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November 22, 1996

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Federal Communications Commission
Office of Secretary

EX PARTE

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

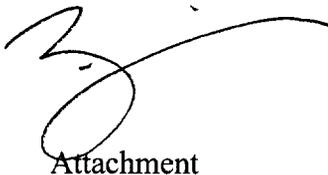
Dear Mr. Caton:

Re: CPNI, CC Docket No. 96-115

Yesterday, Lea Jones, Director, Regulatory Affairs, Pacific Bell Video Services, Merrienne Hoffman, Manager, Regulatory, Competitive Safeguards and Privacy, Pacific Bell, Jerry Abercrombie, Director, Regulatory, Public Policy and Competitive Safeguards, Pacific Bell, Michael Yourshaw of Wiley, Rein & Fielding, and I met with Karen Brinkmann, Associate Chief, Wireless Telecommunications Bureau, A. Richard Metzger, Deputy Chief, Common Carrier Bureau, William A. Kehoe III and Dorothy Atwood, Common Carrier Bureau, to discuss issues summarized in the attachment. We are submitting two copies of this notice, in accordance with Section 1.206(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 yours,



Attachment

cc: Dorothy Atwood
Karen Brinkmann
William A. Kehoe III
A. Richard Metzger

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

November 21, 1996

Discussion

- Obtaining Customer Approval for CPNI Use
- Contents of Customer Notification
- § 222 supersedes need for separate CI-III CPNI Rules
- Joint Marketing
- Telecommunications Categories
- CPNI & Letter of Authorization (LOA) Issues

What is Customer Proprietary Network Information (CPNI)?

CPNI is defined in the Telecommunications Act as follows:

- The term “*customer proprietary network information*” means --
- (A) information that relates to the
 - *quantity,*
 - *technical configuration*
 - *type*
 - *destination*
 - *amount of use of a telecommunications service*
- (B) **information contained in the bills** pertaining to
 - *telephone exchange service or*
 - *telephone toll service*
 - *does not include subscriber list information*

CPNI does not include:

- Subscriber List Information
- Credit Information
- Carrier’s customer list.
 - Customer Name
 - Customer Address
 - » Billing
 - » Service
 - Customer Account Number

Obtaining Customer Approval for CPNI Use

- § 222(c)(1) allows a carrier to use CPNI for purposes other than the provision of the service from which the CPNI was derived “with the approval of the customer”
 - there is no limitation as to how a carrier may seek customer approval
- Congress intended to allow carriers flexibility on how they seek and obtain approval to use CPNI for the purposes allowed in § 222(c)(1)
 - Carriers have proposed to contact their customers, either by mail, in person, or by telephone, and ask for CPNI approval
- S§ 222(d)(3) is clear that a carrier may use the CPNI “to provide any inbound telemarketing, referral, or administrative services” to the customer if the “call was initiated by the customer and the customer approves of such use”
 - oral approval is clearly acceptable on an inbound call

§222(c)(1) approval: Commission can define procedures for notice and opt-out

Advantages

- Assures all customers receive information in a consistent and timely manner
- Timing is not dependent upon the customer contacting the carrier
- Allows the carrier to market new services efficiently and economically to all who have given their tacit approval
- Less intrusive than any other method of notice
- Gives customers who want “opt-out” an immediate chance to do so

Procedures

- Notice seeking approval for CPNI use should be clear in describing the:
 - Information that comprises CPNI
 - Proposed use with new products
 - Process for customers to use to withhold their approval for such use - the opt-out process
 - » If opt-out is selected, the decision remains in effect until changed by the customer
 - » Customers can change their choice at any time
- One time notice to all existing customers and notice to new customers as they are added
- Mail or hand-back an opt-out reply card
- Call an 800/888 number to register the opt-out electronically

The CI-III Rules for CPE and Enhanced Services and the § 222 Rules cannot coexist without being unduly burdensome



- The statute applies equally to all carriers
- Application of CI III rules will be inconsistent with §222
- Enhanced services and CPE are “*used in the provision of a telecommunications service*”
- Approval is not required for CPE and Enhanced Services within a telecommunications service category

Telecommunications Service Categories

- The Commission proposed three “buckets” that are rational from the customer’s perspective
 - Buckets contain the range of services that have been traditionally available to that customer from that carrier
 - Buckets also include new, related services
- Carrier may use CPNI to market all services within the bucket to customers
- Carrier must gain “approval” of the customer to use CPNI from one bucket for marketing services in another
- The need for the “buckets” will change over time
 - Local and long distance service will merge in customer’s perception
 - Wireless service may become more widely used as a substitute for wireline service

What Will Joint Marketing of interLATA Look Like?

