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May 29, 2012

The Honorable Edward J. Markey
United States House of Representatives
Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Congressman Markey:

I am responding to your letter to Randall Stephenson, dated May 2, 2012, related to a recent article in the New York Times raising concerns about law enforcement tracking of mobile telephones.

AT&T takes seriously its responsibilities to simultaneously protect our customer's privacy while cooperating with law enforcement. As we have stated many times in filed testimony, in letters to you and other legislative offices, and in communicating with our own customers, the protection of customer privacy is fundamental to the way we do business everyday. Simply put, we do not sell our customers' personal information to law enforcement. As explained in more detail below, we are required by state and federal laws to respond to appropriate law enforcement subpoenas, warrants, court orders and other legal processes. In addition, we are authorized by law to provide location and other information to public safety personnel for purposes of responding to 911 calls and other emergency circumstances when warranted.

AT&T makes every effort to explain these requirements to our customers. Our Privacy Policy makes very clear that we will provide personal information to governmental agencies:

- To comply with court orders, subpoenas, lawful discovery requests and legal and regulatory requirements;
- To provide information regarding the caller's location to a public safety entity when a call is made to 911; and
- To notify or respond to a responsible governmental entity if we reasonably believe, based on information provided by law enforcement personnel, that an emergency involving immediate danger of death or serious physical injury to any person requires or justifies disclosure without delay.

AT&T does not respond to law enforcement without receipt of appropriate legal process. When the law requires a warrant for disclosure of customer phone usage information, AT&T requires that a warrant be provided – as is also the case for court orders, subpoenas or any other form of legal process.

AT&T also plays a vital role in assisting 911 operators to quickly dispatch law enforcement and emergency services in response to customer calls. AT&T responds to approximately 230 emergency requests (also referred to as “exigent requests”) per day, including calls from more than 8300 Public Safety Answering Point 911 centers (PSAPs) around the country and from law enforcement agencies working on kidnappings, missing persons, attempted suicides and similar emergencies. Information is provided to PSAPs immediately upon verification that we are, in fact, dealing with a legitimate PSAP. All other requests for exigent information require law enforcement to sign a certification form confirming that the information is required to deal with an emergency involving immediate danger of death or serious physical injury to a person. The certification form must be signed and returned to AT&T before any information is provided to the law enforcement officer.

AT&T does not “market” the provision of its customer’s phone usage information to law enforcement. AT&T employs more than 100 full time workers and operates on a 24x7 basis for the purpose of meeting law enforcement demands. AT&T’s charges are intended to recoup at least a portion of our costs incurred in providing these required responses, and we believe we fall far short of our actual costs. For example, the scope of providing CALEA compliance alone is broad, and touches so many different areas within our company, which makes it virtually impossible to capture those costs. And, AT&T imposes no charges for handling exigent requests, from either PSAPs or law enforcement.

While your letter focuses on wireless carriers, it is important to note that wireless carriers are only one of many potential sources of location information. As explained in our April 22, 2011 response letter to you and Rep. Barton, there are situations in which AT&T has no role in the provision of location-based service to the customer. For example, AT&T customers may utilize location-based services from third-party sources that are not in any way affiliated with AT&T. Those providers may derive the location of the customer’s device directly from the handset, or may obtain it by partnering with location providers who, in turn, obtain location from use of GPS, Wi-Fi hotspot mapping, reverse-engineered cell tower ID information, and other available mechanisms. In addition, many mobile applications capture information (like text messaging and call detail information) that once was in the sole purview of telecommunications services providers. The information available through these sources is not obtained from or available to AT&T (or any other carrier), but can be every bit as detailed and comprehensive as any carrier information.

Against this backdrop, AT&T responds as follows to your letter seeking information-related to AT&T’s responses to law enforcement requests for individual AT&T customer wireless phone usage information, responses to your questions are provided below.

1. **Over the past five years, how many requests has your company received from law enforcement to provide information about your customers' phone usage, including but not limited to location of device, tracing phone calls and text messages, and full-scale wiretapping?**
 - a. **How many of these requests did your company fulfill and how many did it deny?**

ANSWER: Approximate request numbers are provided in the table below.

