

**Before the
Federal Communications Commission
Washington, DC**

In the Matter of)	
)	
Petition for Expedited Rulemaking to Establish)	RM-11376
Technical Requirements and Standards Pursuant)	
to Section 107(b) of the Communications)	
Assistance for Law Enforcement Act)	

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

The Alliance for Telecommunications Industry Solutions (ATIS) hereby submits these comments to the Federal Communications Commission (Commission) in response to the *Petition for Expedited Rulemaking (Petition)* filed by the U.S. Department of Justice (DoJ) requesting the initiation of an expedited rulemaking proceeding regarding ANSI/J-STD-025-B (an American National Standard developed jointly by ATIS and the Telecommunications Industry Association (TIA)). In its *Petition*, DoJ claims that ANSI/J-STD-025-B does not provide the capabilities for law enforcement required by the Communications Assistance for Law Enforcement Act (CALEA) and asks that the FCC establish new rules to require these capabilities. ATIS does not believe there are any inherent technical deficiencies with J-STD-025-B and notes that this standard was approved using an open and consensus-based process and with the active participation of the telecommunications industry and the Federal Bureau of Investigation (FBI).

I. Introduction

ATIS is a technical planning and standards development organization accredited by the American National Standards Institute (ANSI) and committed to rapidly developing and promoting technical and operational standards for communications and related information technologies worldwide. The ATIS membership spans all segments of the industry, including local exchange carriers, interexchange carriers, wireless equipment manufacturers, competitive local exchange carriers, data local exchange carriers, wireless providers, providers of commercial mobile radio services, broadband providers, software developers, and internet service providers. Industry professionals from more than 300 communications companies actively participate in ATIS' open industry committees and other forums.

ATIS' work on lawful intercept standards is principally done by the ATIS Packet Technologies and Systems Committee (PTSC) and the ATIS Wireless Technologies and Systems Committee (WTSC). The ATIS PTSC coordinates, develops and recommends standards and technical reports related to services, architectures and signaling relevant to telecommunications networks.¹ The PTSC reviews and prepares contributions on such matters for submission to the United States International Telecommunication Union Telecommunication Standardization Sector (ITU-T) and International Telecommunications Union Radiocommunications Sector (ITU-R) Study Groups or other standards organizations. The PTSC also reviews the position of related standards development organizations in other countries and recommends appropriate responses. In addition to maintaining liaisons with appropriate technical committees and other

¹ The PTSC was formerly known as ATIS T1S1.

standard-setting bodies, the PTSC also includes participation by the law enforcement community.²

The ATIS WTSC coordinates, develops and recommends standards and technical reports relating to wireless/mobile telecommunications networks.³ The WTSC reviews and prepares contributions on such matters for submission to the appropriate United States preparatory body for consideration as International Telecommunication Union contributions or for submission to other domestic and regional standards organizations. The WTSC maintains liaisons with other committees and groups, including law enforcement, and coordinates closely with other standards organizations on wireless issues to ensure that the ongoing standards work of these organizations is complementary.⁴

In addition to J-STD-025-B, ATIS has developed a number of other standards pertaining to the lawful interception of communications. ATIS is also continuing its work with law enforcement to develop new standards that address lawful interception,

² Organizations that were members of the PTSC during the balloting of J-STD-025-B included: Alcatel USA Inc., AT&T, AT&T Wireless Services, Inc., BellSouth Telecommunications, Cisco Systems, C.S.I. Telecommunications, Defense Info. Systems Agency, Ericsson Incorporated, FBI ESTS, Harris Corporation, Hewlett-Packard, Lucent Technologies, National Communications System, Nortel Networks, Qwest, SBC Communications, Inc., Siemens Info & Comm Ntwks. Inc., Sprint Corporation, Tellabs Operations, Inc., Telcordia Technologies, Turin Networks, and Verizon Communications..

³ The WTSC was formerly known as ATIS TIPI.

⁴ Organizations that were members of the WTSC during the balloting of J-STD-025-B included: Alcatel USA Inc., ASTRI, AT&T Wireless Services, Inc., BellSouth Telecommunications, Cingular Wireless LLC, C.S.I. Telecommunications, Defense Info. Systems Agency, Ericsson Incorporated, FBI ESTS, Harris Corporation, Hewlett-Packard, InterDigital Communications, Lucent Technologies, Microcell Solutions Inc., Motorola Inc., National Communications System, Navini Networks, NEC America Incorporated, Nokia Telecommunications Inc., Nortel Networks, Panasonic-PMCD, Qualcomm Incorporated, Qwest, Rogers Wireless Inc., Sasken Comm Technologies Ltd., SBC Communications, Inc., Siemens Info & Comm Ntwks, Inc., Skyworks Solutions Inc., Tellabs Operations, Inc., T-Mobile USA Inc., Telcordia Technologies, TrellisWare Technologies, Inc., TruePosition Inc., and Verizon Communications.

particularly with regard to new technologies.⁵ Among the ATIS standards related to this issue are:

ANS T1.724, *UMTS Handover Interface for Lawful Interception* (based on 33.108 R5), addresses the handover interfaces for lawful interception of Packet-Data Services, Circuit Switched Services, and Multimedia Services within the Universal Mobile Telecommunication System. The specification defines the handover interfaces for delivery of lawful interception Intercept Related Information and Content of Communication to the Law Enforcement Monitoring Facility. This standard was developed in cooperation with the 3rd Generation Partnership Project (3GPP).

