

October 24, 2008

Client Advisory On Net 911 Order

On October 21, 2008, the FCC issued a Report and Order implementing the New and Emerging Technologies 911 Improvement Act of 2008 (“NET 911 Act”) which requires, among other things, that providers of Internet protocol-enabled calling services, including principally Voice over IP (“VoIP”) services, must provide 911 and enhanced 911 (“911/E911”) services to all subscribers. *Implementation of the NET 911 Improvement Act of 2008*, WC Docket No. 08-171, FCC 08-249 (“NET 911 Order”).

The NET 911 Act, enacted July 23, 2008, requires the FCC to implement the rules necessary for ensuring that IP-enabled services can provide 911/E911 services. In addition, it states that IP-enabled service providers, in order to comply with their 911/E911 obligations, must have the same access to the capabilities necessary for providing 911/E911 service as any “provider of commercial mobile service,” including the right to interconnect with the Wireline 911 Network. In addition to ensuring this parity of access to 911/E911 capabilities, the FCC is required to “take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services.”

The *NET 911 Order* implements these mandates principally by creating federal standards defining the access that IP service providers must have to 911/E911 capabilities.

First, it defines these “capabilities” as all capabilities of the Wireline 911 Network that commercial mobile radio service (“CMRS”) providers can access, which the *NET 911 Order* describes in detail, as well as any other items that are “necessary to interconnected VoIP providers’ compliance” with the NET 911 Act.

Secondly, the order states that interconnected VoIP providers may access these capabilities from any entity that “owns or controls” them.

Third, the order requires that VoIP providers obtain these capabilities “on the same rates, terms, and conditions that are available to CMRS providers.” For those capabilities not used by CMRS for 911/E911 services but that are necessary for VoIP providers to do so, the rates, terms, and conditions “that would be offered to a CMRS provider” must apply.

Fourth, the *NET 911 Order* requires that VoIP service providers must comply with “all applicable industry network security standards” in offering 911/E911 services that presently apply to “traditional telecommunications carriers.”

Finally, the order states that any customer information obtained by an IP-enabled service provider in its provision of 911/E911 service may use that information “for marketing purposes.”

The *NET 911 Order* thus grants VoIP and other IP-enabled service providers, as a matter of federal law, the right to interconnect to the Wireline E911 Network and obtain the many functionalities necessary for providing 911/E911 services. We would be pleased to assist any affected carrier in implementing this order, including providing further guidance on the order as well as assisting with negotiating the necessary agreements with the entities providing 911/E911 functionalities. Please do not hesitate to contact any of our Telecommunications Attorneys, including the undersigned, with any concerns or questions regarding the *NET 911 Order*.

Contact:

If you have any questions regarding the 911 Order, please contact [Stephanie Joyce](#) at (202) 857-4534 or one of our [Telecommunications attorneys](#). Additional information on our Telecommunications, Cable and Broadcast Practice Group can be found on our website at www.wcsr.com.

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