- Throughout the Act, Congress envisioned that telecommunications carriers with existing customers will enter new markets and begin competing with other carriers
 - Joint Marketing-interLATA
 - Joint Marketing-Wireless
 - Joint Marketing-Electronic Publishing
- § 222 establishes the foundation for carriers' use of customer information and customer contacts for marketing these new services

§ 222 Allows a Carrier to Use its Contacts with its Existing Customers to Market New Services -- With Customer Approval



- To market these new services, carriers want to be proactive in communicating directly with existing customers using bill inserts, direct mail, telephone contacts, face-to-face contacts
- Using CPNI to identify customers to be contacted permits tailoring the contact to those who might be most interested. For example:
 - notify existing customers located in San Diego area that our new PCS service is now available to them
 - as interexchange carriers are apparently already doing in California, use long-distance CPNI to identify usage levels of existing customers to target them for specific discounts available to them if they purchase local service from that carrier
- Also LECs want to discuss new services when a customer calls to set up local service
 - Inbound joint marketing of interLATA, CMRS, and non-telecommunications services

Competitors Attempts to Create New Regulatory Barriers to Prevent Effective LEC Competition Should Not Be Permitted



- Competitors argue that it is unfair for a BOC to request CPNI approval in order to sell long distance for its affiliate
 - The carriers are attempting to create onerous burdens on our sales process that won't serve customers well
 - » Proposed restrictions are not consistent with the Act and would essentially eliminate joint marketing permitted by §272(g)(2)
 - » Burdens would preclude competition instead of fostering it
 - » BOC use of CPNI to market and sell affiliates long distance services is a different issue than sharing CPNI with affiliates or other carriers
- Solution: FCC should clarify that BOCs can ask to use CPNI to sell the long distance services of their affiliate
 - Consistent with the Act and fosters competition
 - BOC use of CPNI to market and sell affiliate's long distance services is a different issue than sharing CPNI with affiliates, or other carriers

Cable Service Providers have minimal requirements for use of personally identifiable information

- Section 551 permits a cable operator to “obtain information necessary to render a cable service **or other services** provided by cable operator to the subscriber”
 - Cable operators are defined as including “...any person who (i) is owned or controlled by, or under common ownership or control with a cable operator, and (ii) provides any wire or radio communication service.”
- Cable operators are not required to restrict any internal use of customer information

IECs have requested that Pacific provide it customer information contained in the customer service record that is CPNI or proprietary to third parties without written consent



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What information is contained in a Customer Service Record (CSR)?

- The CSR is a listing of the Pacific Bell products and services provisioned on a particular customer’s account
- Single line account
 - class of service
 - vertical features
 - special directory listing charges
 - calling cards
 - calling plans
 - services purchased by third parties (like a voice mail provider).
- Multi-line account
 - same information for all of the services on each line billed on the account.
- CSR also includes the directory listing information and billing name and address.

§222(c)(2) is unambiguous as to the need for carriers to receive written authorization from its customer to provide CPNI to 3rd parties

- § 222 (c) (2) states:
***“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.”***
- § 222(c)(2) is clear that carriers must have the approval of the customer and that disclosure requires ***“...affirmative written request by the customer.”***
- NPRM was seeking comment on what additional safeguards were needed over and above written consent...
Not reduction of safeguards for provision of CPNI to 3rd parties
- Written consent for disclosure of CPNI to 3rd parties meets both customer expectation of privacy as well as California Public Utility Code (P.U.C. §2891)

PIC LOA Release of CPNI

- Some CLCs seems to be confused as to the applicability of the process for obtaining consent to switch IECs versus the consent required to release CPNI to third parties
- Some CLCs would like to use the Letter of Authorization (LOA) process designed for processing PIC changes for also gaining access to CPNI
- Some CLCs propose that Pacific provide CPNI based upon either oral or third party verification procedures
 - Sprint, for example, doesn't even want to use a signed letter of authorization

PIC LOA

- Arrangement between the customer and the new IEC to **change interexchange service providers**
- Governed by state and federal regulations
 - C.F.R. § 64.1100
 - C.F.R. § 64.1150
 - P.U.C. § 2889.5

CPNI LOA

- Arrangement between the customer and the current telecommunications carrier for the **release of customer information**
- Governed by state and federal regulations
 - Telecommunications Act, § 222
 - P.U.C § 2891

The Commission should give Carriers flexibility with regard to release of a *limited subset* of CPNI to a competitor which has won away the carrier's customer



- We encourage authorizing a customer's current carrier to release **provisioning-related CPNI**, without written approval to the original carrier, to another carrier who has won the customer
- Authorization should be granted very narrowly
- Call detail and other billing information is more sensitive, from a privacy perspective, and should not be rolled into this authorization process unnecessarily
- Authorization should only apply after the placing of an actual order to change service from the old to the new carrier
- In a competitive environment, there is the possibility that a requesting carrier will ask for CPNI to initiate a service that has not yet, in fact, been ordered by the customer
 - In this case, the customer would reasonably expect to be protected by the written authorization requirement of §222(c)(2)