

May 23, 2012

The Honorable Edward J. Markey
U.S. House of Representatives
Washington, DC 20515-2107

Dear Congressman Markey:

Thank you for your letter of May 2, 2012 inquiring into MetroPCS Communications, Inc.'s ("MetroPCS") policies regarding the provision of mobile phone tracking information to law enforcement agencies. MetroPCS is pleased to respond to your letter on this important topic.

MetroPCS provides mobile wireless voice and broadband data service in selected major metropolitan areas in the United States and serves more than 9.3 million subscribers,¹ making it the fifth-largest facilities based mobile broadband wireless carrier in the United States based on number of subscribers served. MetroPCS targets a mass market largely underserved by the larger national mobile broadband wireless providers. MetroPCS' service plans are differentiated from the more complex long-term plans offered by many of its competitors by being more affordable, predictable and flexible. MetroPCS' service plans currently begin at \$25 per month for unlimited voice and text on a nationwide basis and \$40 per month for voice, text and data on a nationwide basis, including all applicable taxes and regulatory fees. MetroPCS customers can use their unlimited wireless service in MetroPCS' coverage areas, as well as in their extended service areas through various roaming arrangements, under its flat-rate monthly service plans. Customers pay for service in advance, without a credit check.

In summary, MetroPCS only supplies information to law enforcement agencies in response to valid subpoenas, court orders, state and federal law, exigent circumstances as defined by Title 18 USC, and the Communications Assistance Act for Law Enforcement Agencies ("CALEA").

MetroPCS is pleased to respond to the questions you posed in your May 2, 2012 letter as follows:

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?*

From January 2006 through May 2012, MetroPCS responded to an average of fewer than 12,000 requests per month from law enforcement to provide information about MetroPCS' customers' phone usage. This figure, however, does not include requests that were not valid or were rejected because MetroPCS does not track information or requests that are not fulfilled or

¹ As of December 31, 2011.

are rejected. In addition, a single subpoena or wiretap could contain multiple requests, so the number of discrete subpoenas, court orders, and other valid processes would have been less than the amount provided above.

- a. *How many requests did your company fulfill and how many did it deny?*

MetroPCS fulfilled an average of fewer than 12,000 per month from January 2006 through May 2012. MetroPCS does not have any information on how many requests it has denied because MetroPCS does not track requests that are denied or rejected.

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

MetroPCS will deny a request, among other things, if: (1) the request is not directed to MetroPCS; (2) the request is not valid; (3) the request is in the wrong form (e.g., trying to use a subpoena to get information for which a warrant is required); or (4) the phone number for which information is being requested is not a MetroPCS number.

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

MetroPCS Subpoena Compliance analysts follow a written Company procedure, which requires that each subpoena or court order is valid and complies with applicable law.

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

Yes.

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

MetroPCS distinguishes between exigent and non-exigent tracking requests. An exigent circumstance is defined by federal law as a request that the time delay to obtain a subpoena or court order may pose imminent danger of death or serious bodily injury to a person(s). If a law enforcement agency declares that a situation is "exigent," the agency is required to fill out and return to MetroPCS an Exigent Request Form, which must be signed/approved by a supervisory level police officer or federal agent. The agency must also agree to obtain the proper legal process (subpoena, warrant or court order as dictated by the nature of the request) as soon as it is reasonably possible to do so (usually 48 to 72 hours). All other circumstances are considered non-exigent and a valid court order, warrant or subpoena is required prior to fulfilling such request.

3. *Has your company every 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?*

MetroPCS is unaware that any cell phone tracking information provided by MetroPCS has been misused.

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)?*

MetroPCS has a Subpoena Compliance group that is specifically trained and dedicated to responding to requests from law enforcement agencies. The group totals 16 employees and is comprised of one director, one manager, two supervisors, and 12 compliance analysts.

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?*

MetroPCS is unaware of which police departments may have their own mobile phone tracking equipment. MetroPCS only provides information to police departments pursuant to lawful process.

