

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
911 Call-Forwarding Requirements for Non- ) PS Docket No. 08-51  
Service-Initialized Phones )

To: The Commission

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”) hereby submits these comments in response to the above-captioned Notice of Proposed Rulemaking (“NPRM”) proposing to sunset the obligation for wireless carriers to transmit all 9-1-1 calls including those from non-service-initialized (“NSI”) handsets, *i.e.*, the “all calls” rule.<sup>1</sup> The Commission should preserve the “all calls” rule which has established wireless caller expectations for the consistent treatment of 9-1-1 calls and remains important for continuing to meet those expectations.

While CTIA appreciates concerns about fraudulent 9-1-1 calls, CTIA encourages Public Safety Answering Points (“PSAPs”) to combat fraudulent 9-1-1 calls from NSI handsets through call-blocking within their own networks or customer-premises equipment (“CPE”). In contrast, a sunset approach would generate uncertainty and confusion for wireless callers, including subscribers whose handsets temporarily register as NSI in certain circumstances. Ultimately, a sunset would not achieve the Commission’s goals of eliminating fraudulent calls to 9-1-1 from NSI handsets while ensuring access to 9-1-1 from all service-initialized handsets. For these reasons, CTIA continues to support the “all calls” rule.

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<sup>1</sup> *911 Call-Forwarding Requirements for Non-Service-Initialized Phones*, Notice of Proposed Rulemaking, 30 FCC Rcd 3449 (2015) (“NPRM”).

**I. THE COMMISSION SHOULD MAINTAIN THE “ALL CALLS” RULE, WHICH CONTINUES TO SERVE IMPORTANT PUBLIC SAFETY BENEFITS.**

Since this proceeding opened in 2008, CTIA has continuously supported maintaining the “all calls” rule because “[c]ountless individuals rely on NSI devices and reasonably expect that any wireless device is capable of reaching a PSAP.”<sup>2</sup> That reality remains true today. While CTIA appreciates the real problems created by fraudulent 9-1-1 calls and encourages PSAPs to combat such calls, the “all calls” rule continues to offer important public safety benefits and should be retained.

First, filings made in this docket in just the past month affirm that many individuals still rely on NSI handsets to reach 9-1-1, including some in the most vulnerable segments of society, such as lower-income populations, the elderly, and individuals with disabilities.<sup>3</sup> One commenter, for example, observed that “NSI cell phones are often carried by the most vulnerable members of our society such as battered women who leave an abusive partner and have little or no money and are given an NSI phone by a shelter.”<sup>4</sup> Another commenter has trained elder relatives who do not understand English and have learning disabilities that they only need a charged cell phone to reach 9-1-1.<sup>5</sup> Americans in need continue to rely on NSI handsets for

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<sup>2</sup> See Reply Comments of CTIA – The Wireless Association®, PS Docket No. 08-51, at 2-3 (filed July 29, 2008) (“CTIA 2008 Reply Comments”); see also Comments of CTIA – The Wireless Association®, PS Docket No. 08-51 (filed June 30, 2008) (“CTIA 2008 Comments”).

<sup>3</sup> Virtually all of the individual commenters that filed comments with the Commission after the release of the *NPRM* strongly support maintaining the “all calls” rule.

<sup>4</sup> Comments of Anonymous, PS Docket No. 08-51, at 1 (filed May 6, 2015).

<sup>5</sup> Comments of Mitul Patel, PS Docket No. 08-51, at 1 (filed May 6, 2015); see also Comments of Jason Myers, PS Docket No. 08-51, at 1 (filed May 6, 2015) (noting that some individuals keep NSI phones in their cars’ glove compartments for emergencies); Comments of

access to 9-1-1 services, and the Commission should be wary of taking action that would upend these expectations, a result that could have significant public safety consequences.

Second, as the Commission recognizes, some legitimate 9-1-1 calls from service-initialized handsets may temporarily appear on a wireless network as NSI.<sup>6</sup> Examples include the following:

- when a handset has not completed network registration at the time a 9-1-1 call is placed;
- when calls are made from a handset that selects the strongest signal, which may not be the subscriber's carrier; and
- when calls are placed by consumers roaming in areas with or without automatic roaming agreements.<sup>7</sup>

If carriers do not transmit *all* 9-1-1 calls, including NSI 9-1-1 calls, then 9-1-1 calls from service-initialized handsets in situations like these may not be transmitted to PSAPs. CTIA is not aware of any technological solution or standardized approach to account for such circumstances. Accordingly, the “all calls” rule has established wireless caller expectations for the consistent treatment of wireless calls to 9-1-1 and remains important to continue meeting those expectations.

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Burton Strauss, PS Docket No. 08-51, at 1 (filed May 6, 2015) (noting that several charities collect old cell phones to provide certain at-risk individuals “with a non-traceable lifeline”).

<sup>6</sup> *NPRM* ¶ 34.

