Act and better addressed in other proceedings where the issues can be fully discussed and analyzed.

II. THE COMMISSION SHOULD NOT ENLARGE CONGRESS'S LIMITED MANDATE IN THE NET 911 IMPROVEMENT ACT BY ADOPTING ROAMING RULES OF GENERAL APPLICABILITY BASED ON A SINGLE CARRIER'S SERVICE.

The NPRM seeks comment on what roaming requirements should be imposed on mobile VoIP providers and their roaming partners.⁶ In doing so, the Commission relies on a single carrier's service – T-Mobile's interconnected VoIP service – as a baseline approach to mobile VoIP.⁷ A rule of general applicability based on this single service will not meet the needs of all carriers and could have adverse consequences. Indeed, the

⁶ NPRM at ¶ 7.

⁷ *Id.* (“For example, T-Mobile has asked the Commission to waive or rule on several requirements of the VoIP 911 Order for its interconnected VoIP service, which allows a customer to use a dual-mode handset that works as a regular CMRS phone and, when it is in a WiFi hotspot, an interconnected VoIP phone. . . . Assuming that T-Mobile's use of CMRS default routing and associated ‘last known cell’ information is sufficient, we seek comment on what modifications we should make to our rules when outside the footprint... Further, we seek comment generally on what capabilities we should require roaming partners to make available to mobile VoIP providers to ensure compliance with applicable 911 and E911 requirements.”).

wireless industry as a whole has not adopted a single approach to mobile VoIP or IP in general, and it is likely that carriers will incorporate IP into their networks in different ways.⁸ The Commission should give them the opportunity to do so and not risk chilling innovation by enacting a rule of general applicability at this early stage.

In light of the rapidly-approaching deadline imposed by Congress, the Commission should focus its inquiry on the mandates contained in the NET 911 Improvement Act and decline to consider implementing specific roaming requirements in the instant proceeding. CTIA agrees with Commissioner Adelstein's observation that "[b]y attempting to append these issues here, we risk . . . diverting this Notice from the core issues, potentially making it more difficult to reach the 90-day statutory deadline."⁹ The Commission should not jeopardize its ability to meet this rapidly-approaching deadline by unnecessarily developing roaming regulations in this proceeding. As Commissioner Adelstein noted, the Commission has "much work to do" to meet the deadline imposed by Congress.¹⁰ It must not become distracted by issues that need not be addressed in this proceeding.

Nothing in the NET 911 Improvement Act requires that the roaming issues proposed by the Commission be resolved at this time. Indeed, in his separate statement Commissioner McDowell stated that through "an extemporaneous discussion regarding

⁸ See, e.g., Comments of Sprint Nextel, WC Docket No. 08-171 at 12 (filed Sept. 9, 2008); Comments of Washington State E911 Program, WC Docket No. 08-171 at 2-3 (filed Sept. 9, 2008); Comments of NENA and APCO, WC Docket No. 08-171 at 11 (filed Sept. 9, 2008).

⁹ NPRM, Statement of Commissioner Jonathan S. Adelstein. Commissioner McDowell similarly noted that in engaging in a discussion of extemporaneous issues, "the Commission could jeopardize the tight deadlines established by the NET 911 Act." NPRM, Statement of Commissioner Robert M. McDowell.

¹⁰ *Id.*

mobile VoIP, we veer well off the course set by Congress” and that “[t]hrough this discussion, the Commission is seeking comment on possible new regulatory duties neither intended nor mandated by Congress.”¹¹ Because the Commission is only required to address a limited range of issues by the 90-day deadline, it should take the opportunity to fully consider these issues in other pending proceedings, including the FCC’s ongoing Part B E-911 Location Accuracy Notice of Proposed Rulemaking, in which these precise issues were raised.¹² These issues also could be considered by the E911 Implementation Office in its Report to Congress that is required by the NET 911 Improvement Act.¹³ As Commissioner McDowell has noted, these issues are “worthy of additional study,”¹⁴ and the Commission can and should take the opportunity to carefully examine these issues in other appropriate proceedings.

