



February 7, 2013

(Filed electronically)

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Public Notice*, Public Safety and Homeland Security Bureau Seeks Comment on the Legal and Statutory Framework for Next Generation 9-1-1 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012, DA 12-1831; PS Docket No. 10-255, PS Docket No. 11-153 and PS Docket No. 12-333

Dear Ms. Dortch:

The Voice on the Net Coalition (VON)¹ hereby submits these brief comments in response to the Public Notice issued in the above-referenced proceeding.² As the Commission develops its report to Congress on Next Generation 911 (NG911) issues, VON asks that the report highlight the necessity of moving to a NG911 network before policymakers consider imposing 911 obligations on over-the-top (OTT) IP services. VON also believes that it is important for the report to acknowledge that any legislative action on NG911 must be narrowly tailored to achieve the specified policy objective so future regulations are adopted in a manner that properly balances achieving those policy objectives with preserving the innovations consumers have come to expect from Internet entrepreneurs. While some existing policy objectives such as reaching emergency services may be reasonable for future IP applications and services, legacy requirements and mandates may not be reasonable or technically feasible. The FCC should ensure that Congress is aware that new approaches will be required to accomplish long-standing policy goals in the IP-based world of the 21st Century.

The VON Coalition also urges the Commission in its report to note the importance of a comprehensive national framework, providing appropriate liability protections, minimizing and properly assessing any relevant fees, and allowing appropriate technical experts to solve the numerous thorny technical and operational

¹ VON works to advance regulatory policies that enable Americans to take advantage of the full promise and potential of IP communications. See <http://www.von.org>.

² *Public Notice*, Public Safety and Homeland Security Bureau Seeks Comment on the Legal and Statutory Framework for Next Generation 9-1-1 Services Pursuant to the Next Generation 9-1-1 Advancement Act of 2012, DA 12-1831, PS Docket Nos. 10-255, 11-153 and 12-333 (November 13, 2012).



issues of NG911, including determining and transmitting the accurate location information of an OTT application user.

A. Federal Framework is Crucial to the Effective Implementation of NG911

The VON Coalition agrees with many of the commentators advocating for clear Federal oversight of NG911 issues. While state and local coordination will likely be necessary to accommodate the varying technological and regional implementation challenges, it is important to maintain a consistent approach toward the NG911 platform at the national level. Disparate state regulations often cloud the development landscape and impose too great a burden upon developers attempting to provide nationwide solutions. Over-the-top IP services are generally nationwide -- if not global -- offerings, thus requirements that impose state specific or regional requirements will adversely affect their ability to enable 911 solutions while continuing to evolve, innovate and grow.

Furthermore, as new technologies attempt to integrate with NG911 services, the complexity of numerous, varying local NG911 networks would stifle the development of innovative emergency data solutions. Industry standards and best practices provide helpful guidelines to inform the development process, but may not necessarily be able to ensure a level playing field for new entrants and new technologies across a localized NG911 network. A nationwide 911 system will be better able to integrate evolving technologies and meet the expectations and needs of consumers.

B. NG911 Fees Must be Minimized and Appropriately Assessed

Many over-the-top IP services are offered to consumers for free and, as a result, the imposition of NG911 fees could very well eliminate such service offerings from the marketplace. First, it will be tremendously important for policymakers to identify appropriately any subset of IP-enabled services that will be subject to NG911 requirements. Second, once those services are identified, it will be critical to develop a new framework that works in an IP world rather than simply applying the legacy 911 framework to new IP services. In implementing a NG911 framework, policymakers should seek to capitalize on the increased efficiencies of an all IP-network to reduce cost on all parties. This should include consideration of potentially reducing the number of public safety answering points,³ as well as developing a consistent technological and operational implementation of NG911 nationwide.

