

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Facilitating the Deployment of Text-to-911 and Other Next Generation 911 Applications)	PS Docket No. 11-153
)	
Framework for Next Generation 911 Deployment)	PS Docket No. 10-255

COMMENTS OF THE VOICE ON THE NET COALITION

The Voice on the Net Coalition (“VON”)¹ hereby submits these comments in response to the Second Report and Order and Third Further Notice of Proposed Rulemaking (the “*FNPRM*”), adopted August 8, 2014, regarding text-to-911. VON supports the Commission’s goal of ensuring public safety needs are met as communication technologies continue to evolve. VON also commends the Commission for recognizing the fundamental technical and pragmatic distinction between interconnected and non-interconnected text providers for purposes of text-to-911,² and urges the Commission to continue to exclude non-interconnected providers from the scope of the requirements in light of these important differences. VON further supports the Commission’s common sense decision to exempt covered providers from delivering texts to 911 in Wi-Fi-only locations, and urges the Commission to continue this exemption until such time as reliable location information can be made available to route a 911 communication to the appropriate Public Safety Answering Point (“PSAP”), as well as to dispatch emergency services.

¹ The VON Coalition (www.von.org) works to advance regulatory policies that enable Americans to take advantage of the promise and potential of IP enabled communications.

² *FNPRM*, note 1 (“For purposes of text-to-911, we divide text applications into two broad categories: (1) interconnected text applications that use IP-based protocols to deliver text messages to a service provider, and the service provider then delivers the text messages to destinations identified by a telephone number, and (2) non-interconnected applications that only support communication with a defined set of users of compatible applications but do not support general communication with text-capable telephone numbers. We limit initial application of our text-to-911 requirements to interconnected texts...”).

As part of the *FNPRM*, the Commission requests comment upon the feasibility of future texting services, including non-interconnected text services, to implement text-to-911 requirements.³ The Commission further seeks comment upon the technical issues associated with providing location information when text messages originate over Wi-Fi networks.⁴ The Commission notes that modern trends cited in the record suggest an upward growth in Wi-Fi usage,⁵ and that the public interest warrants a further investigation into the capabilities of non-CMRS networks to support sending texts to 911.⁶ In VON's view, current technology does not permit non-interconnected text providers to feasibly implement text-to-911 requirements, nor does it allow for Wi-Fi-only locations to provide reliable location information. There is also no certainty that affordable new technologies will be developed to allow these capabilities at any particular future time.

I. The Commission should not require the delivery of texts to 911 from Wi-Fi-only locations

VON agrees that the public interest would be served if texts transmitted through Wi-Fi-only locations were able to reach emergency services. However, as VON has previously discussed,⁷ the Commission should not impose that obligation until technology supports the transmission of accurate location information to the appropriate PSAP, and until PSAP-routing issues are resolved. Specifically, for reasons related to privacy or in efforts to lengthen battery life, consumers may choose to disable location capabilities, such as GPS, on their mobile devices.⁸ Moreover, even when such functions are turned on, they may provide inaccurate

³ *See id.* ¶¶ 123-134.

⁴ *See id.* ¶¶ 81-90, 107-116.

⁵ *Id.* ¶ 125.

⁶ *See id.*

⁷ Comments of the Voice on the Net Coalition, PS Docket Nos. 10-255 and 11-153 (filed April 4, 2014) at 5-6 (VON Coalition Second Further Notice Comments). Moreover, in the filing, VON demonstrated that the Commission lacks authority to regulate interconnected or other over the top text providers. *Id.* at 9-10. We incorporate those comments herein.

⁸ *See id.* ¶ 9.

information to the PSAP or function improperly due to weak signals. It is known that GPS does not work well indoors because the satellite signal does not effectively penetrate walls. Currently, there also a concern that the alternative location information services associated with commercial services, such as mapping a restaurant or movie theater, may not provide sufficiently accurate information to be relied upon during emergencies. Furthermore, without the ability to maintain constant access to such location services, or to override the user’s privacy settings, texts sent from Wi-Fi-only locations are thus unable to consistently acquire enhanced location information and transmit that information to the corresponding PSAP. Given the current inability of texts sent through Wi-Fi-only locations to reliably attain such information, they should not be included within the scope of the text-to-911 rules.⁹