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)?*

Yes. Federal law provides that telecommunications carriers may recover the cost of some of the services provided to law enforcement agencies. MetroPCS may incur different costs for providing different kinds of information. Accordingly, MetroPCS recovers the permissible cost of supplying these services based on the information sought. The schedule of cost recovery amounts is attached as **Attachment A** to this letter.

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

MetroPCS does not charge a fee for providing exigent information.

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

MetroPCS' cost recovery schedule is included with this letter as **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.*

No.

Sincerely,

A handwritten signature in black ink that reads "Steve Cochran". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Steve Cochran

Vice President, Audit & Compliance
MetroPCS Communications, Inc.

Attachment A

metroPCS MetroPCS Subpoena Compliance

Law Enforcement Agencies/Attorneys:

Welcome to MetroPCS! Please read the updated information. Thank you!

What is Needed from Law Enforcement/Attorneys to Process Requests

The following information will assist our team of analysts to process your records:

- Please include the requesting agent's first and last name, phone number, fax number, email and mailing address with each request. **Email is our preferred method of returning records.**
- Please include specific agency billing instructions.
- Please use 1-800-571-1265 when calling the Compliance Department. Please listen to the options and choose appropriately.
- For general questions and status checks, please use our leaquestions@metropcs.com email.
- Be prepared with the tracking number, target number, or invoicing number if calling or emailing for information.

All requests received by fax or email will generate an automatic receipt when accepted into the system. The records will be returned via email, fax, or mail. **Email is the fastest method of receiving results.**

What is Available

The following cites what information is available, specific documentation required, and the associated reasonable and customary fees.

- **Subscriber:** Subscriber information may be obtained with a subpoena. Current subscriber data is provided unless a specific time frame is requested.
- **Call Detail Records:** Call detail records are retained approximately **6** months from the current date after which they are overwritten and cannot be recovered. Call detail records may be obtained with a subpoena. Call detail records with *cell sites* require a court order or a search warrant. Since subscribers change often, it is advised to narrow the timeframe to the time of the event.
 - **\$50 per number for call detail records for more than 30 days**
- **Text messages:** Text messages are stored for approximately 60 days and require a court order, search warrant, or grand jury subpoena.
 - **\$50 per number for text messages with content or without content for any date range**
- **Voicemail Password Reset:** Voicemail is stored on the server for 7 days unless the subscriber saves the message. Once the message is deleted, it is permanently deleted and cannot be restored. A court order or search warrant is required in order for the voicemail to be reset.
 - **\$50 per number for a voicemail password reset**
- **Calls to Destination Search:** Requires a court order or a search warrant.
 - **\$50 per number for calls to destination search**
- **Cell Tower/Area Dumps:** Requires a court order or a search warrant.
 - **\$50 for a Cell Tower Dump per tower number for a 2 hour period**
 - **\$100 for an Area Dump (if you know the location but do not know the cell towers that affect the area) for a maximum of 2 cell towers for a 2 hour period per cell tower search**
- **Pen Registers:** Requires a court order.
 - **\$200 set-up fee and \$20 per day maintenance with a minimum fee of \$500**
- **Wire Taps:** Requires a court order.
 - **\$400 set-up fee and \$40 per day maintenance**

What is not Available

The following information is not available:

- Subscriber information based on an IP Address
- Picture messages or Multi-Media Messages (MMS)
- Caller ID blocked from Non-MetroPCS customers
- Triangulation and Pinging (GPS) and Cell Site Location on numbers that have been turned off or are out of range

How to Contact MetroPCS

Phone 24x7: **(800) 571-1265**
Office Hours: **8:00-5:00 CST**
Please listen to the options and choose appropriately.

Mailing address:
MetroPCS Subpoena Compliance
2250 Lakeside Blvd.
Richardson, TX 75082

To fax subpoenas/court orders:
972-860-2635

To E-mail subpoenas/court orders:
subpoenas@metropcs.com

For questions and status checks:
leaquestions@metropcs.com

For pen/wire issues or questions:
esu@metropcs.com

For invoicing issues or questions:
leainvoicing@metropcs.com

Rev. 11-2-2011 dml