Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Facilitating the Deployment of Text-to-911	)	
and Other Next Generation 911 Applications	)	PS Docket No. 11-153
	)	
Framework for Next Generation 911	)	PS Docket No. 10-255
Deployment	)	

COMMENTS OF GOGO INC.

I. Introduction and Background

Gogo Inc. ("Gogo") submits these comments in response to the January 30, 2014 Second Further Notice of Proposed Rulemaking (the "*Notice*") issued in the above-captioned proceeding.[1] In the *Notice*, the Commission seeks comment on whether all text providers should be required to provide Text-to-911 service with coarse location information by December 31, 2014.[2] For the reasons explained below, the Commission should clarify that text services provided to passengers aboard aircraft are exempt from any 911 requirements.

Gogo has been a pioneer in the airborne communications sector for more than 20 years and is a leading provider of in-flight connectivity solutions, with the world's largest number of online aircraft in service. Through its subsidiaries, Gogo provides a variety of airborne communications services to both the general and commercial aviation markets. In particular, Gogo recently launched a "Text & Talk" application that allows passengers on general aviation

[1] *In the Matter of Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications; Framework for Next Generation 911 Deployment*, Policy Statement and Second Further Notice of Proposed Rulemaking, PS Dockets No. 11-153, 10-255 (rel. Jan. 31, 2014) ("*Notice*").

[2] *Notice* ¶ 18.

aircraft to place Voice over Internet Protocol ("VoIP") calls and send text messages from their own WiFi-enabled mobile devices.[3] In the coming months, Gogo plans to launch a text-only version of the Text & Talk application for use on any commercial flight already equipped with Gogo's WiFi service, which will provide users with a convenient means to keep in touch while airborne.

II. Offering Text-to-911 Service While Airborne Will Not Improve Public Safety.

The *Notice* explains that Text-to-911 services "will benefit: (1) the public in terms of the ability to access emergency help, both for people with disabilities and for people in situations where placing a voice call to 911 could be difficult or dangerous; and (2) PSAPs by providing them with better information that can be synthesized with existing databases to enable emergency responders to assess and respond to emergencies more quickly and effectively."[4] These goals will not be advanced by extending the proposed rules to airborne services for a number of reasons.

First, connecting passengers to the nearest PSAP does not make sense in an airborne context. Traveling at roughly 500 miles per hour, commercial planes will quickly cross the boundaries of numerous PSAPs. For example, a flight passing over Washington, DC could enter and exit the jurisdiction of the local PSAP, the Office of Unified Communications, in just over one minute.[5] With multiple passengers texting 911 as the plane travels, messages could reach

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[3] General aviation aircraft operators will also have the option of installing a "tethered" handset in the aircraft cabin that can access the same VoIP and interconnected text services.

[4] *Notice* ¶ 7.

[5] *See PSAP Registry*, FCC, http://transition.fcc.gov/pshs/services/911-services/enhanced911/psapregistry.html (last visited Mar. 26, 2014).

numerous PSAPs, causing duplicated efforts and increasing the burden of coordinating all the requests for assistance.

Moreover, it unclear how an inflight texting service should even determine the "correct" PSAP to receive an emergency text. Specifically, the *Notice* proposes the use of "coarse" – *i.e.*, cell sector – location information for routing texts to the correct PSAP.[6] For airborne services, there are many fewer cell sectors compared to terrestrial services. Gogo's network, for example, employs only 220 ground sites, with about 1,300 total cell sectors, to cover the entire continental U.S. This means that a single sector above the more populated areas of the country could potentially encompass dozens of different PSAPs, providing no clear choice for the text delivery. Moreover, while some proposed technical solutions involve the use of more precise GPS-derived coordinates,[7] it is important to consider that on many smartphones, GPS is disabled when the handset is in airplane mode.[8]

Second, PSAPs are not equipped to provide assistance to passengers in the air. PSAP operators dispatch police, fire, and emergency medical services from local stations to the scene of an emergency. These services cannot, of course, reach passengers in flight, and PSAP operators are not trained or equipped to give passengers or crew instructions on how to handle most in-fight emergencies. Airlines have already implemented protocols for handling

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[6] *See Notice* ¶¶ 23, 41.

[7] *See Notice* ¶ 33 ("The third server-based solution … relies on the location API in the mobile device, rather than a commercial location service, to obtain the user's location.").

[8] *See e.g.*, ForeFlight Intelligent Apps for Pilots, http://www.foreflight.com/support/gps (last visited Mar. 31, 2014) ("If you turn on 'airplane mode' the GPS receiver will be disabled."); MotionX-Support, http://support.motionx.com/motionx-gps/does-motionx-gps-work-when-my-iphone-4-3gs-or-3g-is-in-airplane-mode/ (last visited Mar. 31, 2014) ("When in airplane mode, the GPS chipset is disabled by the iPhone. Third party applications cannot override or alter the airplane mode functionality to enable the GPS chipset."); GPS Airtime, https://play.google.com/store/apps/details?id=com.crittermap.gps.gpsairtime (last visited Mar. 31, 2014) (application designed to enable use of GPS "in Airplane Mode on Droid X and other [Android] devices where this would otherwise fail.").

emergencies while airborne and for hailing emergency assistance. Federal Aviation Administration regulations require the cabin crew to receive recurring training in handling a variety of emergencies.[9] And in the training of an airline's aircraft dispatchers, regulations require that "[e]mergency procedures must be emphasized, including the alerting of proper governmental, company, and private agencies during emergencies to give maximum help to an airplane in distress."[10]

Moreover, PSAPs would not provide the best assistance for passengers who become ill in flight. Airlines generally contract with medical advisory services that have doctors on-call to provide crewmembers with medical advice and instructions on how to best treat an ill passenger.[11] Unlike PSAP personnel, these doctors are specially "trained in airline protocols, procedures, and the medical equipment available on board."[12] If required, such services can also advise the pilot on the most medically appropriate diversion location, by referencing specially-compiled databases of the emergency medical response capabilities at airports across the country.[13]

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[9] 41 C.F.R. §§ 121.415-17.

