Testimony of

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on

"Locating 911 Callers in a Wireless World"

before the

Senate Commerce Subcommittee on Communications, Technology and the Internet

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On behalf of CTIA – The Wireless Association®, thank you for the opportunity to participate in this morning' s discussion of 911 location accuracy and other issues that impact the delivery of 911 services.

CTIA and its members have a long history of working to enhance the utility of wireless 911 services for consumers and public safety officials. The wireless industry has worked closely with Congress, the Federal Communications Commission, the PSAP community, technology vendors, and other interested parties to improve the safety of consumers through the development and deployment of innovative E911 solutions. As a result, wireless carriers are meeting their regulatory obligations and providing accurate and timely location information to PSAPs that today receive more than 400,000 911 calls a day from wireless devices.

Even with this impressive record, the industry hasn't been resting on its laurels. Just over a year ago, working with NENA and APCO, the four national carriers voluntarily committed to offer their subscribers text-based emergency communications services by mid-May 2014.[1] This text-to-911 effort represents an important step toward better meeting the emergency communications needs of the deaf, hearing-impaired, and speech-impaired communities who use wireless text-messaging services every day, even as the wireless industry continues to work toward a comprehensive Next Generation 911 system.

Additionally, the industry is actively involved in the ongoing work of the Communications Security, Reliability and Interoperability Council (CSRIC) to examine the effectiveness of various technologies and products through its Indoor Location Test Bed. While CTIA is optimistic that the Test Bed process can lead to results that will enhance indoor location accuracy, we agree with the public safety experts participating in CSRIC III's E911 Location Accuracy Working Group 3, who have said that the Test Bed process indicates that "additional development is required to ensure the positional coordinates provided on an emergency caller sheltered indoors result in an 'actionable location' for emergency response, especially in urban and dense urban

[1] See http://apps.fcc.gov/ecfs/document/view?id=7022074960 and http://apps.fcc.gov/ecfs/document/view?id=7022074962.

environments."[2] Vendors that believe they have technology to provide this information should participate in the Test Bed process. This will offer objective evidence to carriers, the FCC, and the public safety community that a solution is ready for deployment.

While neither the text-to-911 launch or the CSRIC efforts on indoor location accuracy require the imposition of rules by the FCC, these initiatives, enhanced by billions of dollars in annual investment in new wireless infrastructure and continued innovation in the wireless device marketplace, promise to expand the emergency communications capabilities available to America's wireless subscribers and enable our first responders to provide improved protection to the public. But even as we work toward that goal, important issues remain that require policymakers' attention.

First, as evidenced by comments from NENA, APCO, carriers, and vendors in the FCC's proceeding on the Legal and Regulatory Framework for Next Generation 911 Services, there is a need for clear, comprehensive, standardized limitation of liability protection for all entities participating in any aspects of emergency services access, including NG911 services. The current liability protection framework is premised on protections available to legacy telephone networks under state law and regulations, but the industry is rapidly evolving to IP-based technologies in which services are diverse, increasingly mobile, and potentially multi-jurisdictional. Accordingly, all parties would be better served if Congress enacts liability protection at the national level, for both Federal and state causes of action, for all persons and entities involved in the provision of and access to 911 services, on a technology-neutral basis.

Second, the ongoing effort to upgrade PSAP facilities and training requires funding. However, in multiple FCC reports stemming from the NET 911 Act[3] (enacted in 2008 with leadership from Senator Nelson), it is apparent that some states continue to divert fees collected for the

[2] CSRIC III E911 Location Accuracy Working Group 3, Indoor Location Test Bed Report, March 14, 2013, at 8 (Public Safety Foreword), available at http://transition.fcc.gov/bureaus/pshs/advisory/csric3/CSRIC_III_WG3_Report_March_%202013_ILTestBedReport.pdf.

