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**United States Telephone Association**

1401 H Street, N.W., Suite 600  
Washington, D.C. 20005-2136  
(202) 326-7300  
(202) 326-7333 FAX

February 14, 1996

CC 96-115

Regina Keeney  
Chief  
Common Carrier Bureau  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Ms. Keeney:

USTA, NRTA, NTCA and OPASTCO ("the Associations"), representing virtually the entire local exchange carrier industry, look forward to working with the Common Carrier Bureau and the rest of the Commission in implementing the Telecommunications Act of 1996 (the "1996 Act"). The Associations are well aware of the numerous Commission proceedings and tight time limits mandated by the 1996 Act. We will make every effort to present the views of our members concisely and helpfully as the Commission implementation process moves forward.

In this regard, we wish to inform the Bureau of the effect on the Associations' members of the provisions of the 1996 Act that impose new obligations on telecommunications carriers regarding their use of customer information, including customer proprietary network information ("CPNI"). Section 702 of the 1996 Act amended the Communications Act of 1934 by adding a new Section 222,<sup>1/</sup> which establishes a framework of duties and obligations of telecommunications carriers regarding CPNI and other information. However, the 1996 Act does not specifically provide a schedule for the Commission to adopt implementing regulations.

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<sup>1/</sup> A copy of Section 702 of the 1996 Act is enclosed. See Section 702 of the Telecommunications Act of 1996, printed in H.R. Conf. Rep. No. 458, 104th Cong., 2d Sess. (1996) at 96-98.

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Moreover, several key terms and concepts in Section 222 are undefined.<sup>2</sup> As a result, the scope of telecommunications carriers' permissible activities under Section 222 is not self-evident.

Accordingly, the Associations' members are seeking to ensure that they satisfy their obligations under Section 222 while continuing to provide services efficiently to their customers. Local exchange carriers are already making good-faith efforts to comply with Section 222. Information regarding Section 222 is currently being distributed to LECs. These efforts are particularly important because, until the 1996 Act became law, no LECs other than the Bell Operating Companies and GTE were subject to CPNI or similar restrictions of any type at the Federal level. The Associations' members, particularly the vast majority that have little or no experience with such requirements, thus face major organizational challenges and unknown financial impacts in attempting to comply with the new obligations of Section 222. As a result, full implementation of members' (and presumably other carriers') plans for compliance with Section 222 may take some time.

To understand the potential burden of compliance on LECs that have not previously been subject to CPNI rules, one can look at the ONA plans of the Bell Companies and GTE on this matter. The compliance efforts of these companies involved changes to computer systems, notifications to customers, re-training of company employees with customer contact responsibilities, and even the designation of special employees to work with customers who "restricted" their CPNI. A preliminary analysis would indicate that the procedures required under Section 222 need not be so elaborate. Without some guidance from the Bureau, however, it is not possible to advise our members of what steps are required. And it is simply not possible to take such steps instantaneously, so some orderly compliance process would seem to be required. Until that could be accomplished, the FCC should consider issuing an order preserving the status quo. Otherwise, significant consumer and carrier confusion is sure to result as each carrier responds to the best of its ability using its own interpretation of this section.

Because of the importance of Section 222 to its members, the Associations recommend that the Commission ultimately adopt rules to implement Section 222 after receiving public comment on a notice of proposed rulemaking. Section 222 applies to all telecommunications

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<sup>2</sup> As one of many examples, subsection 222(c) poses major definitional and implementation questions. That subsection does not define the scope of the term "telecommunications service" for purposes of Section 222, even though a telecommunications carrier's ability to "use, disclose, or permit access to" individually identifiable CPNI depends on how one telecommunications service is to be distinguished from another. It is important to note that although Section 3 of the 1996 Act provides a generic definition of "telecommunications service," it provides no guidance on the distinction among services implied in Section 222.

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carriers, a very broad category under the new law that encompasses many more entities than the Associations' members. We expect that these other carriers may also be struggling with understanding their new responsibilities. In particular, our many members who have had no prior CPNI experience would appreciate any immediate guidance or insight that the Bureau could offer on dealing with these implementation issues. We would be happy to work further with the Bureau, including collecting any needed information from our members concerning the compliance burden.

Please do not hesitate to contact the undersigned on (202)326-7247 with any comments or questions regarding these matters.

Very truly yours,



Mary McDermott

On behalf of:  
United States Telephone Association  
National Rural Telephone Association  
National Telephone Cooperative Association  
Organization for the Promotion & Advancement of  
Small Telecommunications Companies

Enclosure

cc: Daniel Gonzalez

**"(B) BILLING ARRANGEMENTS.**—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

**"(i)** the agreement shall clearly explain that the subscriber will be assessed for calls made to the information service from the subscriber's phone line;

**"(ii)** the phone bill shall include, in prominent type, the following disclaimer:

*Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services;* and

**"(iii)** the phone bill shall clearly list the 800 number dialed.

**"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.**—A written agreement does not meet the requirements of this paragraph unless it—

**"(i)** includes a unique personal identification number or other subscriber-specific identifier and requires a subscriber to use this number or identifier to obtain access to the information provided and includes instructions on its use; and

**"(ii)** assures that any charges for services accessed by use of the subscriber's personal identification number or subscriber-specific identifier be assessed to subscriber's source of payment elected pursuant to subparagraph (A)(vi).

**"(D) EXCEPTIONS.**—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

**"(i)** for calls utilizing telecommunications devices for the deaf;

**"(ii)** for directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate; or

**"(iii)** for any purchase of goods or of services that are not information services.

**"(E) TERMINATION OF SERVICE.**—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

**"(i)** promptly investigate the complaint; and

**"(ii)** if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

**"(F) TREATMENT OF REMEDIES.**—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

**"(G) CHARGES BY CREDIT, PREPAID, DEBIT, CHARGE, OR CALLING CARD IN ABSENCE OF AGREEMENT.**—For purposes of paragraph (7)(C)(ii), a calling party is not charged in accordance with this paragraph unless the calling party is charged by means of a credit, prepaid, debit, charge, or calling card and

**"SEC. 222. PRIVACY OF CUSTOMER INFORMATION.**

**"(a) IN GENERAL.**—Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

**"(b) CONFIDENTIALITY OF CARRIER INFORMATION.**—A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

**"(c) CONFIDENTIALITY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.**—

**"(1) PRIVACY REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS.**—Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

**"(2) DISCLOSURE ON REQUEST BY CUSTOMERS.**—A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

**"(3) AGGREGATE CUSTOMER INFORMATION.**—A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

**"(d) EXCEPTIONS.**—Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

**"(1)** to initiate, render, bill, and collect for telecommunications services;

**"(2)** to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

**"(3)** to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.