

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
911 Fee Diversion)	PS Docket No. 20-291
)	
New and Emerging Technologies 911 Improvement Act of 2008)	PS Docket No. 09-14

**REPLY COMMENTS OF THE ALLIANCE FOR
TELECOMMUNICATIONS INDUSTRY SOLUTIONS**

The Alliance for Telecommunications Industry Solutions (ATIS) hereby submits these reply comments in response to the *Notice of Inquiry (NOI)* released October 2, 2020, in the above-referenced dockets. The *NOI* seeks input regarding the diversion of fees collected for 911 and Enhanced 911 (E911) services to non-911 purposes. ATIS is pleased to have the opportunity to provide its input to the *NOI*.

I. BACKGROUND

ATIS is a global standards development and technical planning organization that develops and promotes worldwide technical and operations standards for information, entertainment, and communications technologies. ATIS' diverse membership includes key stakeholders from the Information and Communications Technologies (ICT) industry – wireless, wireline, and VoIP service providers, equipment manufacturers, broadband providers, software developers, consumer electronics companies, public safety agencies, and internet service providers. ATIS is also a founding partner and the North American Organizational Partner of the Third Generation Partnership Project (3GPP), the global collaborative effort that has developed the Long Term Evolution (LTE) and LTE-Advanced wireless specifications. Nearly 600

industry subject matter experts work collaboratively in ATIS' open industry committees and incubator solutions programs.

ATIS' Network Reliability Steering Committee (NRSC) was formed in 1993 at the recommendation of the Commission's first Network Reliability and Interoperability Council. The NRSC strives to improve network reliability by providing timely consensus-based technical and operational expert guidance to all segments of the public communications industry. The NRSC addresses network reliability improvement opportunities in an open environment and advises the communications industry through the development of standards, technical requirements, reports, bulletins, best practices, and annual reports. The NRSC is comprised of industry experts with primary responsibility for examining, responding to, and mitigating service disruptions for communications companies. The NRSC also collaborates with public safety associations and works with the Commission to provide input on Network Outage Reporting System (NORS) and Disaster Information Reporting System (DIRS). NRSC participants are the industry subject matter experts on communications network reliability and outage reporting.

II. REPLY COMMENTS

In the *NOI*, the Commission seeks comment on the diversion of fees collected for 911 public safety purposes, including what additional steps the Commission or others could take to discourage states from diverting 911 fees. As the trusted industry forum that promotes network resiliency and reliability, ATIS NRSC shares the Commission's concern regarding the inappropriate diversion of 911 fees and its impact on the public safety communications system.

While ATIS NRSC supports the Commission's goal, it does have concerns with some of the proposals in *NOI*. For example, the proposal to restrict federal grant funding for states that

divert 911 fees, could be counterproductive if were to be applied to 911-related grants.¹ As the Boulder Regional Emergency Telephone Service Authority (BRETSA) noted in its comments, “denying States or local jurisdictions 9-1-1 or other public safety grants or FCC licenses will only harm local 9-1-1 service and public safety operations and the general public.”² ATIS NRSC agrees that this funding is essential to public safety communications systems and should not be jeopardized or restricted. The Association of Public-Safety Communications Officials-International, Inc. (APCO) notes that emergency call centers that “are already missing funds they were expecting from 9-1-1 fees would be further harmed when they lose eligibility for federal grant funding or Commission licenses, programs, or advisory committees.”³ Should the Commission seek grant-related leverage against fee-diverting states, ATIS NRSC believes that it should work with Congress to consider restrictions on other federal non-911 related grant funds.

The Commission also seeks comment on whether it should require service providers to disclose on their bills that the state or other jurisdiction in which the consumer resides is a 911 fee diverter.⁴ In addition to the reasons cited by CTIA and T-Mobile USA, Inc. (T-Mobile) in their comments,⁵ ATIS NRSC strongly opposes this approach because it would put the service providers in the middle of an issue that does not directly involve them and over which they have no authority to resolve. Service providers cannot direct states to make fiscal policy decisions, and customers should not be misled into believing that service providers have a role in this matter. Moreover, as noted by CTIA,⁶ this approach would also inappropriately extend the Commission’s “truth in billing” authority. ATIS NRSC does not believe the Commission should

¹ *NOI* at ¶¶18-19.