[10] 41 C.F.R. § 121.422.

[11] *See, e.g.*, Medical Advisory Services: Medlink, MedAire, http://www.medaire.com/solutions/airlines/solutions/medical-advisory-services-medlink (last visited Mar. 26, 2014) ("When a medical situation arises during a flight, crewmembers have ready access to an emergency department doctor for advice and assistance. MedAire doctors are there to help crewmembers prevent medical situations from escalating – or cope with them as they occur. … MedAire manages thousands of in-flight medical emergencies every year and can facilitate communications in more than 140 languages.").

[12] *Id.*

[13] *Id.* ("Should the pilot decide to divert, MedAire is an indispensable resource in assisting the pilot and operations center to determine the most medically appropriate diversion location based on the passenger's medical needs. MedAire's assistance network specialists continuously research and update the emergency medical response capabilities at the more than 5000 airports served by our clients. The MedAire team will also coordinate and manage emergency medical response in accordance with airport and carrier protocols.")

Furthermore, texts to PSAPs from airplanes will create confusion and could delay proper emergency assistance. If first responders on the ground will be needed immediately upon landing, crewmembers are trained to communicate with ground personnel, who can ensure that resources arrive at the right place at the right time. By contrast, passengers communicating with PSAP dispatchers will not have the most precise or current information about where and when a plane will land, particularly in an emergency situation when diversion to closer airport may be appropriate. In fact, passengers may not understand the nature of an aviation emergency, or whether certain problems are an emergency at all. Assistance requests from passengers could therefore lead to confusion and duplicated efforts. Indeed, the National Emergency Number Association, a leading professional non-profit organization dedicated solely to 911 emergency communications, first recognized this risk in 2008. In a letter to various stakeholders, NENA stated that it was "concerned about the possibility that passengers may be able to dial 9-1-1 from VoIP phones from airborne aircraft," noting that such capability has the potential to "create some potentially dangerous situations."[14]

Because messages from airborne passengers to the nearest PSAP on the ground are unlikely to provide the help passengers need and may actually interfere with established procedures for handling in-flight emergencies, the Commission should explicitly exempt inflight communications services, including interconnected text services, from any 911 requirements.

III. Exempting Airborne Text Messaging Services from the Text-to-911 Rules Is Consistent with the Commission's Previous Conclusions.

An exemption for text messaging services that operate only while airborne would be consistent with the FCC's previous conclusions on the subject. For example, in the

[14] *See* Letter from Robert Cobb, Executive Director, National Emergency Number Association, to William Gordon, Vice President, Regulatory Affairs, AirCell LLC (Mar. 27, 2008).

Commission's 1996 order on improving the reliability and quality of 911 services for wireless phone users, the Commission expressly exempted air-to-ground services because "passengers and crews do not rely on ground-based rescue operations. Instead, passengers and crews of airplanes rely on other radio communications channels."[15] As discussed above, this finding continues to hold true today.

In 2003, the Commission reaffirmed this reasoning with regard to the Mobile Satellite Services ("MSS"). The Commission declared that:

> MSS will be exempt from complying with MSS 911 requirements to the extent that they provide maritime or aeronautical service. . . . We do not see any need to require MSS carriers to provide more than one form of emergency access service. Maritime and aeronautical MSS users already use other forms of emergency service . . . and overlay of a 911 emergency system may introduce unnecessary confusion.[16]

Finally, in its 2007 order amending the CMRS 911 rules, the Commission said it would continue to rely on four criteria, first established in the 2003 E911 Scope Order, for analyzing whether any new service should be subject to 911/E911 mandates.[17] The criteria are:

> (1) the service offers real-time, two-way voice service that is interconnected to the public switched network on either a stand-alone basis or packaged with other telecommunications services; (2) the customers using the service or device have a reasonable expectation of access to 911 and E911 services; (3) the service competes with traditional CMRS or wireline local exchange service; and (4) it is technically and operationally feasible for the service or device to support E911.

While the instant proceeding obviously contemplates a change to the first criteria, airborne text messaging nevertheless fails to satisfy the three remaining criteria: (1) customers do not

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[15] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order, 11 FCC Rcd 18676, at ¶ 82 (rel. July 26, 1996).

[16] *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 25340, ¶ 27 (Dec. 1, 2003).

[17] *See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 8064, ¶ 135 (rel. Apr. 27, 2007).

reasonably expect to be able to access 911 services at 30,000 feet; (2) airborne-only text messaging services do not compete with texting over traditional terrestrial CMRS networks; and (3) it is not operationally feasible for airborne services to support 911 in a manner consistent with the intent of the rules.

IV. Conclusion

While consumers on the ground can benefit from having the option to text to 911, those benefits cannot be realized onboard airborne aircraft. Passenger safety and security is best served by continuing to hail emergency assistance through specialized airborne procedures. Thus, for the reasons described above, the Commission should clarify that its previously-established policy regarding aeronautical-based communications services still applies and, specifically, that airborne texting services will be exempted from the proposed text-to-911 rules.

Respectfully submitted,

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Dated: April 4, 2014