¹¹ NPRM, Statement of Commissioner Robert M. McDowell.

¹² *Wireless E911 Location Accuracy Requirements*, Notice of Proposed Rulemaking, FCC 07-108, at ¶ 17 (2007) (“We are concerned that a wireless caller whose carrier employs one type of location technology may not be provided Phase II service at all when roaming on the network of another carrier that relies on a different technology, or when there is no roaming agreement between carriers using compatible technologies. How can these issues be addressed?”). In addition, the Commission more recently sought comment on ways in which Registered Location information might be made available to alternative relay providers for the purpose of routing emergency calls. *E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-151, ¶ 107 (2008).

¹³ See NET Improvement 911 Act § 102(3) (“No more than 270 days after the date of enactment of the New and Emerging Technologies 911 Improvement Act of 2008, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen-activated emergency communications and improving information sharing among all emergency response entities.”). The NET 911 Improvement Act requires that this plan include, among other things, “specific mechanisms for ensuring the IP-enabled emergency network is available in every community and is coordinated on a local, regional, and statewide basis.” *Id.* It also requires that the plan “analyze efforts to provide automatic location for enhanced 9-1-1 services and provide recommendations on regulatory or legislative changes that are necessary to achieve automatic location for enhanced 9-1-1 services.” *Id.*

¹⁴ NPRM, Statement of Commissioner Robert M. McDowell.

III. THE NET 911 IMPROVEMENT ACT DOES NOT REQUIRE THE COMMISSION TO RESOLVE TECHNICAL AND PRICING ISSUES RAISED IN THE NPRM AT THIS TIME.

In addition to the roaming issues addressed above, the Commission seeks comment on a variety of other issues, such as pricing standards for access to E-911 network capabilities by IP-enabled service providers and technical and network security issues associated with the provision of 911 services by IP-enabled service providers.¹⁵ CTIA submits that the Commission need not address such issues at this time and that, as with the roaming issues discussed above, these questions are better resolved in other proceedings or by other bodies.

Rates, Terms, and Conditions. The Commission seeks comment on the rates, terms, and conditions under which E-911 network capabilities are provided to commercial mobile service providers, as well as how the Commission should determine the rates, terms, and conditions that are to be placed on certain capabilities.¹⁶ CTIA fully supports non-discriminatory pricing and emphasizes that facilities and capabilities used by wireless carriers to provide 911 and E911 should not be subject to different rates, terms and conditions, or access simply because they may also be used for 911 VoIP services. Detailed pricing and mandatory disclosure rules, however, are not required at this time. The Commission can analyze pricing concerns on a case-by-case basis to determine whether discrimination is occurring, and only then should it consider a discussion of detailed pricing rules such as those contemplated in the NPRM. As stated above, the Commission should limit its inquiry to those issues required to be resolved

¹⁵ NPRM at ¶¶ 9-10.

¹⁶ *Id.*

under the NET 911 Improvement Act and not establish pricing standards for network access capabilities at this time.

Technical and Network Security Concerns. The NPRM also invites comment on various technical and network security issues related to the provision of 911 service by IP-enabled service providers.¹⁷ CTIA submits that this proceeding is not the proper venue in which to resolve these technical issues, as they are better suited to resolution in standards groups, such as the National Emergency Number Association's ("NENA") Next Generation 9-1-1 Project.¹⁸ NENA's efforts include a VoIP Technical Committee Working Group that is "develop[ing] NG9-1-1 related recommendations and considerations for IP Networks" and a "Technical-Operations Working Group on NG9-1-1 data impacts and operational requirements."¹⁹ Moreover, the Alliance for Telecommunications Industry Solutions' Emergency Services Interconnection Forum ("ESIF") has been the standards body for implementation of standards to deploy IP-based E911 service.²⁰ CTIA respectfully submits that these industry bodies are the proper fora in which such questions should be resolved.²¹

¹⁷ NPRM at ¶ 11.