ATIS-1000678.2006, *Lawfully Authorized Electronic Surveillance (LAES) for Voice over Packet Technologies in Wireline Telecommunications Networks (version 2)*, defines the interfaces between a Telecommunications Service Provider (TSP) and a Law Enforcement Agency (LEA) to assist the LEA in conducting lawfully authorized electronic surveillance for Voice over Packet Technologies in Wireline Telecommunications Networks. This standard defines both the Call-Identifying Information and content to be delivered and the methods for delivering the information and content.

ATIS-1000013.2007, *Lawfully Authorized Electronic Surveillance (LAES) for Internet Access and Services (IAS)*, defines the interfaces between a service provider that facilitate subscriber access to the Internet and an LEA to assist the LEA in conducting LAES for subscription-based IAS arrangements. The focus is on the network(s) that provide subscriber connectivity to the Internet. IAS may be provided by a set of independent or related entities -- *e.g.*, a Digital Subscriber Line provider, cable provider, or Wireless Fidelity (Wi-Fi®) provider and an Internet Service Provider. This document does not address mobile IP capabilities as defined by the Internet Engineering Task Force.

TR xx, *Data Buffering (Short Term Storage) in an LAES Environment*, defines the buffering of intercepted Communication Content (CmC) data packets and Communication Identifying Information (CmII) event reports and the transfer of the buffered CmC and CmII to LEAs. The purpose is to specify a method to improve the reliability of transferring CmC and CmII to the LEA(s) (*i.e.*, increase the probability that intercepted information is not lost over the interface to the LEA(s) due to factors such as link congestion or failure). Buffering is an optional capability that can be implemented between the Delivery Function and the Collection Function.

⁵ ATIS' work to develop standards related to lawful interception includes technical specifications developed outside the context of CALEA that address some of the technical capabilities identified by DoJ in its *Petition*.

ATIS-0700005.2007, *LAES for 3GPP IMS-based VoIP and Other Multimedia Services*, defines an interface between a TSP and an LEA for the reporting of LAES for 3GPP IMS-based VoIP and other 3GPP IMS-based multimedia services. The main purpose is to provide capabilities for support of LAES for VoIP. In addition, the scope also includes other IMS-based multimedia services because the media type may change in mid-session (*e.g.*, audio to video, or video to audio).

3GPP TS 33.108 R6, *Handover Interface for Lawful Interception* ('e'-interface), addresses the handover interfaces for lawful interception of Packet-Data Services, Circuit Switched Services, and Multimedia Services within the Universal Mobile Telecommunication System. The specification defines the handover interfaces for delivery of lawful interception Intercept Related Information and Content of Communication to the Law Enforcement Monitoring Facility. This standard was developed in cooperation with the 3GPP.

II. J-STD-025-B Was Developed Using an Open and Equitable Process

In its *Petition*, DoJ claims that J-STD-025-B is deficient in that it does not provide capabilities that DoJ believes are required under CALEA. Specifically, DoJ claims the standard is deficient in that it does not include: (1) packet activity reporting; (2) timing information (time stamping); (3) all reasonably available handset location information at the beginning and the end of a communication; and (4) adequate security, performance, and reliability requirements.⁶

ATIS disagrees that there are any inherent technical deficiencies in J-STD-025-B. While technical issues will be addressed in comments to be filed by individual ATIS member companies, ATIS notes that J-STD-025-B was developed and approved in accordance with ATIS' existing open and equitable process.⁷ During each step of this process, all interested parties, including the FBI, had the opportunity to participate,

⁶ *Petition for Expedited Rulemaking* filed by the Department of Justice, including the Federal Bureau of Investigation, Drug Enforcement Administration, and National Security Division (filed May 15, 2007), at pp. 4-5.

⁷ ATIS' Operating Procedures are available from the ATIS web site at www.atis.org/atisop.pdf.

review and suggest modifications to this standard. In fact, as explained in more detail below, the FBI actively participated in the ATIS PTSC's and WTSC's meetings that were held to discuss J-STD-025-B. ATIS also coordinated with TIA, the lead organization on this particular technical standard.⁸

1. ATIS' Standards-Development Process

By way of background, proposed ATIS standards begin with the submission of an "Issue," the means by which work progresses in ATIS Forums and Committees.⁹ Issues are discussed during committee meetings, during which all committee members (and any invited guests) may participate. If there is consensus¹⁰ among the committee members to accept an Issue to develop or modify an American National Standard, ATIS notifies ANSI, which publishes a notification of this activity in *Standards Action*. Substantive changes to, and interpretations of, all Standards must be approved by letter ballot of the Forum or Committee. Forum or Committee participants may cast votes for or against the Standard, or may abstain.¹¹

All negative ballots and comments are forwarded to the Forum or Committee that drafted the proposed Standard for response and resolution.¹² Negative ballots are judged as valid, invalid or non-germane. However, regardless of classification, all comments are given a comprehensive response. The responses to unresolved negative ballots (and other

⁸ ATIS notes that technical comments that have been filed in this proceeding by TIA.