[3] P.L. 110-283.

support of 911 services to pay for other purposes. While the situation is better today than it was in 2009 when the first Report to Congress was issued, it remains a problem in a number of states. The diversion of these fees is unacceptable and CTIA urges Congress to use every tool at its disposal to halt the practice of raiding 911 funds, as the FCC suggested in its February 2013 Report to Congress and Recommendations on the Legal and Regulatory Framework for Next Generation 911 Services.[4]

Third, since this Committee urged "States and localities to study fee structures that accommodate pre-paid telecommunications services"[5] when it crafted the NET 911 Act, thirty-one states, the District of Columbia, and the U.S. Virgin Islands have adopted point-of-sale collection statutes to ensure that those who use prepaid wireless services contribute to the support of the emergency communications system. Several others are moving toward enactment of point-of-sale collection regimes. However, a number of states still have failed to adopt the NCSL-endorsed model legislation to facilitate the collection of 911 fees.[6] With almost 23 percent of wireless subscribers choosing to take service on a prepaid basis, those states' continued failure to address this issue negatively impacts the emergency communications system and creates competitive disparities among service providers.

Fourth, to ensure that consumers have consistent public safety expectations across America, the wireless industry also recommends that PSAP regionalization and consolidation be encouraged. State-level coordination is practical from a technical and financial perspective, as the range of technologies envisioned for NG911 may impose higher costs and administrative complexities that are better addressed at a state or regional level than by an individual PSAP. The wireless industry encourages the consolidation of PSAPs into regional PSAPs covering as large a number of counties as can be efficiently served on a regional basis.

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[4] Legal and Regulatory Framework for Next Generation 911 Services, Report to Congress and Recommendations, February 22, 2013, at 4.1.4.2, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-319165A1.pdf,.

[5] S. Rept. 110-142, at 9.

[6] http://www.ncsl.org/documents/standcomm/sccomfc/Point_of_Sale_Model_Bill2010.pdf.

Finally, CTIA urges Congress and the FCC to examine the potential intellectual property implications associated with the deployment of E911 and NG911 capabilities. CTIA member TeleCommunication Systems Inc. ("TCS") has noted in comments filed at the Commission that companies subject to the Commission's jurisdiction and others may own, control, or develop intellectual property rights that are directly relevant to the provision of 911 location services and sometimes use the Commission's 911 rules to create "an unfortunate arbitrage opportunity for litigation-minded [intellectual property rights] holders, patent assertion entities, sometimes called 'patent trolls,' that use the FCC's rules to force carriers and their vendors into licensing agreements or face crippling litigation expenses."[7]

With this concern in mind, TCS has filed a Petition for Declaratory Ruling and/or Rulemaking that asks that the Commission either issue guidance that in all circumstances compliance with E911 rules is in furtherance and fulfillment of a stated government policy, and therefore is by and for the government, thus triggering 28 U.S.C. § 1498[8], or alternatively require that patents that cover E911 or NG911 services and capabilities be offered for licensing pursuant to reasonable terms and conditions that are demonstrably free of any unfair discrimination.[9] Senator Cardin has introduced the Protect Advanced Communications for Emergency Services Act to address this matter and CTIA urges support for S. 1478 and other measures aimed at curbing abusive patent litigation. Providing E911 service should not make the wireless industry a target for predatory litigation.

CTIA looks forward to working with the Subcommittee and other stakeholders to address these issues and to ensuring that America's wireless consumers have access to the world's most comprehensive emergency communications capabilities.

[7] Comments of TeleCommunication Systems, Inc., PS Docket Nos. 10-255, 11-153, and 12-333, at 11 (Dec. 13, 2012).

[8] This statute provides, in relevant part, that "[w]henever an invention described in and covered by a patent of the United States is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the United States Court of Federal Claims for the recovery of his reasonable and entire compensation for such use and manufacture." 28 U.S.C. § 1498.

[9] Petition for Declaratory Ruling and/or Rulemaking of TeleCommunication Systems, Inc., GN Docket No. 11-117, WC Docket No. 05-196, PS Docket Nos. 11-153 and 10-255 (filed July 24, 2012).