¹⁸ NENA NG9-1-1 Project, <http://www.nena.org/pages/ContentList.asp?CTID=65> ("The NENA NG9-1-1 Project encompasses and coordinates many actions aimed to accomplish the capabilities for IP based Next Generation 9-1-1 (NG9-1-1) within this decade.").

¹⁹ NENA NG9-1-1 Project: Technical Development, <http://www.nena.org/pages/Content.asp?CID=367&CTID=65>.

²⁰ See, e.g., ATIS-0500012: Local Acquisition For Internet Access Networks in Support of Emergency Services ("*Technical Report*").

²¹ See, e.g., Comments of United States Telecom Association, WC Docket No. 08-171 at 5 (filed Sept. 9, 2008).

IV. THE COMMISSION SHOULD NOT DELEGATE ENFORCEMENT OF ANY REGULATIONS ISSUED UNDER THE NET 911 IMPROVEMENT ACT TO STATE OR LOCAL AUTHORITIES.

The Commission has proposed delegating authority to enforce regulations issued under Section 6(c) of the amended Wireless 911 Act to state commissions or other state or local agencies.²² CTIA opposes any such delegation. Wireless and IP-enabled service providers have an established track record of working cooperatively with state and local public safety authorities. These service providers offer service nationwide, however, and therefore need a single, consistent standard with which they must comply. If the Commission delegates its enforcement authority to state or local authorities, providers could be required to comply with dozens, hundreds, or potentially thousands of varying 911 and E-911 standards, a result that is clearly not in the public interest and one that is not addressed by those commenters seeking such delegation.²³ Accordingly, the Commission should enforce any regulations it adopts in this proceeding and should not delegate enforcement authority to state or local agencies.²⁴

²² NPRM at ¶ 12. *See also* NET 911 Improvement Act § 101(2); Wireless 911 Act § 6(d) (“The Commission may delegate authority to enforce the regulations issued under subsection (c) to State commissions or other State or local agencies or programs with jurisdiction over emergency communications. Nothing in this section is intended to alter the authority of State commissions or other State or local agencies with jurisdiction over emergency communications, provided that the exercise of such authority is not inconsistent with Federal law or Commission requirements.”).

²³ *See, e.g.*, Comments of Oklahoma Municipal League, WC Docket No. 08-171 at 4-5; Comments of Oklahoma Statewide 911 Advisory Board, WC Docket No. 08-171 at 3; Comments of Washington State E911 Program, WC Docket No. 08-171 at 3; Comments of Texas 9-1-1 Alliance and Texas Commission on State Emergency Communications, WC Docket No. 08-171 at 9-10 (filed Sept. 9, 2008).

²⁴ *See also* Comments of Verizon, WC Docket No. 08-171 at 4-5 (filed Sept. 9, 2008); Comments of Sprint-Nextel, WC Docket No. 08-171 at 9-10 (filed Sept. 9, 2008)

V. CONCLUSION

CTIA applauds the Commission's goal of improving 911 service to all Americans regardless of the technologies used. CTIA believes, however, that the short 90-day period provided under the NET 911 Improvement Act supports a proceeding focused on those issues specifically necessary to implement the mandate of Congress. The Commission's reliance on a single carrier's service in developing a baseline for proposed rules will not meet the needs of all carriers and risks stifling innovation at a very early stage of technological development. In addition, detailed pricing and mandatory disclosure rules are not required at this time and the technical and network security issues implicated in the NPRM are better suited for resolution in the appropriate standards groups. Finally, delegation of the Commission's enforcement authority to state and local agencies would not serve the public interest, and the Commission should retain authority over enforcement of any regulations adopted in this proceeding. In this way, the Commission will ensure further progress in the improvement of 911 service to users of new and emerging technologies.

Respectfully submitted,

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