² BRETSA Comments at p. 2.

³ APCO Comments at p. 3.

⁴ *NOI* at ¶¶21-22.

⁵ See CTIA Comments at pp. 7-9 (consumer confusion, burden on service providers, etc.) and T-Mobile Comments at pp. 3-4 (negative impact to consumers, etc.).

⁶ CTIA Comments at p. 7.

require the service providers to become “fee diversion cops” – that is a role more appropriate for the Commission than the industry. Service providers are already responsible for collecting these fees and remitting them to the appropriate states; they should not also be tasked with policing how states use these funds. Finally, ATIS notes that service providers do not know which states divert fees inappropriately. They would have to rely on third parties, such as the Commission, for this information; it would be more appropriate for these third parties to directly approach the states to resolve such matters.

The Commission asks in the *NOI* whether there are any Commission-administered licensing, funding, or other benefits that could be conditioned on a state or other jurisdiction not being a diverter.⁷ The Commission asks for example whether it should condition a state spectrum license on certification by the state that it is not a 911 fee diverter.⁸ ATIS NRSC is concerned with this proposal and the potential for it to negatively impact consumers. Restricting access to spectrum licenses could impede the introduction of new services. This would be particularly problematic if it affects the use of spectrum to be used for public safety purposes. As the National Association of State 911 Administrators (NASNA) notes, “[w]hile it may have the desired ‘take notice’ effect on fee diversion by the negative impact of communications licensing on state and local public safety communications in their day-to-day operations, it could pose an immediate danger to the public that relies on public safety in emergencies.”⁹

Another issue on which the Commission seeks comment is whether it should direct service providers not to collect 911 fees for calls in a diverting state or other jurisdiction or to limit 911 fees to the amount that was not diverted in the prior year.¹⁰ ATIS NRSC vehemently

⁷ *NOI* at ¶25.

⁸ *NOI* at ¶25.

⁹ NASNA Comments at p. 3.

¹⁰ *NOI* at ¶24.

opposes this proposal and agrees with CTIA that “[t]he Commission should not shift the responsibility of ending 9-1-1 fee diversion to service providers who lack any control whatsoever over the actions of state and local governments.”¹¹ As explained above, ATIS strongly believes that service providers should not be put in the role of “fee diverter cop.” Moreover, as noted by T-Mobile,¹² asking providers to modify their bills and collections would increase providers’ costs. Perhaps more importantly, ATIS NRSC believes that there may be jurisdictional issues with this proposal as these fees are mandated by the states and not the Commission. ATIS NRSC believes that it would be inappropriate for the Commission to unilaterally prohibit or limit collection of these fees. This proposal would in effect place service providers in conflict with state laws and/or regulations. ATIS NRSC agrees with CTIA that “[t]he Commission also should not compel service providers to violate state or local laws that require the collection of 9-1-1 fees or exceed its own authority under the law.”¹³

Finally, the Commission asks in the *NOI* whether the Commission should consider other regulatory options to discourage fee diversion.¹⁴ ATIS agrees with T-Mobile that 911 and NG911 funding should be a national priority and considered as part of federal efforts to improve the nation’s infrastructure.¹⁵ ATIS NRSC also believes that the Commission should encourage Congress to pass a law prohibiting 911 fee diversion or to give it clear authority to address this issue directly with the states.

¹¹ CTIA Comments at p. 10.

¹² T-Mobile Comments at p. 3.

¹³ CTIA Comments at p. 10.

¹⁴ *NOI* at ¶26.

¹⁵ T-Mobile Comments at p. 4.

III. CONCLUSION

ATIS appreciates the opportunity to provide its input to the *NOI* and urges the Commission to consider the recommendations above.

Respectfully submitted,

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December 2, 2020