II. Non-interconnected text providers should not be included within the scope of the text-to-911 requirements

A. Requiring non-interconnected text providers to comply is impractical

The Commission’s distinction between interconnected and non-interconnected text providers for purposes of clarifying the text-to-911 requirements should be maintained. Non-interconnected text applications only support communications between a defined set of users of compatible applications, rather than providing for general communications amongst all North American Numbering Plan (“NANP”) numbers.¹⁰ Of special concern, closed text applications, such as “WhatsApp” and “Snapchat,” that only permit users to text other users who have downloaded and registered with the same software applications, are quite distinct from texting

⁹ The Commission should continue to require that users of interconnected text services attempting to send texts to 911 from Wi-Fi networks receive an automated “bounce-back message” stating that 911 services are not reachable through the network. *See id.*, note 172, citing 47 C.F.R. § 20.18(n)(2). This message serves the dual purpose of eliminating the potential for miscommunication of location information sent from Wi-Fi-only areas, as well as of eliminating consumer confusion as to whether Wi-Fi only locations are capable of transmitting texts to 911.

¹⁰ *See id.* ¶ 128.

platforms that support texts to all, or substantially all, NANP numbers. These closed applications are not designed to interact with any phone number, including 9-1-1.

B. Excluding non-interconnected text providers is consistent with consumer expectations.

In the *FNPRM*, the Commission addresses consumer expectations regarding the use of non-interconnected OTT platforms to communicate with emergency services.¹¹ The Commission implies that consumers will assume they are able to communicate with 911 through non-interconnected texting platforms.¹² This argument fails to take account of how OTT platforms present their services to users, and underestimates the ability of texting application users to understand the parameters of the software they download.

Rather than holding themselves out as being able to transmit texts to all, or almost all, users of other texting applications or services, non-interconnected OTT providers advertise themselves as applications able to communicate within a closed user group (failing to do so would lead to user dissatisfaction and perhaps even legal liability). For example, “Kik,” a newly popular texting application, is described on its “About” page as an application that allows users to text and share web links with other “friends *on Kik*.”¹³ In addition, under the heading “How it Works” on WhatsApp’s website, the application is described as a “cross-platform mobile messaging app” that allows for users of different mobile servers to communicate *through the application itself*.¹⁴ Further, Snapchat’s “Support” web page instructs users to “*snap* your friend

¹¹ See *FNPRM* ¶ 128.

¹² *Id.*

¹³ See <http://kik.com/about/> (emphasis added).

¹⁴ See <http://www.whatsapp.com/>.

to start a conversation...,” which requires users to remain within the Snapchat application in order to communicate with other users.¹⁵

Moreover, most non-interconnected applications do not even have a dial pad for the purpose of entering phone numbers, 911 or otherwise. If an application does not have a dial pad through which to enter “9-1-1,” it is difficult to believe that a consumer would expect to reach 911. As such, the Commission’s concern over user confusion seems unfounded. In the present day, users of mobile texting applications are quite capable of understanding, and have access to information explaining, that they must remain within the applications in order to continue communicating with other users. If there still remains a concern regarding user expectations, rather than bringing non-interconnected OTT providers into the scope of the current text-to-911 requirements, the Commission should instead encourage additional consumer education regarding the distinctions between interconnected and non-interconnected platforms.¹⁶

¹⁵ See <https://support.snapchat.com/a/chat> (emphasis added); *see also* <https://itunes.apple.com/us/app/snapchat/id447188370?mt=8>

¹⁶ For example, Tango’s “Terms of Use” includes a bolded heading entitled “No Access to Emergency Services” under which it explicitly states that its services “are not intended to support or carry emergency calls.” *See* <http://www.tango.me/terms-of-use>. Similarly, LINE’s “Terms & Conditions of Use” includes a similar provision entitled “Incapability of Emergency Calls,” under which it states that the service “cannot be depended upon for emergency calls. *See* http://terms.line.me/line_terms/?lang=en.

CONCLUSION

The Commission should not require 1) the delivery of 911 text messages when a CMRS network is not otherwise available because Wi-Fi networks cannot be relied upon to provide accurate location information, and 2) non-interconnected text providers to comply with text-to-911 requirements because these services are not designed to broadly reach all telephone numbers and users are informed how these services operate.

Respectfully submitted,

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