



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC

Mike O’Rielly
Commissioner

April 2, 2020

The Honorable Roger F. Wicker
Chairman
Committee on Commerce, Science, and
Transportation

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce

The Honorable John Thune
Chairman
Subcommittee on Communications, Technology,
Innovation, and the Internet

The Honorable Michael F. Doyle
Chairman
Subcommittee on Communications and
Technology

The Honorable Maria Cantwell
Ranking Member
Committee on Commerce, Science, and
Transportation

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce

The Honorable Brian Schatz
Ranking Member
Subcommittee on Communications, Technology,
Innovation, and the Internet

The Honorable Robert E. Latta
Ranking Member
Subcommittee on Communications and
Technology

Dear Chairmen and Ranking Members:

As Congress considers whether there is a need to take additional next steps in responding to the health and economic crisis facing our nation due to the COVID-19 pandemic, reports indicate that some are actively considering another round of economic support. While legislative efforts so far have prioritized the immediate needs directly related to the COVID-19 pandemic, some would like to include new communications provisions in any further recovery package.

While I will reserve judgment on other communications matters for the time being, one questionable proposal floated for possible inclusion in past rounds was to inject Federal funding into deploying advanced 9-1-1 systems in states and territories, better known as Next Generation 9-1-1 (NG9-1-1). Any effort to do this without appropriate safeguards should be a cause for concern, as four states — New York, New Jersey, Rhode Island, and Nevada — continue to divert critical 9-1-1 fees collected from consumers toward other budgetary purposes. I implore each of you to support the existing prohibition in Federal law that prevents certain Federal money from being made available to these states for 9-1-1 systems. To do otherwise would facilitate these states’ diversionary practices and directly harm efforts, such as mine, to protect consumers from paying 9-1-1 fees on their phone bills that ultimately are used for other, unrelated purposes. Unfortunately, diverted fees effectively function as a backdoor tax on lower-income consumers.

Just eight years ago, many of you and your committee colleagues decided to prohibit new Federal matching grants intended for 9-1-1 services, E9-1-1, and NG9-1-1 from going to those states and territories that divert 9-1-1 fees. The entire Congress affirmed this policy decision through the passage of the Next Generation 9-1-1 Advancement Act of 2012, contained within the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96). At the time, the funding allocated to these matching grants, including administrative costs, was \$115 million. Now, proponents of new Federal funding seek billions for upgrades and deployment of NG9-1-1. There is no logical reason why a sound policy designed to protect taxpayers and prevent 9-1-1 fee diversion should not apply to a much larger scale program, especially when it was previously blessed by Congress. Based on experiences from that grant program, the policy has proven to be effective and has helped to end the practice of fee diversion by certain states and territories. However, it is also clear that the requirement should be appropriately tightened and updated to respond to states' new evasive techniques in any new allotment of Federal funding for the same purpose.

To put the problem in perspective, millions of emergency calls to public safety answering points (PSAP) are made each year to bring needed aid to those Americans in need of urgent assistance. And, the strain being placed on the emergency communications network is even more staggering today. An individual who is making a 9-1-1 call, on their own behalf or on behalf of a loved one, is counting on a fully funded, quick, and responsive 9-1-1 answering center to meet their emergency needs. In the heat of that moment, perhaps the most critical in a person's life, no caller should have to face the prospect of a busy signal, overwhelmed call takers, insufficient legacy technology, or other negative effects facing an underfunded PSAP. And demands are likely increasing. During the ongoing COVID-19 pandemic, some states are seeing a surge in calls to their emergency call centers. Consider a New York Times story from last weekend indicating that the typical 4,000 emergency calls placed per day in New York City have nearly doubled, with the expert emergency call answering professionals now fielding upwards of 7,000 each day,¹ or a Wall Street Journal story this week specifically looking at how PSAPs are coping with the COVID-19 response effort.²

Unfortunately, during previous visits over the years to multiple emergency call centers in the states that are diverting funds, I have heard very troubling accounts detailing the problems caused by fee diversion. In New York City and in Western New York, I heard directly from public safety professionals decrying their budgetary issues, including the work local politicians have had to do to raise property taxes to make up the shortfall caused by New York State's 9-1-1 fee diversion. In New Jersey and Rhode Island, I have listened to similar experiences from the brave emergency personnel who are ashamed of how their states' leaders have shortchanged their emergency call centers. When I am able to travel again, I'll visit Nevada to hear firsthand how certain political subdivisions engage in similar disgraceful practices. The men and women who staff these call centers work extremely hard with the resources they are given, and they are heroes in their own right. It is unfair to artificially contribute to the strain that is being put on these professionals and their answering systems by continuing to enable state 9-1-1 fee diversion.

On a related note, I recognize that Members of both the Senate and House of Representatives have worked on legislation to rectify state fee diversion. While I applaud these efforts and certainly appreciate the engagement, I worry they are not sufficient deterrents to force states to stop stealing these precious funds. Having worked on this issue for years, I firmly believe that the situation requires more stern remedies and penalties than those put on the table so far. Specifically, public officials in Rhode Island, New Jersey, and New York likely will ignore anything that doesn't dramatically alter the status quo.

¹ "N.Y.C.'s 911 System Is Overwhelmed. 'I'm Terrified,' a Paramedic Says." Ali Watkins, New York Times, Mar. 28, 2020.

² Coronavirus Spread Creates Risk for 911: Who Will Answer?" Sarah Krouse, Wall Street Journal, Mar. 30, 2020.

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Respectfully, I believe that if new Federal funding is to be considered by Congress for the necessary upgrades and deployment of NG9-1-1, it must prohibit funds from being received by those states or territories that divert 9-1-1 fees. Those Americans needing emergency call center assistance and the wonderful professionals answering those calls deserve no less.

Sincerely,

A handwritten signature in black ink, appearing to read "m O'Rielly". The signature is fluid and cursive, with a large initial "m" and a distinct "O'Rielly" following.

Michael O'Rielly