

Request for Information
Regarding the Future of Public Pay Telephones on New
York City Sidewalks and Potential Alternative or
Additional Forms of Telecommunications Facilities on
New York City Sidewalks

RELEASED: July 11, 2012

RESPONSES DUE: August 22, 2012

RESPONSES MAY BE SUBMITTED IN PAPER FORM BY
SUBMITTING FOUR COPIES OF YOUR COMMENTS TO:

Stanley Shor
Assistant Commissioner
Department of Information Technology and Telecommunications
2 Metrotech Center, 4th Floor
Brooklyn, New York 11201

ALTERNATIVELY, RESPONSES MAY BE SUBMITTED BY E-
MAIL TO:

Stanley Shor
Assistant Commissioner
futurephones@doitt.nyc.gov

A. Introduction.

In 1999, the Department of Information Technology and Telecommunications (“DoITT”) of the City of New York (the “City”), entered into a number of franchise contracts, all with essentially the same language and terms, for the installation, maintenance and operation of public pay telephones on City sidewalks. These franchises will expire on October 15, 2014. In order to assist DoITT in evaluating how to approach the future of communication services on City sidewalks to succeed the current payphone franchises, DoITT is issuing this Request for Information (this “RFI”) seeking comment from the public, including but not limited to those who may be interested in providing communication services on City sidewalks, on the issues described below.

B. Background.

1. There are currently about 10,000 payphone installations (approximately 13,000 individual phones) on City sidewalks, operated under thirteen franchise contracts. Payphones installed within the subway system, attached to subway entrances or in private or public buildings are not covered under these franchise contracts. The current franchise agreements divide sidewalk payphones into two types: “building line phones” and “curbside phones.” “Building line phones” sit on the sidewalk close to a building, and generally share the telephone wiring that serves that building. No advertising is allowed on building line installations. “Curbside phones,” in contrast, sit on the sidewalk close to the roadway and generally use telephone wiring running from a manhole. Advertising is allowed on curbside phones in zoning districts that allow commercial and manufacturing uses as of right.

Advertising installations with multiple phones occupy significant space on the City’s sidewalks.

# of Advertising Installations with	Total	Manhattan	Brooklyn	Queens	Bronx	Staten Island
1 Payphone	2,531	1,332	440	539	206	14
2 Payphones	1,809	1,634	67	81	24	3
3 Payphones	77	42	21	10	4	0
4 Payphones	6	1	1	4	0	0
5 Payphones	1	0	0	1	0	0

Number of Payphones per Installation as of June 2012

2. The role of pay telephone service in public communications has changed dramatically in the years since 1999 when the current franchise contracts were granted. The availability and use of wireless voice communications has expanded explosively and has achieved nearly universal penetration among households and businesses in the United States.
3. With the growth of wireless phone service, the role of pay telephone service has declined dramatically. According to FCC data released in August 2008, the number of payphones

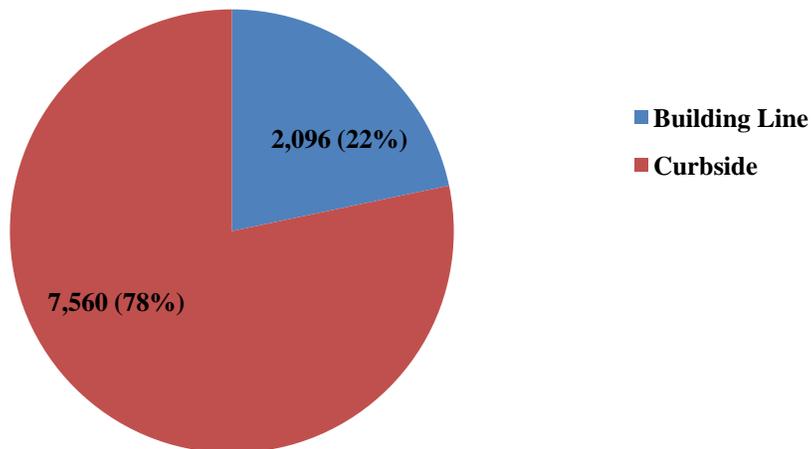
in operation nationwide had declined from about 2.1 million in March 1999, the year the City's current franchises were entered into, to about 872,000 in March 2007. The American Public Communications Council, a trade group of payphone providers, reports that there are now fewer than 500,000 payphones in the U.S., a more than 75% reduction from the FCC's reported number as of March, 1999.