<sup>7</sup> *See id.*

## **II. THE COMMISSION SHOULD WORK WITH PSAPS TO COMBAT FRAUDULENT CALLS AND AVOID THE UNCERTAINTY AND CONFUSION THAT WILL RESULT FROM SUNSETTING THE “ALL CALLS” RULE.**

CTIA recognizes the very real problems created by fraudulent 9-1-1 calls and encourages PSAP efforts to combat fraudulent calls from NSI handsets through call-blocking within their own networks or CPE.<sup>8</sup> Indeed, the Commission has made clear that the current “all calls” rule does not preclude PSAP efforts to administer their own operations and make decisions about how to manage fraudulent calls.<sup>9</sup> PSAPs are best able to keep track of data such as how many fraudulent calls are made from particular handsets, the nature of the calls made, and the frequency of the calls made. PSAPs also can aggregate data from all carriers with respect to these calls.

As CTIA previously noted, moreover, eliminating the “all calls” rule will not eliminate the problem of fraudulent 9-1-1 calls – for example, callers could make calls from Wi-Fi hotspots and avoid carrier networks altogether.<sup>10</sup> PSAPs therefore are better-positioned to identify fraudulent calls and distinguish such calls from legitimate calls. Selective blocking by the PSAP is the most appropriate – and most effective – way to handle fraudulent 9-1-1 calls.

In contrast, a sunset of the “all calls” rule would create confusion by potentially eliminating delivery of valid 9-1-1 calls from service-initialized handsets that may temporarily appear as NSI, in addition to legitimate 9-1-1 calls from NSI handsets. Importantly, the Commission should not discount the simplicity of maintaining the “all calls” rule for purposes of

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<sup>8</sup> CTIA 2008 Comments at 11-14; CTIA 2008 Reply Comments at 1, 5-7.

<sup>9</sup> CTIA 2008 Comments at 12 (citing *Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Memorandum Opinion and Order, 12 FCC Rcd 22665 ¶ 37 (1997)).

<sup>10</sup> CTIA 2008 Comments at 13.

educating a public that reasonably expects 9-1-1 to “just work.” Attempting to educate the public about the various permutations when service-initialized handsets might not be able to complete calls to 9-1-1 because the device temporarily appears as NSI will only cause greater public confusion.

Further, although the majority of states have enacted statutes that limit carriers’ liability resulting from an act or omission in connection with the provision of 9-1-1 services, ambiguity in a Commission rule sunseting the obligation to transmit NSI 9-1-1 calls could create legal risk because state statutes are not uniform and contain exceptions.<sup>11</sup> For instance, some state laws contain exceptions to carriers’ immunity, such as exemptions from immunity for any “intentional act” on the part of a wireless carrier.<sup>12</sup> While it would not be reasonable to construe as an “intentional act” the implementation of a federal rule sunseting the “all calls” rule, ambiguity could expose carriers to legal liability. And, as noted above, CTIA is not aware of any technological solution or standardized way to account for legitimate calls to 9-1-1 from an NSI or NSI-appearing handset on a CMRS provider’s network.

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<sup>11</sup> And indeed, some states still offer no immunity whatsoever to service providers in connection with 9-1-1 service. *See* CTIA 2008 Comments at 11.

<sup>12</sup> *See, e.g.*, NEB. REV. STAT. § 86-441 (2014) (“In contracting for such 911 service and in providing such 911 service, except for failure to use reasonable care or for intentional acts, each governing body, public safety agency, and service supplier and their employees and agents shall be immune from liability or the payment for any damages in the performance of installing, maintaining, or providing 911 service.”); N.M. STAT. ANN. § 63-9D-10 (2015) (“[E]xcept for willful or wanton negligence or intentional acts, the local governing body, public agency, equipment supplier, telecommunications company, commercial mobile radio service provider and their employees and agents are not liable for damages resulting from installing, maintaining or providing enhanced 911 systems or transmitting 911 calls.”). *See also* CTIA 2008 Comments at 10-11; CTIA 2008 Reply Comments at 7-9.

Moreover, carriers took significant steps to engineer their networks to transmit 9-1-1 calls from NSI handsets when the Commission first adopted the “all calls” rule. Now, to reverse course, carriers would have to take significant steps to modify their networks – again, to eliminate a rule that continues to provide public safety benefits. Any such modification efforts will require time, expense, and resources at a time when the Commission has recently imposed significant regulations to enhance wireless emergency communications.<sup>13</sup> With the technical and legal complexities described above, a sunset of the “all calls” rule may result in ambiguity that would undermine the Commission’s goals, cause public confusion, and fail to address the fraudulent call concern. For these reasons, CTIA believes that the Commission should preserve the “all calls” rule and encourage PSAPs to combat fraudulent calls from NSI handsets within their own networks or CPE.

### **III. CONCLUSION**

For the reasons stated above, CTIA believes that the balance of public interest factors weighs in favor of maintaining the “all calls” rule and encouraging PSAPs to combat fraudulent calls from NSI handsets through call-blocking within their own networks or CPE.

Respectfully submitted,

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<sup>13</sup> See *Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications*, Second Report and Order and Third Further Notice of Proposed Rulemaking, 29 FCC Rcd 9846 (2014); *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259 (2015).

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