



October 7, 2013

The Honorable Edward J. Markey  
Congressional Bi-partisan Privacy Caucus  
7<sup>th</sup> District, Massachusetts  
Congress of the United States  
House of Representatives  
Washington, D.C. 20515-2107

Dear Representative Markey:

I write in response to your September 12, 2012 letter to our CEO Douglas Hutcheson requesting information about Cricket's responses to legal process issued by law enforcement. I am happy to answer the specific questions you raised again this year. As always, I welcome the opportunity to discuss these matters further if you believe it would be helpful.

Cricket takes its obligations to balance subscriber privacy with compliance with law enforcement requests quite seriously. Except in emergency circumstances, as defined by statute, Cricket does not release subscriber information to law enforcement without formal legal process, and Cricket examines all legal process to verify that the correct types of process are being used for the type of subscriber data being requested. If Cricket has concerns that it has not received the appropriate legal process to disclose the data being requested, Cricket may decline to comply or withhold its response until the proper legal process is received.

I would also remind you that since April 2012, Cricket's law enforcement compliance function has been handled by Neustar Inc., a third party provider who regularly provides outsourced subpoena compliance functionality to telecommunications providers. Accordingly, most of the figures and numbers supplied below have been provided to Cricket by Neustar.

Below, I have set forth the specific questions in your letter and Cricket's response.

1. *In 2012, how many total requests did your company received from law enforcement to provide information about your customers' phone usage?*

Cricket receives thousands of forms of compulsory legal process each year from law enforcement for information related to phone usage. Each form of legal process may seek multiple types of information, or information about multiple subscribers. For 2012, Cricket received approximately 59,000 pieces of compulsory legal process, including subpoenas, court orders, search warrants, pen register, trap and trace and intercept orders.

a. *Within that total, please list the amount of requests your company received for each type of usage, including but not limited to the following:*

*I.) Geolocation of device (please distinguish between historical and real-time)*

Cricket does not have the capability to provide on demand geolocation data.

*II.) Call Detail Records (i.e., pen register and trap and trace)*

Approximately 2,700 pen register or trap and trace orders were processed. Please note, however, we do not consider the information provided in response to such requests to be "Call Detail Records."

*III.) Text Message Content*

Cricket does not retain Text Message Content. Cricket does not track the requests or denials associated with these requests. As well, intercepts that also capture text message content are not tracked separately.

*IV.) Voicemail*

Approximately 130 voicemail requests were processed in 2012.

*V.) Cell Tower Dumps*

Approximately 10 cell tower dumps were processed in 2012. This capability became available in October 2012.

*VI.) Wiretapping*

Approximately 150 wiretaps were provisioned in 2012

*VII.) Subscriber Information*

Subscriber information was requested on 82,253 subscribers in 2012. Subscriber information is called for by practically every law enforcement demand.

*VIII.) Data Requests (e.g., Information on URL's visited)*

Cricket does not retain data IP's or URL information. Cricket does not track the requests or denials associated with these requests.

b. *Within that total, how many of the requests were made in emergency circumstances, and how many were in non-emergency situations?*

Approximately 15,000 emergency requests were processed in 2012. These involve E911 PSAP and Law Enforcement exigent requests for subscriber validation and live trace location data.

c. *Within that total, how many of the requests did your company fulfill and how many did it deny? If it denied any requests, for what reasons did it issue those denials?*

Cricket does not keep records of law enforcement requests that were not fulfilled, but Cricket does deny some requests based on insufficient law enforcement process. The primary reasons that Cricket may have not implemented a law enforcement request are:

- The language of the order is insufficient to allow production of the requested content
  - The level of legal process is insufficient for the type of data requested. For example, a subpoena is used to request transactional records that require a Court Order under 18 U.S.C. § 2703(d).
  - Cricket may have no responsive information if an identified user is not on our network due to roaming on a partner carrier's network
  - The identified user is not a customer, either because they have disconnected or because they are now with another carrier
  - Law enforcement provided incorrect information, making it impossible to provision the request
- d. *Within that total, please breakdown how many of the requests were made by Federal authorities, how many by state authorities, and how many by local authorities?*

Cricket does not track specific request types by agency. In terms of total requests, requests made by federal authorities comprise approximately 60% of all requests.

2. *For each type of usage in 1(a), how long does your company retain the records?*

*II.) Call Detail Records (i.e., pen register and trap and trace)*

A pen register or trap and trace is for live data.

Switch binary AMA data used to create historical Call Detail Records is retained for up to six months before being purged.

*IV.) Voicemail*

7 days maximum in all cases.

*V.) Cell Tower Dumps*

90 days.

*VI.) Wiretapping*

This is live data.

*VII.) Subscriber Information*

Subscriber information is kept for up to seven years.

3. *What is the average amount of time law enforcement requests for one cell tower dump (e.g., one hour, 90 minutes, two hours, etc.)? For each hour of a cell tower dump that your company provides, on average how many mobile device numbers are turned over to law enforcement?*

Cricket requests that law enforcement limit all search periods to two hours to prevent overburdening the processing systems that create these records from raw switch data. On average, approximately 175 calls for each hour were captured per each cell tower dump in 2012.

