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Suite 410  
Washington, DC 20036

October 9, 2014

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12 St. SW  
Washington, DC 20554

Re: MB Docket No. 13-306, *Petition of Public Knowledge et al. for Declaratory Ruling that Section 222 of the Communications Act Prohibits Telecommunications Providers from Selling Non-Aggregate Call Records Without Customers' Consent*  
GN Docket No. 12-52, *Commission Seeks Comment on Certain Wireless Service Interruptions*

Dear Ms. Dortch:

On Thursday, April 24, 2014, Laura Moy, staff attorney, and Harold Feld, Senior Vice President, of Public Knowledge (collectively, "Public Knowledge"), met with Eric Bash, Associate Bureau Chief, and Stephen Ruckman, Senior Policy Advisor, of the Enforcement Bureau in the above-captioned matter.

Public Knowledge explained that telecommunications customers care very deeply about the personal information contained in their customer records, as evidenced by the numerous filings to that effect in this docket, including a filing by Public Knowledge et al. accompanied by over 7,000 signatures from individual customers.<sup>1</sup> Not only do call records contain

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<sup>1</sup> Comments of Public Knowledge, *Petition of Public Knowledge et al. for Declaratory Ruling that Section 222 of the Communications Act Prohibits Telecommunications Providers from Selling Non-Aggregate Call Records Without Customers' Consent*, WC Docket No. 13-306 (filed Jan. 17, 2014).



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information about customers' relationships and usage behavior, but they also contain detailed information about customers' location and movement patterns.<sup>2</sup>

Public Knowledge argued that the FCC must clarify what constitutes individually identifiable CPNI, and that individually identifiable CPNI includes non-aggregate customer information that has been "de-identified." When Congress created Section 222 of the Communications Act, it did not do so with the intention that telecommunications carriers decide for themselves what constitutes individually identifiable customer proprietary network information ("CPNI") and what does not.

Public Knowledge argued that individually identifiable CPNI and aggregate customer information constitute the two categories of a dichotomy, and that customer information must therefore be considered individually identifiable CPNI unless it is aggregate. It would be nonsensical to read a third category of customer information into a statute that explicitly defines only two categories. To do so would lead to the absurd result that the statute would place fewer restrictions on non-aggregate de-identified customer information than it does on aggregate information, even though non-aggregate de-identified customer records raise more privacy concerns than aggregate customer information.

Public Knowledge urged the FCC to open an investigation into the sharing of non-aggregate call detail records by telecommunications carriers, based on the likelihood that carriers are in fact sharing this information with third parties without customers' consent, as evidenced by multiple carriers' privacy policies and by reports that AT&T has in fact sold non-aggregate but nominally de-identified information to third parties in the past.

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<sup>2</sup> See Reply Comments of Vitaly Shmatikov, WC Docket No. 13-306 (filed Mar. 5, 2014), at 2–3.



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Public Knowledge also briefly discussed the problematic IMSI catchers that an FCC task force is currently investigating. Public Knowledge explained that there are reports that those who use IMSI catchers are not only intercepting customers' communications, but they may also be jamming 3G and 4G phone networks to force communications to 2G so that they can be intercepted. Public Knowledge urged the FCC to investigate possible jamming associated with use of IMSI catchers.

Respectfully submitted,

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