

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Rules and Policies Regarding Calling)	CC Docket No. 91-281
Number Identification Service – Caller ID)	
)	
Waiver of Federal Communications)	
Commission Regulators at 47 C.F.R.)	
§ 64.1601(b) on Behalf Of Jewish)	
Community Centers)	

REPLY COMMENTS OF NTCA–THE RURAL BROADBAND ASSOCIATION

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to the Notice of Proposed Rulemaking (“NPRM”)² in the above-captioned proceeding. In the NPRM, the Federal Communications Commission (the “Commission”) proposes changes to Caller ID rules that would facilitate investigations regarding threatening calls.³ NTCA supports amending Caller ID privacy rules to permit small carriers to voluntarily disclose blocked Caller ID information to law enforcement or authorized first responders, or other recipients if necessary under emergency circumstances. As other commenters have noted, any changes to Commission rules should avoid tension with Electronic Communications Privacy

¹ NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers. NTCA holds a seat on the North American Numbering Council, a Commission advisory body.

² *Rules and Policies Regarding Calling Number Identification Service – Caller ID*, CC Docket No. 91-281, Notice of Proposed Rulemaking, FCC 17-76 (rel. June 22, 2017).

³ *Id.*, ¶ 1.

Act (“ECPA”) requirements,⁴ and provide protections to carriers acting in good faith in what appears to be an emergency situation.⁵

II. ANY RULE AMENDMENTS SHOULD PROVIDE FOR VOLUNTARY DISCLOSURE AND “SAFE HARBOR” PROVISIONS FOR CARRIERS ACTING IN GOOD FAITH

Commenting parties note that Section 2702 of ECPA states that a provider is permitted (not required) to disclose information “to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency.”⁶ However, the NPRM would create an obligation, rather than the option, for carriers to provide information in cases where doing so is not mandated by legal proceedings. It would also broaden the circumstances under which carriers must act by requiring them to provide information when they receive a “report” of a call that threatens not just death or injury, but also property.⁷ As AT&T and CTIA observe, this would create tensions with ECPA requirements, and carriers would incur costs as they face a new mandatory reporting obligation that also goes beyond ECPA requirements, which do not include threats to property.⁸ Therefore, NTCA agrees with commenting parties that changes to the Commission’s Caller ID rules should remain voluntary, thus staying consistent with procedures established by ECPA.

NTCA is grateful that the NPRM inquires specifically about the burdens that small carriers may encounter when law enforcement seeks information.⁹ NTCA members’ experiences

⁴ Comments of AT&T Services, Inc. (“AT&T”) at 3-5; Comments of CTIA (“CTIA”) at 5-6.

⁵ As other parties also have noted (AT&T at 6-8; CTIA at 4-5) NTCA members report that when cases of threatening calls occur, the instances of blocked Caller ID are becoming less frequent. Instead, perpetrators are increasingly using other means to spoof or obscure the origin of their calls.

⁶ AT&T at 3-4; CTIA at 5-6.

⁷ NPRM, ¶ 12.

⁸ AT&T at 3-4, CTIA at 6-7.

⁹ NPRM, ¶ 14.

vary widely. Many report few to zero requests from law enforcement, while others report regular requests with varying frequencies. One NTCA member notes that fulfilling law enforcement requests requires the attention of roughly one-half the time of a staff member.

As NTCA members are based in, and are integral parts of, the communities they serve, it is not surprising that regardless of the frequency of requests, NTCA carriers indicate that relations with law enforcement, as well as other first responders, are smooth and cooperative. Therefore, NTCA would not object to a rule that would permit carriers to voluntarily provide blocked Caller ID information to emergency service providers such as private ambulance companies.¹⁰ A “safe harbor” for carriers acting in good faith should be incorporated into any such rule.

The NPRM also inquires about whether carriers should turn over blocked Caller ID data to called parties who report receiving threats.¹¹ As the NPRM recognizes, the disclosure of blocked Caller ID information to those making allegations could give rise to abuse and result in the disclosure of legitimately blocked Caller ID data to unscrupulous actors who desire to use it to the detriment of innocent parties.¹² Also, the NPRM further recognizes that turning this data over could raise privacy concerns.¹³

NTCA is sympathetic to commenting parties’ assertions that Caller ID data should (a) only be provided to law enforcement,¹⁴ and (b) circumstances supporting disclosure should be validated only by law enforcement.¹⁵ In general, these appear to be reasonable rules of thumb. However, in remote or insular areas with sparse populations, exigencies may occur that make it

¹⁰ *Id.*

¹¹ *Id.*, ¶¶ 15-17.

¹² *Id.*

¹³ *Id.*

¹⁴ AT&T at 3-4; CTIA at 8-11.

¹⁵ AT&T at 4-6; CTIA 8-11.

difficult or impractical to confer with law enforcement or first responder officials in a timely manner, even if doing so is the preferred method. Therefore, any rule changes could emphasize a preference for providing data only to law enforcement, as well as a preference for having law enforcement validate the circumstances establishing an emergency. Yet any amendments should also include “safe harbor” provisions for carriers acting in good faith who, under time-sensitive circumstances (and especially in remote areas and under extraordinary conditions, such as snowstorms, natural disasters, etc.), may find it imperative to divulge blocked Caller ID information to called parties, volunteer rescuers, or similar non-law enforcement personnel.

As CTIA stated, the Commission has a history of using common sense with regard to its Caller ID rules.¹⁶ Consumer expectations of, and obligations to maintain, privacy must be balanced with legitimate public safety needs. Carriers should normally rely on law enforcement and official first responders to determine whether circumstances justify release of blocked Caller ID data, and provide it only to them under normal circumstances. Yet the Commission would be justified in creating a safe harbor for carriers acting in good faith under emergency conditions, especially in remote and insular areas.

III. CONCLUSION

NTCA supports common-sense alterations to the Commission’s Caller ID blocking rules in order to facilitate investigations and enhance public safety, while at the same time respecting consumers’ privacy. In order to avoid conflicts with ECPA requirements, absent relevant legal proceedings, carriers’ divulgence of Caller ID information should remain voluntary. While rule changes should generally permit disclosure only to, and only at the request of, law enforcement or qualified first responders, common sense “safe harbor” provisions should be included to accommodate extraordinary circumstances where carriers acting in good faith, especially in

¹⁶ CTIA at 2-5.

remote or insular areas, have reason to believe that coordinating with law enforcement or emergency personnel is not practical in order to serve public safety in a timely manner.

Respectfully submitted,



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