*4. In 2012, how many requests did your company receive under Section 215 of the Patriot Act?*

Given the security issues associated with FISA requests, Cricket does not maintain a tracking database for FISA, nor does Cricket hold the legal process on site, both of which prevent us from being able to report statistics on national security demands.

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

In April 2012, Cricket turned its law enforcement compliance function over to a third-party provider, Neustar, Inc. Neustar has over 400 provider clients in the WiFi, Voice, IP Broadband, wireline and wireless industry for whom it provides these same legal compliance services. More information on Neustar's services can be found at the link below.<sup>1</sup>

*a. What legal standard do you require law enforcement to meet for each type of usage in 1(a)?*

*I.) Geolocation of device (please distinguish between historical and real-time)*

Cricket does not have the capability to provide on demand geolocation data.

*II.) Call Detail Records (i.e., pen register and trap and trace)*

At a minimum, a pen register or trap and trace requires a signed order referencing 18 U.S.C § 3124

*IV.) Voicemail*

At a minimum, voicemail content requires a search warrant

*V.) Cell Tower Dumps*

At a minimum, cell tower dumps require a signed court order

*VI.) Wiretapping*

At a minimum, a wiretap requires a signed intercept order.

*VII.) Subscriber Information*

At a minimum, an Administrative Subpoena is required for subscriber information

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

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<sup>1</sup> <http://www.neustar.biz/solutions/communication-service-providers/numbering/comply-with-regulations>

Yes, Cricket follows a process to provide disclosures without legal process in emergency circumstances where Cricket, in good faith, relying on certifications by law enforcement, 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. Cricket requires that law enforcement fill out an emergency disclosure form in order to screen for bona fide emergencies.

*c. Have any of these practices changed since your May 2012 correspondence?*

Cricket has not made any changes since the transition to Neustar in April of 2012.

*6. Did your company encounter misuse of cell phone tracking by police departments during 2012? If yes, in what ways has tracking been misused? And if yes, how has your company responded?*

Cricket is unaware of any misuse of cell phone tracking data by police departments. It also does not conduct such tracking on law enforcement's behalf without judicial process.

*7. Does your company have knowledge of law enforcement authorities that use their own tracking equipment (e.g., Stingray phone trackers)? If yes, please explain. Does your company cooperate with law enforcement that uses its own tracking equipment? If yes, how?*

Cricket is not aware of what types of equipment can be purchased for this functionality, nor would Cricket have any reason to coordinate with police departments in the use of their equipment. Cricket controls all access to its equipment, which is not available for law enforcement use.

*8. In 2012, did your company receive money or other forms of compensation in exchange for providing information to law enforcement? If yes, how much money did your company receive? And if yes, how much does your company typically charge for specific services (please refer to the list in 1(a) above)?*

Pursuant to 18 U.S.C. § 2706 Cricket is entitled to reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing information in request to legal process received from law enforcement. For real-time requests for surveillance, Cricket is also entitled to reasonable reimbursement pursuant to 18 U.S.C 2518(4) for "reasonable expenses incurred in providing such facilities or assistance" in implementing Title III orders. Cricket is not entitled to, and does not make any profit on services rendered to law enforcement. Further, Cricket is frequently not paid on the invoices it submits to law enforcement. Cricket's fee schedule has not changed since the last response.

*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 requests from police departments?*

Cricket does not charge for disclosures to law enforcement in emergency circumstances involving immediate danger of serious bodily injury or loss of life.

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

The reimbursement schedule is attached as Exhibit A to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Irving, Jr.", written in a cursive style.

Robert J. Irving, Jr.  
Chief Legal and Administrative Officer



## Exhibit A

### Cricket Compliance Services and Lawful Intercept Fee Schedule

#### Cricket currently waives fees in following cases/circumstances:

- Child Exploitation Cases
- Public Defenders Representing Indigent Defendants
- Witness Appearance Fees above and beyond reimbursement of witness travel expenses
- Exigent Circumstances involving threat of death or great bodily harm that could result in death
  - Live Traces
  - AMA dumps
  - Lookups associated with an exigent or emergency situation
  - Records associated with an exigent or emergency situation, except Tower Searches

#### Fee Schedule:

Please Note: 1) Cricket charges fees to recover the costs for production of records or services rendered as provided by law (See explanation on Cricket Reimbursement Language document).  
2) Cricket never requires prepayment prior to records production or services rendered.

#### Subscriber Information:

Large lists of over 25 subscriber name/number lookups are charged \$5 per lookup starting with the 26th name/number listed, which is the point that the request becomes burdensome and voluminous.

#### Call Detail Records:

\$64 per name/number

#### SMS, Text, Voicemail:

\$5.50 per name/number

#### Tower Searches:

\$185 per tower search request

#### Pen Register/Trap and Trace or Wire Tap/Title III/Title 50:

\$235 per number and \$100 per number to provision extensions

Note: There is no proration of Lawful Intercept Fees. Intercepts fees are based upon on a flat rate cost recovery schedule, so there is no proration if they are disconnected prior to the 60 day deadline. Extension fees are based upon a flat rate cost recovery schedule because they require the Pen or Wire to be manually re-provisioned.

#### Fee Disputes:

Any disputes should be directed to Cricket via e-mail to the Collection department at [collections@cricketcommunications.com](mailto:collections@cricketcommunications.com).