

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-115
Telecommunications Act of 1996	)	
	)	
Telecommunications Carriers' Use of	)	
Customer Proprietary Network	)	
Information and Other Customer Information	)	
	)	
Implementation of the Non-Accounting	)	CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the	)	
Communications Act of 1934, As Amended	)	

**REPLY COMMENTS OF THE DIRECT MARKETING ASSOCIATION**

In its original comments, The Direct Marketing Association (“DMA”) has shown that “opt-out” is an effective and constitutional means to inform consumers of their rights, and protect information that consumers may regard as personal. Several commenters favoring “opt-in” argue that “opt-out” would not effectively address the Commission’s concerns about CPNI privacy. Yet there is no empirical evidence to support these claims. On the contrary, the accumulated years of experience with the “opt-out” regime applicable to cable subscribers’ “personally identifiable information” pursuant to the Cable Subscriber Privacy provision of the Communications Act establishes that an “opt-in” regime is unnecessary to fulfillment of the goals that underlie the CPNI rules. Cable subscriber information is functionally identical to CPNI, and the program has been fully effective in protecting legitimate privacy considerations without

unreasonable constraint upon equally legitimate business interests. This experience provides empirical proof that “opt-out” is both narrowly tailored and effective.

Accordingly, the Commission should not seek to evade the Tenth Circuit’s decision. To ensure the protection of consumers’ privacy rights, it should require that “opt-out” notices meet certain objective standards of clarity, and that consumers be provided a reasonable period of time after notice to opt-out.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ian D. Volner". The signature is stylized with a long horizontal stroke extending to the left and a smaller mark below it.

Ian D. Volner  
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