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Criminal Division



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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Office of Deputy Assistant Attorney General

Washington, D.C. 20530

February 19, 2004

**PUBLIC VERSION**

**VIA HAND DELIVERY**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re Docket No. 97-213 – Statement of Non-Support Opposing Cellco Partnership  
d/b/a Verizon Wireless's Amended Petition for Extension of the Packet-Mode  
Communications Deadline Under CALEA Section 107(c)

Dear Secretary Dortch:

Pursuant to 47 U.S.C. § 1006(c)(2), the Federal Bureau of Investigation ("FBI"),  
U.S. Department of Justice ("DOJ"), and U.S. Drug Enforcement Administration ("DEA")  
(together "Law Enforcement") hereby submit<sup>2</sup> the enclosed Statement of Non-Support

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<sup>1</sup> The Attorney General has delegated the consultation responsibility, as required under 47 U.S.C. § 1006(c)(2), to the FBI.

<sup>2</sup> The enclosed Statement is being filed with a request for confidential treatment pursuant to the Commission's Public Notice issued in this Docket on September 28, 2001. See *The Common Carrier and Wireless Telecommunications Bureaus Establish Procedures for Carriers to Submit or Supplement CALEA Section 107(c) Extension Petitions*,

("Statement") opposing Cellco Partnership d/b/a Verizon Wireless's ("Verizon") Petition for Extension for packet mode communications filed on November 19, 2003, as subsequently amended by Verizon on January 30, 2004.<sup>3</sup> Specifically, Law Enforcement opposes the grant of any further extensions of the CALEA packet mode compliance deadline for Verizon's push-to-talk ("PTT") service.<sup>4</sup>

For the reasons stated in the enclosed Statement, Law Enforcement maintains that Verizon failed to meet its burden of proof, under 47 U.S.C. § 1006(c)(2), namely that a CALEA solution for Verizon's PTT service is *not* "reasonably achievable" through application of existing technology. Therefore, Law Enforcement requests that the

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*Both Generally, and With Respect to Packet Mode and Other Safe Harbor Standards*, Public Notice, DA 01-2243, at ¶ 16 (rel. September 28, 2001) (hereinafter "September 21, 2001, Public Notice").

<sup>3</sup> *Cellco Partnership d/b/a Verizon Wireless CALEA Section 107(c) Petition Packet Mode Communications*, Petition for Extension (filed November 19, 2003) (hereinafter the "Initial Petition"), amended by Verizon Wireless, *CALEA Section 107(c) Petition for Extension of Compliance Deadline for Packet Mode Communications* (filed January 30, 2004) (hereinafter the "Amended Petition"). Because Verizon's Petition fails to identify which specific services it includes within the term "packet mode communications," Law Enforcement cannot address these other services in the enclosed Statement. However, Law Enforcement reserves the right to oppose extensions of other such services in the future.

<sup>4</sup> Furthermore, Law Enforcement opposes the Commission granting any further CALEA deadline extensions to other providers offering packet mode communications service and reserves the right to contest providers' individual petitions for extension pending before the Commission.

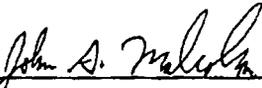
Marlene H. Dortch, Secretary  
February 19, 2004  
Page 3

Commission deny Verizon's Amended Petition, and immediately direct Verizon to implement a CALEA solution for its PTT service.

Due to the fact that criminals, terrorists, and spies, can currently utilize Verizon's PTT service – and Verizon has not deployed a workable CALEA solution to permit Law Enforcement to lawfully surveil such service -- we request that the Commission issue an order within the next thirty (30) days denying Verizon's Petition and directing Verizon to immediately implement a CALEA solution for its PTT service. An original and date-stamped copy of this letter enclosed. Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided herein.

Respectfully submitted,

THE U.S. DEPARTMENT OF JUSTICE

  
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John G. Malcolm  
Deputy Assistant Attorney General, Criminal  
Division  
United States Department of Justice  
950 Pennsylvania Avenue, N.W., Suite 2113  
Washington, D.C. 20530  
(202) 616-3928