

## **10. The Public Divides Almost Equally Between Receiving an Opt Out Notice in the Monthly Bill or in a Separate Mailing**

---

- If the local telephone company provides an opportunity to opt out:
  - 46% prefer receiving this in the monthly bill
  - 51% prefer a separate mailing
  - 4% have no opinion

## 11. Summing Up

---

- Though the public is strongly concerned with protecting its privacy, the public does not see communications from the business they already patronize as violating their privacy
- Large majorities believe their local telephone company should be able to communicate with them to offer additional services:
  - by looking up their records
  - during customer service calls
- Offering an opt out procedure to those not initially favorable produces total support in the 80% range

# **The Balance Of Competitive and Consumer Privacy Concerns**

---

**PACIFIC  TELESIS**

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

**Pacific Telesis**

**December 11, 1996**

**“[S]ection 222 strives to balance both competitive and consumer privacy interests with respect to CPNI.”\***

---

### Privacy

- Duty to protect proprietary information of carriers and all customers
- Limits use of another carrier's CPNI
- Duty to protect CPNI of all customers
- Approval required to use, disclose, or permit access to CPNI
- Affirmative written request required for release of CPNI to third parties

### Competition

- Prohibition on use of another carrier's CPNI for marketing
- Mandatory disclosure on affirmative written request
- Nondiscriminatory access to aggregate information used by a LEC for any purpose other than providing local services
- Mandatory provision of subscriber list information by LECs on a unbundled, nondiscriminatory basis

---

\*H. Rep. 104-458, Conference Report on S. 652

# The Privacy Safeguard Facilitates BOC Use of CPNI for Joint Marketing

---

- Section 222(c)(1) is clear in allowing the carrier to “use, disclose, or permit access to” CPNI for purposes approved by the customer
- The joint marketing provisions of the Act and Section 222 reflect the intent of Congress for BOC marketing of new services to their existing customers
- Joint marketing activities are authorized by Congress in:
  - Section 272(g) (interLATA)
  - Section 274(c) (electronic publishing), and
  - Section 601(d) (CMRS)
- With customer approval, a BOC may share CPNI with a separate affiliate required by sections 272 or 274, a CMRS affiliate, or any other affiliate

# **Commission Proceedings Dealing with BOC Use of CPNI for Joint Marketing**

---

- Docket 96-149 has discussed the sharing of CPNI between a BOC and its interLATA affiliate
- Docket 96-162 has discussed the sharing of CPNI between a BOC and its CMRS affiliate
- The CPNI rules coming out of Docket 96-115 will determine the way in which BOC may gain customer approval for use and sharing of CPNI to market all services offered through authorized joint marketing
- The future of BOC joint marketing will be determined by the outcomes of these proceedings

## Customer Approval for BOC Use of CPNI Does Not Require Release to Third Party

---

- When a customer has approved BOC sharing of CPNI with an affiliate, it is not obliged (or even permitted) to release that CPNI to third parties
  - Section 222(b) preserves the right to use proprietary information for marketing purposes for the carrier who originally obtains it
  - Section 222(c)(2) requires the customer's affirmative written request for such release
  - If a BOC was required to disclose to third parties any CPNI it shared with its affiliates, the BOC would likely choose to not share the CPNI -- effectively hamstringing the joint marketing activities specifically authorized by Congress
  - Requiring carriers to distribute the CPNI solicitations of other carriers is not required by the statute and would raise serious constitutional questions (*Pacific Gas & Electric Co. v. PUC of Calif.*, 475 U.S. 1 (1985))

Gina Harrison  
Director  
Federal Regulatory Relations

1275 Pennsylvania Avenue, N.W., Suite 400  
Washington, D.C. 20004  
(202) 383-6423

**PACIFIC**  **TELESIS**  
Group-Washington

December 10, 1996

**FILE COPY**

**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

We are submitting a proposed CPNI notice as Attachment A and corresponding governing rule as Attachment B, in response to staff request. Please associate this with the above-referenced docket. 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,



**Attachments**

cc: D. Atwood  
W. Kehoe  
A. Richard Metzger  
B. Scinto  
G. Teicher

Dear Customer:

You've seen many changes in the telecommunications industry recently, and many more are coming. As your local telephone service provider, we at Pacific Bell want to keep you well informed about changes affecting telecommunications services, and we'd like to help you evaluate how they apply to you.