C. The Current State

1. Nevertheless, everyone today does not always have a working, charged wireless phone with them at all times. Statistics provided by ten current payphone franchisees that operate a total of 11,997 payphones show that more than 27 million calls (6 calls per phone per day on average) were made in 2011, not including 911 calls. There is also still significant usage of sidewalk payphones to place 911 calls. Recent figures show that there were 8,264 calls made to 911 from sidewalk payphones in New York City during a one-week period in December 2011. As such, the City may still need phones in at least some locations on City sidewalks.
2. It is likely that some of the less used curbside payphones remain only because the franchisees maintaining them generate revenue from advertising placed on the enclosures. To the extent that this is so, it shows that the provision of communication services on City sidewalks can be supported by advertising revenue.

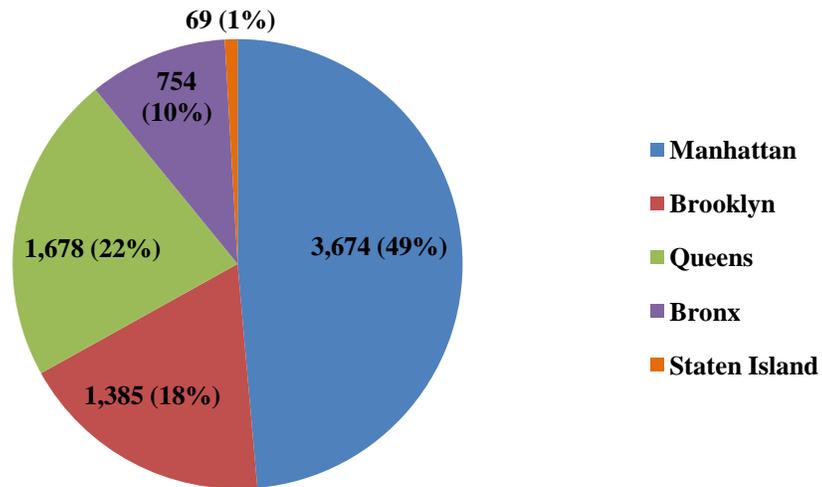
Building Line vs. Curbside Installations (Citywide)

As of June 2012



Curbside Installations by Borough

As of June 2012



3. In response to the decreased use of payphones, the City is reviewing whether some or all of the sidewalk capacity currently dedicated to payphone installations might be used for other communication services. Alternatives might include (separately or in combination) Wi-Fi antennas that would create public wireless hotspots, touch-screen wayfinding panels, information kiosks, charging stations for mobile communications devices, electronic community bulletin boards, or other types of innovative sidewalk amenities. The City seeks public and industry input on the desirability and feasibility of such alternatives as well as suggestions on how they might be best designed to withstand intensive use, harsh weather, and vandalism.
4. The current franchisees generate significant non-tax revenues at a level the City will seek to maintain or increase in the next franchise. The City currently receives 36% of revenue generated from advertising on sidewalk payphone enclosures, in addition to 10% of payphone usage revenues generated from curbside payphones. The City also receives a fixed daily fee per payphone with respect to building line payphones. These financial terms are not as favorable to the City as the terms included in a more recently granted City franchise agreement for “coordinated street furniture” that the City entered into with Cemusa, Inc. in 2006. Under that franchise agreement the City receives 50% of the advertising revenue generated from Cemusa advertising panels or a substantial minimum guaranteed payment, whichever is larger. To maintain or increase current revenue levels, the City may want new advertising supported franchises to be awarded in a manner, and structured more like, the 2006 Cemusa agreement than the existing 1999 payphone franchises.
5. The City also seeks to reflect the values of streetscape aesthetics and ease of pedestrian movement. One of the primary goals of the street furniture franchising process that resulted in the Cemusa franchise was to upgrade the appearance and reduce the sense of clutter associated with City street furniture. The widespread approval with which the Cemusa designs have been met as an urban design matter suggests that the coordinated street furniture process has been a significant aesthetic success. Responders to this RFI