TYPES OF REQUEST	2007	2008	2009	2010	2011
Subpoenas (Criminal)	63,100	76,300	75,400	98,500	131,400
Orders/Warrants	36,900	39,500	40,300	37,300	49,700
Rejected Surveillance Orders	425	560	630	740	965
Exigent Requests (PSAPs)	23,200	31,600	39,600	45,600	65,500
Exigent Requests (Non-PSAPs)	1,800	3,500	5,500	8,100	13,800

To keep these numbers in perspective, AT&T serves over 103,200,000 wireless customers (in 2007, by contrast AT&T served just over 70,000,000 wireless customers). In 2011, assuming each request was for a different individual subscriber, the total number of law enforcement requests for individual wireless phone usage information impacted approximately 0.25% (or, stated differently, one quarter of one percent) of AT&T's wireless customer base. We also provide wireless services throughout the 50 states and Puerto Rico, which means our service footprint falls within the jurisdiction of tens of thousands of federal, state, county and local law enforcement agencies, as well as more than 8300 PSAPs.

- b. **If it denied any request, for what reasons did it issue those denials?**

ANSWER: AT&T rejects requests for information about customer phone usage when the form of process received is not appropriate for the type of information requested, or when there is some form of procedural defect sufficient to cause the request to not meet legal requirements.

For example, law enforcement may attempt to obtain information using a subpoena when a court order is required – such a request would be rejected. A request also may be rejected because it is defective in form – i.e., the order does not contain a signature, fails to include the subject of the request, includes a number or name that does not match AT&T's records, etc. AT&T, however, only keeps records on the numbers of rejected surveillance (i.e., pen register or wiretap) orders. Accordingly,

the number of rejected surveillance orders provided in response to Question 1(a) above understates the total number of rejected law enforcement requests.

Based on the total number of rejected surveillance requests reflected in our response to Questions 1 (a) above, AT&T rejected approximately 18 law enforcement surveillance (pen register/wiretap) requests a week in 2011.

2. What protocol or procedure does your company employ when receiving these requests?

ANSWER: AT&T processes requests that satisfy applicable requirements for response. Those that do not satisfy applicable requirements are rejected. AT&T provides a written explanation for the rejection to the submitting law enforcement agency. The law enforcement agency may then file a corrected request or pursue resolution through the court system.

a. Do you consider whether law enforcement has obtained a warrant to obtain this information?

ANSWER: Yes. AT&T will not respond to a request for information that requires a warrant unless a warrant is provided.

b. Does your company distinguish between emergency cell phone tracking requests from law enforcement and non-emergency tracking request? If yes, what are the distinctions?

ANSWER: Yes. Non-emergency tracking requests require a search warrant or probable cause order. Before responding to emergency requests, AT&T requires law enforcement to provide a written description of the emergency, to certify the facts are true, and that they constitute an emergency involving danger of death or serious physical injury to a person, requiring disclosure without delay.

The certification must be signed and submitted to AT&T before AT&T will provide the requested information. If AT&T determines that a particular request does not fit the criteria for an emergency response, the requesting law enforcement agency is advised that the information cannot be provided without legal process.

- 3. Has your company encountered misuse of cell phone tracking by police departments? If yes, in what ways has tracking been misused? And if yes, how has your company responded?**

ANSWER: AT&T has not encountered any misuse of cell phone tracking by police departments. As described above, emergency requests require certification from law enforcement personnel; non-emergency requests require a warrant or court order. AT&T responds to the requests for information as described above. AT&T has no information on how law enforcement uses the data.

- 4. How much of your staff is devoted to providing this type of information to law enforcement (i.e., does your company have staff assigned specifically to this function)?**

ANSWER: AT&T has more than 100 full time employees specifically devoted to receiving, reviewing and responding to law enforcement requests submitted by federal, state, county and local law enforcement agencies, departments and organizations, including PSAPs and special districts (transit police, park police, etc.), throughout the 50 states and Puerto Rico.

- 5. The New York Times article mentions police departments purchasing their own mobile phone tracking equipment. Does your company cooperate with police departments that have their own tracking equipment? If yes, how?**

ANSWER: AT&T is required by law to cooperate with police departments that make lawful requests for information. AT&T does not know whether the police departments to which it has lawfully provided information own their own tracking equipment.

- 6. Has your company ever accepted money or other forms of compensation in exchange for providing information to law enforcement? If yes, how much money has your company received? And if yes, how much does your company typically charge for specific services (i.e., phone location, trace phone calls or text messages, full-scale wiretapping)?**

ANSWER: In some cases, AT&T is compensated for the cost of collecting and submitting customer phone usage information to law enforcement in response to lawful law enforcement requests for that information. Approximate totals for the amount of money received by AT&T in each of the last five years are provided in the table below. As noted in the introduction to this letter, we do not believe our revenues in this area cover our actual costs. AT&T's price list for providing information in response to court orders and warrants is included as Attachment A to this letter. In addition, AT&T charges \$40 an hour to respond to criminal subpoenas, with a minimum 1 hour assessment.

