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EX PARTE OR LATE FILED

August 22, 1996

EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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AUG 22 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Mr. Caton:

Re: CC Docket No. 96-115

DOCKET FILE COPY ORIGINAL

Yesterday, Merriane G. Hoffman, Manager, Regulatory, Competitive Safeguards and Privacy, and Sarah R. Thomas, Senior Attorney, Pacific Bell, Joseph J. Mulieri, Director, Regulatory Relations, Bell Atlantic, Gordon Maxson, Director, Regulatory Affairs, GTE, and I met to discuss the issues summarized in the attached outline with the following staff members in the Common Carrier Bureau: A. Richard Metzger, Deputy Chief, Melissa A. Newman, Counsel to the Chief, and Blaise A. Scinto, Jeannie Su, and William A. Kehoe III of the Policy Division. Please associate this material with the above-referenced docket.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's rules. Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions.

Sincerely,



Attachment

cc: R. Crellin
W. Kehoe
R. Metzger
M. Newman
B. Scinto
J. Su

No. of Copies rec'd 013
List ABCDE

Telecommunications Act of 1996
Customer Proprietary Network Information
FCC Docket 96-115

August 21, 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

AUG 22 1996

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CPNI: Safeguarding Consumers and Stimulating Competition

- ◆ Rules need to be consistent across all carriers to protect customers privacy and prevent confusion
- ◆ Telecommunications services categories should be flexible
- ◆ With customer consent, CPNI from one category may be used to market services in others
- ◆ A voluntary written notification with “opt-out” fulfills Congress’ intent in Section 222
- ◆ Customers may provide oral approval for CPNI use
- ◆ The 1996 Act has supplanted the pre-existing CPNI rules
- ◆ Special rules for CPE and Enhanced Services no longer make sense

Consistent CPNI Rules Among Carriers Are Needed to Protect Consumers

◆ Consistent CPNI Rules:

- Fulfill Congress' intent to protect consumer privacy and stimulate competition
- Enable customers in a competitive marketplace to move between carriers with confidence that their CPNI will be treated equally by the new carrier
 - » The size of the carrier has no bearing on the customer's privacy expectations
- Avoid customer confusion arising from varied CPNI rules

The Commission Should Continue to Exclude Certain Information from the Definition of CPNI

- ◆ CPNI rules should continue to exclude subscriber list information
- ◆ Customer credit information is not CPNI
 - Credit information about customers should be obtained from credit bureaus or related agencies who continually update the information
 - » Customers have a right to periodically review the information, register claims, and have errors corrected

Telecommunications Services Categories Should be Flexible to Accommodate A Changing Environment

- ◆ The Commission proposed three “buckets” for telecommunications services -- IntraLATA, InterLATA, and CMRS, and received comments including other suggestions about the proposal
- ◆ No CPNI approval is needed to market all services within the “bucket” to the existing customers of services in that “bucket”
- ◆ New CPNI rules need to be flexible enough to accommodate changing technology, changing regulatory requirements, and diversified offerings by the carriers

With Customer Consent, CPNI from One Category May Be Used to Market Services in Others

- ◆ Customers perceive all services provided by a company as operating under the same rules and guidelines
 - Non-telecommunications products and services that are reasonably related to services offered in the buckets should be treated as being in the bucket, e.g., CPE, voice mail, inside wiring
- ◆ The new rules should allow carriers to “bridge” buckets and include non-telecommunications services in their marketing plans
 - This is the objective of both proposals: written notification and opt-out and the oral approval for future use of CPNI
 - CPNI of customers who opt-out will not be used to offer them services in other buckets
- ◆ Consent = Notice and Opt-out or Oral Approval

Notification with “Opt-out” gives Customers Information and Control

- ◆ Customers could be informed about the information the carrier creates and retains about them and how it is safeguarded,
- ◆ It could explain that the carrier wants to use the CPNI to market services in other categories, including such things as interLATA, entertainment services, other non-telecommunications services, etc.
- ◆ Customers would be told how to have their name removed from the carrier’s lists or sales programs (opt-out)
- ◆ Such a notification provides even greater customer control than envisioned by Congress in Section 222
 - The Act neither requires or prohibits written notification to obtain CPNI approval