are encouraged to suggest ways in which the City might approach the future of sidewalk payphones, or alternative communications uses, that would further enhance aesthetics and reduce clutter. The City may also want the design of the new structures to be compatible with those installed by Cemusa and other street furniture authorized by the City. One possibility would be to pursue designs that would replace most or all of the existing three-sided, multi-phone kiosks currently in place in many locations with significantly slimmer profile installations, perhaps in the form of two-sided, single-panel, primarily two-dimensional installations of a type found in many large cities around the world (see Appendix A of this RFI for two examples). One issue on which DoITT is interested in receiving information is whether such two-sided, single panel facilities can effectively provide useful communications amenities for pedestrians, while also maintaining or increasing City revenue currently generated by payphone franchises. The City is also interested in the relative advantages and disadvantages of two-sided, single panel facilities from the perspective of pedestrian flow and visual obstruction, depending on the their width and height, and whether the panels are arranged perpendicular or parallel to the curb.

6. There are also legal background matters in considering the future of sidewalk payphones. After the grant of the 1999 payphone franchises, a number of lawsuits were filed against the City, making various claims that the City is constrained by the provision of federal telecommunications law set forth at 47 USC Section 253 in the scope of its discretion regarding payphone franchising and the permitting of individual payphone locations. After years of litigation, the Second Circuit Court of Appeals accepted the City's position and concluded that the City's decisions regarding payphone placement on public sidewalks, so long as they did not also seek to regulate placement of payphones on private property, are not constrained by 47 USC Section 253. DoITT therefore expects to pursue future approaches to the provision of payphones and/or other telecommunications uses on the assumption that 47 USC Section 253 would not constrain the City's provider selection process, location decisions or contractual terms and conditions. A process akin to that used to select Cemusa as the City's franchisee for bus shelters, newsstands and automatic public toilets may be used.

D. Comments Solicited

With the above background, the City seeks comment on the matters raised by the information and issues described above, from:

- Members of the general public
- Elected officials
- Community boards
- Neighborhood groups
- City agencies
- Business improvement and special assessment district representatives
- Organizations or individuals with interest and/or expertise in the use of sidewalk space and/or the design of streetscapes and sidewalk amenities
- Members of the sidewalk payphone industry
- Members of the outdoor advertising industry

- Potential providers, designers and users of payphones and alternative communications sidewalk amenities that might be placed in lieu of some or all of the existing payphone installations currently located on City sidewalks

The City welcomes all comments but is particularly interested in receiving information and comments on the questions raised in paragraphs 1 through 9 below regarding possible arrangements for sidewalk payphones or alternative amenities after the expiration of the current payphone franchise contracts in October 2014:

1. **What alternative communications amenities would fill a need?** Free Wi-Fi service in public spaces has been widely discussed in recent years as a desirable amenity for pedestrians and other users of public spaces. Would a widespread network of Wi-Fi antennas incorporated into sidewalk panels be desirable and feasible? What would be the effect on City franchise revenue of incorporating such a network of antennas offering free service? What about other potential communications amenities? Are touch-screen technologies practical in the all-weather environment of City sidewalks? Could touch-screen technology make it possible, for example, for a digital advertising panel to convert to a neighborhood map or a subway map at a pedestrian's touch? Would it be desirable and practical to offer powered mobile device plug-in or wireless power facilities where a pedestrian could connect a mobile device that is low on power in order to make a phone call or otherwise use the device? Could this result in the queuing of users on sidewalks waiting to use the devices? Are there other communications sidewalk amenities not mentioned in this RFI that might be offered in lieu of some or all of the existing sidewalk payphones? Should communications amenities be selected and designed with a preference for simplicity of operation, to better assure usability for the general public and ease of maintenance in the relatively harsh conditions of outdoor, all-weather exposure? If so, what uses and designs would best serve that goal?
2. **If retained, should the current designs of sidewalk payphone enclosures be substantially revised?** If so, in what way should they be revised? Can a two-sided, single-panel design with a relatively slim profile (see Appendix A of this RFI for examples) replace the current three-sided, curb line payphone enclosures as a primary design to include useful communications sidewalk amenities, possibly including some payphones? If payphones continue to be provided, should they be provided (physically and/or contractually) from the same panels that may contain other communications facilities and advertising? Or might it be preferable as a design matter that, while the opportunity to offer revenue-generating advertising panels were contractually linked to the provision of payphones at publicly useful locations, the payphones were physically separate from the advertising panels (for example minimally intrusive free-standing stanchions dedicated solely to payphone use physically separated from slim profile advertising/informational panels)? Should multiple design formats be encouraged to serve different purposes and/or different types of locations or neighborhoods, or should design uniformity be a goal? Should design structures be compatible with Cemusa's installations?
3. **What features should be included to make the installations accessible to people with disabilities?** The installations must be in full compliance with applicable Federal, State, and local laws regarding accessibility for people with disabilities. Accessibility

requirements will presumably vary depending on the communications amenity that is included in the installations.

4. **Should the current number of payphones on City sidewalks change, and if so, how?** Is there a need for payphones on City sidewalks, even if at a substantially reduced number reflecting the reduced role of payphone service as wireless communications use has expanded? Would eliminating, or reducing the number of, sidewalk payphones have adverse effects on certain populations or neighborhoods? Are there areas of the City where the elimination, or substantial reduction in the number, of sidewalk payphones would be a particular disservice to pedestrians and the local community? Conversely, are there areas of the City where it would be particularly inappropriate to preserve sidewalk payphones as a use of scarce sidewalk space beyond the current franchise term? To the extent that sidewalk payphones continue to be offered as a pedestrian amenity, should they be placed or maintained at the building line, at the curb line, or at some combination of these two? To the extent that sidewalk payphones continue to be offered beyond the current franchise term, in what form should they be offered and how should specific locations for them be determined? Can a new format for sidewalk payphones or other communications applications be integrated with the City's sidewalk fire alarm system which currently uses a separate network of fire alarm boxes? Is it preferable to have coinless sidewalk payphone facilities in order to minimize vandalism and maintenance concerns or would the inability to use coins have a substantial negative effect on the usefulness of sidewalk payphone in some communities or for some potential users? If touch screen units replaced traditional payphones, would a one-touch feature to call 911 and 311 be desirable and practical?
5. **Should advertising panels be limited to printed posters?** Or should at least some of such panels be in the form of digital screens? Note in this connection that digital screens can both reduce the expense of operating such panels and increase revenues available to support public communications amenities, as digital panels can be more easily switched from one advertising display to another than can printed posters. Do digital displays create greater visual clutter than print displays? Are digital displays more easily kept clean and graffiti-free than print-based panels? Are there locations where digital screens should be limited to only allow for rotation of static images or messages? Are there locations where digital (rather than print) displays are more appropriate or less appropriate? Are there locations where digital displays that include motion are appropriate and if so of what types: "News zipper"-type displays? Animation? Video? Are there any considerations related to the illumination levels of digital screens that should be taken into account? Can digital panels provide an opportunity for the City to override for emergency alerts? How would override access be provided and managed?
6. **What are the revenue and cost implications of the various options and alternatives discussed above?** What changes in city revenue and user costs would result from a significant change in the design of sidewalk communications facilities from the existing payphone enclosures? What would the financial implications be of using a two-sided, single panel facility instead of the three-panel enclosure currently used to house most curbside sidewalk payphones? What types of potential communications sidewalk services should be provided to pedestrian-users free of charge and what types should be paid for by such users? What are the financial impacts on advertising revenue if the number of

installations were further limited in historic districts? Are there any opportunities for the City to share in revenues from mobile commerce?