To the extent NG911 fees are imposed, it will be essential that the fees are imposed only on those services that directly impact the NG911 network. Moreover, as

³ AT&T comments at 6; *see also, More PSAP Consolidation Likely, Fontes says*. Communication Daily, February 7, 2013 at 7.



noted above, because many OTT services are provided free of charge, the development of any future NG911 fee structure must account for these business models to ensure regulatory fees and costs do not undermine their viability and, as a result, drive innovative services out of the market. Finally, the FCC should highlight the need for Congress to ensure that fees collected – whether at the state, local or federal level -- to fund the creation and operation of a next generation 911 network are used only for that purpose. Diversion of NG911 revenues to other governmental uses should be deemed unacceptable.

C. Liability Protections Are Important to Delivering NG911 Requirements.

The Commission’s report also should highlight the importance of ensuring appropriate liability protections for all parties engaged in NG911, whether OTT service providers, network operators, vendors and PSAPs.

The current structure of liability protection varies significantly across states and focuses too narrowly on voice services alone. As stated by many commentators, liability concerns pose a significant barrier to NG911 development.⁴ The National Telecommunications Cooperative Association highlighted that “the current liability risk proposition will deter innovation, investment, and deployment of NG911 technology and services.”⁵ If the liability regime is to truly prepare for the future of NG911 it must look beyond the existing players and prepare a framework for future entities and technological solutions. Simply enlarging a list will not solve the problem of adapting to the rapid development that occurs in the technology sphere. Liability protections must be able to incorporate evolving technologies, recognize the enormous complexities introduced by a NG911 system and preserve broad support for new entities regardless of the format of communication.

D. The FCC’s Report Must Address the Enormous Technical Challenges that Will Adversely Affect the Ability of OTT Services to Provide Accurate and Reliable Location Information.

It is important that policymakers acknowledge the technical challenges that must be resolved in order for an OTT IP service to participate effectively in an NG911 system. Most significantly, technical experts from a cross-section of industries, e.g., OTT providers, broadband providers, third party vendors, must resolve current challenges that prevent the accurate and reliable location of an OTT app user in an emergency situation.

⁴ Verizon and Verizon Wireless comments at 5, Motorola Solutions, Inc. comments at 7, Telecommunication Systems, Inc. comments at 5, National Emergency Number Association comments at 17.

⁵ National Telecommunications Cooperative Association reply comments at 3.



Until this fundamental challenge is resolved, OTT services cannot participate in the next generation of emergency services because there is no mechanism to appropriately route an OTT user to the correct PSAP, much less provide reasonably accurate information to that PSAP about the app user's specific location. VON believes these technical challenges can only be overcome through the work of appropriate technical standards bodies and qualification programs. And, policymakers should consider whether legal obligations will be necessary to ensure that location information, readily available to some participants engaged in the transmission of an IP-based communication, is effectively made available, for example through APIs to all services subject to NG911 requirements.

The VON Coalition, however, cautions the Commission against recommending that Congress adopt legislative mandates in an effort to speed the development of technologies that provide more accurate and efficient transmission of 9-1-1 caller information in a NG911 environment.⁶ As has been demonstrated time and time again, legislation is often unable to keep pace with the rapid evolution of technology and the adoption of such legislation would risk the misapplication of legacy viewpoints to radically different technological landscapes. As Sprint notes, "[this legislation] could hamper the full realization of the promise of NG911."⁷ Many commentators including Sprint and Verizon highlight that industry standards and best practices are better suited to addressing this issue specifically.⁸ VON agrees. Guiding technologies to a common goal is one thing, but as addressed above, this type of legislation may capture many developing services that do not yet have the infrastructure to comply with rigid mandates. For example, legislation requiring location-based information would create barriers to services and applications that cannot acquire access to such information in a cost effective manner—and implicate significant privacy considerations. Broad technology mandates have a high likelihood of stifling the development and deployment of innovative NG911 services. Certainly, if there were legislation, it should be narrowly tailored to capture only the most fundamental NG911 technologies and services.

⁶ Public Notice at 5.

⁷ Reply Comments of Sprint Nextel at 8.

⁸ Reply comments of Sprint Nextel at 8 and Comments of Verizon at 6.



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The VON Coalition looks forward to working with the Commission, NENA, APCO and standard setting organizations to further a workable and successful transition to a NG911 system.

Please contact the undersigned if you have any questions.

Sincerely,

The VON Coalition

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