As a result of a new law, the Telecommunications Act of 1996, Pacific Bell will soon be developing and offering you services that were not available from us before. Some of these services may be provided by Pacific Bell. Other services may be provided in your area by other members of the Pacific Telesis family of companies, and offered to you by Pacific Bell through special marketing arrangements. These new services may include long distance service, video services, paging services, and the new Personal Communications Service.

The new law allows us to develop new products, inform you about these new services, and help you order services you may wish to receive. It also gives you a choice about how Pacific Bell can use your local telephone account information when we communicate with you about services other than local telephone and related services.

#### **What is your account information (CPNI)?**

The new law calls your private account information Customer Proprietary Network information (CPNI). It consists of the following information that is not published in the directory: the quantity, technical configuration, type, destination, amount of use of the telecommunications service you purchase from us, and information contained in the bills pertaining to your telephone service. This is the information we use to provide you your local telephone service and to bill you for our services.

#### **How we may use your account information**

Whenever you call us about your service, our representatives look at your account records to help you.

With your approval, we and other Pacific Telesis companies can also use your records to develop new services and products and to inform you about the services and products you don't already have that may be of interest to you.

We treat your private account information confidentially, and do not make it available to anyone other than Pacific Telesis companies unless you tell us to in writing, or if we are required to by law.

## **You have a choice**

As we mentioned above, the new law and rules recently enacted by the Federal Communications Commission (FCC) give you a choice about how we can use your local telephone service account information to inform you about other services, such as long distance service, video services, and the new Personal Communications Service. You don't need to take any action if you want to give approval for us to refer to your account information when we develop new services, communicate with you about these new services, or help you order them and for us to share this information with other Pacific Telesis companies. If, however, you would prefer that we not use your local telephone account information for these new services, you must return the attached, postage paid reply card or contact us at the number indicated below.

### **Other important facts about your choice:**

- You need take no action to approve use of your account information by Pacific Bell and other Pacific Telesis companies to develop products and services, to inform you about them, and to assist you in setting up any new services you may wish to order.
- Your approval will become effective 30 days after this notice was mailed.
- If you do respond, your choice will remain in effect until you change it.
- You may change your choice at any time.
- If you request us not to use your CPNI for these new services, we may still use it to provide local telephone and related services. Also, we may still contact you about new products and services but we will not be able to refer to your local telephone service account information when we do so without your approval.

Except for the information you have published in the telephone directory, all of your Pacific Bell Account information is kept private – we do not sell (or give) your private account information to other businesses outside the Pacific Telesis family without your prior written approval or as required by law.

Still have questions about CPNI? Call us at 1-800-XXX-XXXX

**Response Form**  
**Customer Proprietary Network Information**

No response is needed unless you want to limit the use of your account information by Pacific Bell and the Pacific Telesis family of companies.

Account Name(s): \_\_\_\_\_

Billing Number(s): \_\_\_\_\_

Address: (Street): \_\_\_\_\_

(City): \_\_\_\_\_

(State & ZIP) \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Dear Pacific Bell,

\_\_\_ I do not approve use of my local telephone service customer proprietary network information except for the provision of that service and services necessary to, or used in, providing that service.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: (Please Print) \_\_\_\_\_

Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Still have questions about CPNI? Call us at 1-800-XXX-XXXX

**FCC Policy or Rule on Notice and Approval for Use of CPNI**

- (a) A telecommunications carrier may obtain the approval of its customer to use, disclose, or permit access to individually identifiable customer proprietary network information that it receives or obtains by virtue of its provision of telecommunications service by: (i) receipt of written approval, including email, from the customer; (ii) oral approval by the customer in person or by telephone; or (iii) giving the customer written notice with an opportunity to opt out.
- (b) At a minimum a notice under option (iii) must be printed in a readable type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:
- (1) The subscriber's billing name and address and each telephone number to be covered by the proposed CPNI opt-out;
  - (2) The ways in which the carrier intends to use the CPNI, including whether it will be used for service development and/or for marketing and selling services, the general categories of products or services with which it will be used, and whether affiliates of the carrier will use the CPNI; and
  - (3) The customer's right to "opt-out."
- (c) The notice shall provide the customer with a readily available method of opting out, such as a postage-paid card or a toll free number. An opt-out approval shall not be effective until 30 days after mailing of the notice.