⁹ ATIS Operating Procedures, §5.

¹⁰ ATIS Operating Procedures, §7.1, notes that "consensus" is reached when "substantial" agreement, meaning more than a simple majority but not necessarily unanimous agreement, has been reached among those participating in the Issue at hand. "Consensus also requires that all views and objections be considered, and that a concerted effort be made toward their resolution."

¹¹ ATIS Operating Procedures, §A.6.2.

¹² ATIS Operating Procedures, §A.6.9.

comments that result in substantive changes) are circulated to the Forum or Committee by a default (reconsideration) ballot to give the commentor(s) and all members of the Forum or Committee the opportunity to change their votes.¹³ At each step of the voting process, ATIS ensures that all participants have an opportunity to be heard and that all comments are addressed.

In order for an ATIS ballot to be approved, at least fifty percent (50%) of the members must have returned their letter ballots, at least seventy-five percent (75%) of the votes cast (excluding abstentions and negatives without reasons) must be affirmative, and all negative votes with reasons must be addressed.¹⁴ As a final step of the process, voting members or public review participants who have unresolved negative votes are notified of their right to appeal and of the appeals process.¹⁵

The standards development process, as described above, generally takes anywhere from six (6) to eighteen (18) months, depending on the technical issues involved (such as the technical content, the maturity of the technology, the divergence or consistency of industry views regarding potential technological recommendations, etc.). After the standards development process has been completed, additional time is necessary to implement the standard. Such implementation takes at least six (6) months but can take up to eighteen (18) months, depending on the extent to which new technologies must be deployed or existing technologies must be modified.

¹³ Each ballot is transmitted to ANSI for listing in *Standards Action* for public comment. All comments that are received in response to this publication are considered by the Forum or Committee and the commenter is notified, in writing, of the Forum or Committee's decision/response.

¹⁴ ATIS Operating Procedures, §A.6.6.

¹⁵ ATIS Operating Procedures, §A.6.9.

2. Development of J-STD-025-B

When joint standard J-STD-025-B was developed, TIA, the “lead” organization that developed the draft standard, submitted the draft to ATIS for balloting. Both standards development organizations coordinated the initiation of letter ballots with their appropriate technical committees, with the goal of having these letter ballots issued on the same day. This parallel review and approval process ensured that all parties, regardless of whether they participate through ATIS or TIA, had an opportunity to comment on the standard.

ATIS’ review and approval process for J-STD-025-B began in March 2004 when the draft proposed standard was received from TIA. On March 16, 2004, the letter ballot was issued by ATIS to its PTSC and WTSC committees.¹⁶ During this letter ballot, which closed on April 14, two (2) disapprovals and four (4) sets of comments were received. On April 16, the CALEA Implementation Unit (now known as the FBI Electronic Surveillance Technology Section) replied to the call for public comments on the standard. ATIS carefully considered these comments and, on July 9, 2004, ATIS issued a Default Letter Ballot that identified the CIU concerns and ATIS’ responses thereto. On August 9, 2004, this Default Letter Ballot closed with three (3) disapprovals and three (3) sets of comments.

On October 19, 2005, ATIS issued its Second Default Letter Ballot to PTSC and WTSC. This ballot closed on November 17, 2005, with three (3) disapprovals and two

¹⁶ TIA’s review and approval processes were conducted in parallel to ATIS’ processes.

(2) sets of comments. Two of the participants who voted “no” later changed their votes to either “yes” or “abstain.” On May 19, 2006, ATIS sent the notice of right to appeal to the FBI Electronic Surveillance Technology Section, the lone remaining dissenting voter. On May 26, 2006, FBI waived its right to appeal. On July 17, 2006, J-STD-025-B was approved by ANSI as an American National Standard.

ATIS followed its open and equitable process in working on this standard and, throughout this process, law enforcement was an active participant in both WTSC and PTSC.¹⁷ Having joined these ATIS technical committees in 2002, the FBI participated in most of the committee meetings during the development of this standard. Of the sixteen WTSC meetings that were held between May 2004 and May 2006, the FBI was present at eleven. Similarly, the FBI was present at seven of the thirteen meetings held by PTSC during this period.

III. Conclusion

ATIS believes that there was careful and due consideration of the comments provided by all parties, including the FBI. ATIS does not believe that there are any inherent technical deficiencies with J-STD-025-B. ATIS further notes that its work on this standard was completed using an open and equitable process that included the active participation of law enforcement.

¹⁷ Law enforcement remains an active participant in ATIS’ CALEA-related technical activities, including the development of new ATIS lawful interception standards and technical requirements.

THEREFORE, THE PREMISES CONSIDERED, ATIS respectfully submits these comments for inclusion on the record in this proceeding.

Respectfully submitted by:

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