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May 20, 1998

CTIA

Cellular
Telecommunications
Industry Association
1250 Connecticut
Avenue, N.W.
Suite 200
Washington, D.C. 20036
202-785-0081 Telephone
202-785-0721 Fax

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, NW Room 222
Washington DC 20554

RECEIVED

MAY 20 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation
CC Docket # 96-115 (Telecommunications
Carriers' Use of Customer Proprietary Network
Information and Other Customer Information)

Dear Ms. Salas:

On Tuesday, May 19, 1998, the Cellular Telecommunications Industry Association ("CTIA"), represented by Brian Fontes, and Clarke Garnett of Liberty Cellular, met with Ari Fitzgerald, Legal Advisor, Chairman Kennard's Office, regarding the above-referenced proceeding. The parties discussed CTIA's submission to the FCC in the matter of Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, in conjunction with the attached material.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and its attachment are being filed with your office. If you have any questions concerning this submission, please contact the undersigned.

Sincerely,


Cleveland Lawrence III

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Customer Proprietary Network Information (CPNI)



In Sections 221 and 222 of the Telecommunications Act of 1996, Congress included new provisions that protect consumer privacy and govern a carrier's ability to use "Customer Proprietary Network Information" (CPNI). On February 26, 1998, the FCC released the *Second Report and Order (CPNI Order)* in its CPNI proceeding. While the focus of the FCC's *CPNI Order* was to apply the CPNI rules to incumbent LECs, the new rules sweep in all carriers, including commercial mobile radio services ("CMRS") carriers.

There are two provisions in the *CPNI Order* that are of particular concern to CMRS carriers. First, in paragraph 77, the FCC restricts CMRS carriers from using CPNI in connection with customer premises equipment ("CPE") and information services. And second, in paragraph 85, the FCC restricts carriers from using CPNI to attempt to retain, or, if necessary, "win back" customers who have chosen another service provider.

The CMRS market is characterized by increasing competition and the rapid introduction of new technologies and services. The FCC has encouraged these developments as serving the public interest. Now, however, the Commission has adopted rules regulating CMRS providers' use of CPNI that threaten and impair competition and the rapid introduction of new technologies and services. The new FCC rulemaking:

- makes unlawful longstanding wireless marketing practices that the Commission has found to be not only legal but pro-competitive.
- impairs bundling of mobile services and equipment, despite Commission policy that such bundling helps consumers, increases competition and promotes network buildout.
- undermines Commission policies to promote the deployment of spectrum-efficient digital technology by restricting the offering of digital equipment, features and services.
- grafts old landline-related regulatory distinctions onto CMRS, where they have never applied, and where they make no sense.
- imposes a flat restraint of trade, which frustrates the vigorous price competition and customer benefits that result when two or more carriers are vying for the same customer.

On April 24, 1998, the Cellular Telecommunications Industry Association (CTIA) filed with the FCC a request for deferral and clarification to the new rules governing the use of CPNI, insofar as they apply to the provision of commercial mobile radio services. CTIA asked the Commission to:

- Defer, for 180 days, the effective date of these two rules insofar as they apply to CMRS. CTIA also seeks clarification of the order in two respects.
- Confirm that CPNI refers only to information about the type and amount of service customers purchase, not the names and addresses of customers themselves.
- Clarify that the new "win-back" rule would not apply until after a customer is no longer receiving service from its original carrier.