Customers May Provide Oral Approval for CPNI Use

- ◆ Congress clearly permitted oral approval for use of CPNI for inbound telemarketing when the customer initiates the call and approves the use of CPNI in discussing other services or products
- ◆ CPNI approval should be extended to cover the entire time necessary to complete the transaction
 - Subsequent contacts may be necessary to complete the transaction
 - In such event, the carrier need not request CPNI approval a second time when calling the customer back to provide information not available on the original call

Comparison of Pre-Existing and Proposed Voluntary CPNI Notifications

	<u>Pre-Existing CPNI Notice</u> (BOC/GTE Only)	<u>Other LEC Rules</u>	<u>Proposed Voluntary CPNI Notice with Opt-Out</u>
Business Lines (21 or more)	Annual notification with Opt-In option	None	Notification with Opt-Out option
Business Lines (2 to 20 lines)	Annual notification with Opt-Out option	None	Notification with Opt-Out option
Residential	No notification to customers	Same	Notification with Opt-Out option
	Unrestricted use unless customer calls to restrict	None	Customer informed on how to Opt-Out
	Customer not informed how CPNI will be used	Same	Customer informed how CPNI will be used

The Act Supplants the Pre-Existing CPNI Rules

- ◆ The similarities between Section 222 and pre-existing CPNI rules are not coincidental. Congress intended to supplant the preexisting CPNI rules with Section 222 and thereby:
 - Extend privacy protection to all consumers
 - Apply privacy rules to all telecommunications carriers
- ◆ Evidence of Congress' intent to supplant the old rules appears in similarities between the rules, which include:
 - Definition of CPNI, privacy requirements preventing release of CPNI to third parties, requirement for written customer notice to disclose information to third parties, and aggregate CPNI provisions for all local exchange carriers

If Section 222 Does Not Supplant Old Rules in Their Entirety, New Rules Must Govern

- ◆ Several pre-existing CPNI rules are in conflict with the Act and should be eliminated
 - Allowing CPNI use with customer approval on customer-initiated contacts creates conflicts with pre-existing CPNI rules:
 - » The password/ID requirement blocks activities authorized in Section 222 (d)(3)
 - » Rules limiting employee's ability to serve customers prevents them from offering new products as specifically authorized in Section 222 (d)(3)
 - » Annual notification to multiline business customers regarding CPNI for enhanced services and CPE would needlessly confuse them and impede their ability to understand the new CPNI rules

Special Rules for Enhanced Services and CPE Cease to Make Sense With Local Competition

- ◆ Rules regarding the use of CPNI should be the same for all services provided by local exchange carriers and their affiliates
- ◆ Carriers should be permitted to use CPNI for enhanced services and CPE
 - To treat these products differently for specific carriers would be in conflict with the pro-competitive intent of the 1996 Act
 - Section 222(c)(1)(B) can be interpreted to include CPE and Enhanced Services because, from the customer’s perspective, they are “used in” the provision of the telecommunications service being provided
- ◆ Moreover, the Commission concluded over a decade ago that the wireless family of services can be provided as a whole without regard to the distinction of CPE and enhanced services
 - The Commission should now apply that same conclusion to the intraLATA and interLATA families of services

New CPNI Rules Should Reflect Congress' Objectives for Consumers and Competition

- ◆ To protect customer privacy:
 - Carriers need clear and consistent rules
 - Customers need knowledge and control
- ◆ Customer consent for future use of CPNI may be obtained through both voluntary notification and opt-out and oral approval
- ◆ With customer approval, use of CPNI between service categories is no longer a concern
- ◆ Congress intended to supplant the preexisting CPNI rules with Section 222
- ◆ Special rules for Enhanced Services and CPE are no longer needed