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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Rules Governing Telephone Companies' Use of	)	CC Docket No. ~~90-263~~
Customer Proprietary Network Information	)	CC Docket No. 92-256
	)	

COMMENTS OF THE NEWSPAPER ASSOCIATION OF AMERICA

The Newspaper Association of America ("NAA®") hereby submits its comments in response to the invitation by the Commission for further comment regarding the use by telephone companies of Customer Proprietary Network Information ("CPNI").[1] NAA represents approximately 1,050 newspapers in the United States and Canada. The majority of these members are daily newspapers that account for more than 80 percent of the daily circulation in the United States.

NAA strongly encourages the Commission to revise its CPNI policies to establish a single standard for access to customer CPNI by the local telephone companies and their independent competitors.

There can be little serious dispute over the commercial value of CPNI. No other data provides the same information about a customer's calling patterns. As the Notice states, the current rules governing access to and the use of CPNI were adopted in the *Computer III* proceeding, and discriminate in favor of the personnel of local exchange companies and against independent providers of enhanced services.

In particular, the current rule grants the telephone company personnel presumptive access to CPNI of customers with 20 or fewer lines, but require independent enhanced service providers (ESPs) to obtain the prior consent of customers before that same valuable data is made available to them. NAA has consistently opposed this double-standard, noting that it gives the local companies a significant competitive advantage in marketing

1 "Additional Comment Sought On Rules Governing Telephone Companies' Use of Customer Proprietary Network Information," FCC 94-63 (released March 10, 1994).

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unregulated services to consumers -- a result directly contrary to what should be produced by a policy touted as a competitive "safeguard."[2]

In adopting the current "asymmetric" rule, the Commission concluded that consumer privacy expectations would not be infringed by allowing personnel from different divisions of the telephone company to review their CPNI data. Regardless of the correctness of that view at that time, the Notice also correctly observes that local telephone companies are now entering a wide range of businesses related only tangentially, if at all, to their franchised monopoly services from which CPNI is derived, and that these activities cast substantial doubt on the continued validity of the former conclusion. In particular, NAA agrees that whatever expectations consumers may have about *telephone* company personnel, such expectations clearly do not extend to personnel in such new lines of business.

Such considerations of privacy and competitive equity are embodied in several pending legislative initiatives in Congress. In particular, the Energy and Commerce Committee of the House of Representatives recently approved legislation authored by Rep. Markey that would bestow much greater protection on CPNI. The Markey provision, now part of H.R. 3626, forbids, *inter alia*, a local telephone company from using CPNI (in the absence of customer approval) (1) to provide any service other than common carrier communications services; (2) to identify or solicit potential customers for any other service; and (3) to provide customer premises equipment. The legislation also would generally require telephone companies to make CPNI available to other entities on the same terms and conditions on which their own personnel obtain access.

NAA supports the provisions of H.R. 3626 and urges the Commission to modify its existing CPNI policies to reflect these principles as well. The proper way to protect the privacy of telephone customers is not to grant discriminatory, and competitively advantageous, access to monopoly telephone companies, but to ensure that all entities that wish to use CPNI are subject to the same restrictions on their access.

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2 NAA is currently also a petitioner challenging, *inter alia*, the CPNI rules in *California v. FCC*, No. 92-70083 (9th Cir. oral argument held Apr. 11, 1994).

For the foregoing reasons, the Newspaper Association of America respectfully urges the Commission to modify its CPNI policies to eliminate the current double-standard governing access.

Respectfully submitted,

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