	2007	2008	2009	2010	2011
Collections	\$2,813,000	\$3,482,000	\$4,239,000	\$5,382,000	\$8,253,000

- a. Does your company charge different amounts depending upon whether the request is for emergency or non-emergency purposes? Does your company charge fees for emergency cell phone tracking request from police departments?

ANSWER: AT&T does not charge for emergency requests.

- b. Please include any written schedule of any fees that your company charges law enforcement for these services.

ANSWER: See Attachment A.

7. Does your company actively market the provision of this information to law enforcement? If yes, please describe the nature of these marketing activities.

ANSWER: AT&T does not market the provision of its customer's phone usage information to law enforcement. Rather, AT&T responds to lawful requests from law for information and in some circumstances, we are compensated for the process of collecting and providing that data to law enforcement personnel.

Sincerely,





AT&T PRICING STRUCTURE
Effective February 25, 2010

Type of Fee	Cost Per Number For Court Orders, Extensions or Amended Orders
DATA ORDERS	
Activation Fee: Includes activation costs per number associated with supporting CALEA compliance and responding to court orders in a timely manner.	\$325.00
Daily Fee: Applied to each number per day the order is active to support CALEA compliance and delivery of CALEA data over the AT&T network.	\$5.00/Day
CONTENT ORDERS	
Activation Fee: Includes activation costs per number associated with supporting CALEA compliance and responding to court orders in a timely manner.	\$325.00
Daily Fee: Applied to each number per day the order is active to support CALEA compliance and delivery of CALEA voice/data over the AT&T network.	\$10.00/Day
DATA WITH CONTENT ORDERS	
Activation Fee: Includes activation costs per number associated with supporting CALEA compliance and responding to court orders in a timely manner.	\$325.00
Daily Fee: Applied to each number per day the order is active to support CALEA compliance and delivery of CALEA voice/data over the AT&T network.	\$10.00/Day
AMENDED CONTENT OR DATA ORDERS	
Activation Fee: Includes activation costs per number associated with supporting changes to existing orders, CALEA compliance and responding to court orders in a timely manner.	\$325.00
PACKET DATA	
Activation Fee: Includes activation costs per number associated with supporting CALEA compliance and responding to court orders in a timely manner.	\$325.00
Daily Fee: Applied to each number per day the order is active to support CALEA compliance and deliver of CALEA packet data over the AT&T network.	\$10.00/Day
PACKET DATA (In Conjunction with Voice Charges)	
Activation Fee: Includes activation costs per number associated with supporting CALEA compliance and responding to court orders in a timely manner.	\$100.00
Daily Fee: Applied to each number per day the order is active to support CALEA compliance and deliver of CALEA packet data over the AT&T network.	\$10.00/Day
BILLING ADDRESS CHANGE	
Change Fee: Invoice sent to a different billing contact other than what was previously provided.	50.00
MOBILE LOCATE	
Activation Fee: Includes activation costs and email delivery per number.	\$100.00
Daily Fee: Applied to each number per day.	\$25.00
Change Fee: Includes changes in the provisioning of the email address or frequency.	\$100.00
VOICEMAIL PRESERVATION	
Fee/Target Number: Voicemail preservation and password reset on AT&T's legacy voicemail platform.	\$150.00



AT&T PRICING STRUCTURE
Effective February 25, 2010

Type of Request	Fee
PERSONNEL RECORDS	
Requests for payroll, personnel, and other AT&T employee-related records.	\$100.00
BILLING RECORDS	
Requests for subscribers' invoices and billed usage.	\$35.00 processing Fee + \$10.00/Month
CALLS TO DESTINATION	
Requests for incoming call detail (including blocked calls) per subscriber. Note: These searches may only include calls from other AT&T subscribers.	\$25.00
ACCOUNT NOTES	
Requests for account notes per subscriber.	\$35.00 processing Fee + \$25.00
CELL SITE SEARCHES	
Requests for all calls processed during a specific time period on a specific cell site.	\$75.00/tower
MAPS	
Requests for detailed cell site coverage maps.	\$75.00/Hour