7. **Are the observations in section C-6 above regarding the applicable legal landscape accurate?** Does the competitive process used in the selection of Cemusa as the City's provider of sidewalk bus shelters, newsstands and automated pay toilets provide a useful model for selection of a provider of post-October 2014 sidewalk communications pedestrian amenities, or are other procedures more desirable? Is there a benefit in crafting any potential new agreement for an on-street communications franchise to terminate at the same time as the street furniture franchise?
8. **Can solar panels be used in connection with advertising displays to reduce energy costs?** Is solar technology currently being used in advertising displays? Can solar energy be used for any other purpose in connection with sidewalk communications facilities such as emergency back up, or as the actual power supply?
9. **Can cellular technology be used effectively on kiosks to provide wireless communications that result in minimal disruption to the City's streets?** Are there other technologies that can be used that are not dependent on cabling under the streets to provide enhanced advertising or communications?

The questions asked in the preceding paragraphs are not intended to limit the comments that may be submitted. If there are other matters raised by the subject of this RFI, comments on those matters are welcome.

E. Procedural Matters

1. Written responses to this RFI are to be submitted in the form and to the address described on the cover sheet of this RFI. There is no page limit for written responses, but responders are encouraged to be concise in their written responses and to include as much verifiable data and factual material supporting their views as possible.
2. DoITT in its discretion may agree to receive, at its convenience, from any potential responder, an oral presentation in response to this RFI, either in lieu of or in addition to, a written response, provided that DoITT reserves the right to decline in any instance presentation of a response in oral form and instead to require that a party wishing to offer a response do so in written form. DoITT may also, in its discretion, after receipt of any response to this RFI, request additional information from the respondent, which may include a request for an oral presentation; respondents shall be under no obligation to submit such additional information or provide such additional presentation.
3. Any party who submits a response to this RFI after the submission deadline described on the cover page of this RFI runs the risk that DoITT may not review such response prior to taking further steps toward implementing a program of the type described in this RFI. Neither failure to submit a response to this RFI nor submission of a late response to this RFI will disqualify any party or entity from participating in any subsequent City

solicitation process toward the grant of any franchise or other form of contractual arrangement.

4. Neither DoITT nor the City generally will be liable for any costs incurred by respondents in the preparation of submissions in response to this RFI or for any work performed in connection therewith.
5. In the event an entity believes that specific information it seeks to submit to respond to this RFI is proprietary information that is appropriate and lawful to be treated confidentially by DoITT and/or the City, it may so advise DoITT in writing. DoITT will attempt to treat as confidential any proprietary information that is identified as such by the submitter, consistent with legal requirements. Any information contained in a submission for which the submitter seeks such confidential treatment must be clearly designated with the words "Proprietary Information". Submitters should be aware, in any event, that DoITT may be required, pursuant to the New York State Freedom of Information Law ("FOIL") (New York Public Officers Law Section 87 *et seq.*), to disclose a written submission or portion thereof submitted in connection with this RFI, even if labeled as proprietary. In the event that such disclosure of information labeled proprietary is requested by a third party, DoITT may provide notice to the submitter in advance of any deadline for responding to such request and may consult with the submitter to evaluate the extent to which such information may be withheld from disclosure under the provisions of FOIL. In the event that DoITT determines that information may not be withheld, DoITT will attempt to provide the submitter with timely notice of its intent to disclose in order that the submitter may invoke any rights or remedies to prevent disclosure to which it believes it may be entitled under the law. The submitter expressly acknowledges and agrees that neither DoITT nor the City will have any liability to the submitter in the event of disclosure of materials designated by the submitter as "Proprietary Information".

APPENDIX A

Examples of advertising kiosks/displays

