

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY  
APPROVING IN PART AND CONCURRING IN PART**

Re: *Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114

As more Americans rely exclusively on mobile phones, we must ensure that first responders can quickly and accurately locate wireless callers that dial 911 in an emergency. For this reason, I am supportive of issuing today's notice.

Going forward, however, we should avoid imposing location accuracy rules that are too far ahead of available technology. Aspirational goals are laudable, but they cannot be the basis for regulation. Any requirements that develop from this proceeding must be truly feasible as judged by experts operating in the field.

The deadlines we impose must also be realistic. I am concerned that the proposed timelines for implementing indoor location accuracy requirements do not meet this objective. Many steps are needed to deploy these new technologies. Vendors will have to test their technology and go through the standards setting process. Location systems will have to be built. Hardware will have to be added to handsets. New handsets will have to be introduced to consumers and achieve sufficient market penetration. This all takes time.

In fact, the record suggests that, after a system-wide deployment of new technology, it can take approximately four years for upgraded handsets to comprise 67 percent—and approximately five years to comprise 80 percent—of the total phones on a wireless provider's network.<sup>1</sup> We must ask whether it is possible, within two, three or even five years, for wireless providers to meet the proposed location accuracy requirements for 67 or 80 percent of all indoor calls to 911 when the necessary handsets may not even make up 67 or 80 percent of the total phones in the marketplace.

We learned these important lessons with the Phase II location accuracy rulemaking. There, the Commission established requirements and deadlines based on representations of emerging, as opposed to proven, technologies. It is fair to say that implementation did not go smoothly. A year after these rules were adopted, the Commission had to modify its benchmarks to "provide carriers with a reasonable prospect of meeting the [Phase II] accuracy and reliability requirements."<sup>2</sup> Despite this relief, the Commission still had to issue approximately 40 waivers, extensions or stays and a dozen enforcement actions.<sup>3</sup>

For these reasons, I regret that I must concur to the proposed deadlines in the notice. I look forward to engaging with stakeholders regarding timeframes in which it is feasible to meet the proposed indoor location accuracy requirements. One idea is basing the effective date of any rules on a successful demonstration, in a test bed, that there is technology available that meets the location accuracy

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<sup>1</sup> Letter from Joseph P. Marx, Assistant Vice President, AT&T Services Inc., to Marlene H. Dortch, Secretary, FCC, Attachment, at 4 (Jan. 31, 2014).

<sup>2</sup> Letter from Brian M. Josef, CTIA-The Wireless Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 1 (Feb. 14, 2014) (citing *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442 ¶ 23 (2000)).

<sup>3</sup> *Id.* at 2.

requirements, but there may be others. We want to ensure that industry is capable of implementing any rules both timely and successfully so that this information is available for first responders.

Separately, I am pleased that the notice raises important questions about privacy. I hope the Commission will examine the privacy implications of advanced technologies and government access to consumers' location information. We need to be extremely careful with such data as technology evolves to better pinpoint a user's location for use in emergencies. We are entering a world where the Commission may require the ability to identify a person's location within 3 meters vertically—which is basically at floor level—and 50 meters horizontally. Law-abiding Americans should not have to worry about being tracked by law enforcement or other government entities in non-emergency circumstances.

Finally, I appreciate hearing from Steve Souder, the Director of the Department of Public Safety Communications for Fairfax County, Virginia and thank him for joining us here today. His perspective is helpful to our process and I applaud his service. I would, however, like to take this opportunity to echo the comments made by Chairman Wheeler at our last Open Meeting. Just as we look to require providers of technology to improve their public safety offerings, we need Public Safety Answering Points (PSAPs) to modernize their capabilities as well.

I thank the Chairman for including a number of my edits and the dedicated staff of the Public Safety and Homeland Security Bureau for all of their hard work on this notice. I also thank my colleague Commissioner Rosenworcel for her work on this issue.