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EX PARTE OR LATE FILED

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Kathryn Marie Krause
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REDACTED
FOR PUBLIC INSPECTION

Ex Parte

July 2, 2002

RECEIVED

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, S.W.
Washington, DC 20554

JUL - 2 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Federal Communications Commission proceeding In the Matter of
Implementation of the Telecommunications Act of 1996: Telecommunications
Carriers' Use of Customer Proprietary Network Information and Other
Customer Information, CC Docket No. 96-115 and submission of "Privacy
On & Off the Internet: What Consumers Want" and accompanying analysis

Dear Ms. Dortch:

Please see that this Ex Parte communication is associated with the above-referenced
proceeding. At the request of the Federal Communications Commission ("FCC") staff, Qwest
hereby voluntarily submits the document "Privacy On & Off the Internet: What Consumers
Want" and accompanying analysis, a proprietary document copyrighted by Privacy & American
Business ("P&AB"). Qwest is submitting this document with the permission of P&AB.
P&AB's expectation is that the document is being provided to the FCC by Qwest pursuant to this
request for "confidential treatment"; and that the request for confidential treatment will result in
the issuance of a Protective Order assuring that only parties to this proceeding who execute a
signed declaration pursuant to such Protective Order will view the confidential document to be
used only for purposes of the above-captioned proceeding. (See attached letter from Kathryn
Marie Krause, Qwest, to Ms. Lorrie Sherwood, Executive Editor, P&AB.) Each page of the
confidential document contains the annotation "CONTAINS CONFIDENTIAL
INFORMATION = DO NOT RELEASE." This redacted version of the letter (without the
Survey and analysis) is being submitted to the FCC for inclusion in the public record.

Pursuant to 47 C.F.R. § 0.459 of the FCC's rules, Qwest requests that the confidential
document (i.e., the Survey and accompanying analysis) be treated as confidential and withheld
from public inspection. The confidential document contains trade secret information, as well as
technical data, that is not customarily or routinely made available to the public by P&AB in the
absence of a specific commercial transaction. The Survey and analysis contain sensitive

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information and are deemed proprietary by the authors who have copyrighted the material. Its public disclosure would compromise not only the information expectations of P&AB but its financial interests in the information, as well. Therefore, the FCC should deem it confidential under 47 C.F.R. § 0.457(d) and not subject the document to public disclosure pursuant to Exemption 4 of the Freedom of Information Act.¹

Should Qwest's request for confidential treatment be denied, Qwest requests that it be so notified and the voluntarily-submitted document be returned to it, pursuant to 47 C.F.R. § 0.459(e) of the FCC's rules. Qwest further requests that the FCC stay the release of the document to a party requesting public disclosure until such time as an application for review of any confidentiality determination is resolved. Disclosure of this information without affording the parties an opportunity to contest a finding against confidentiality will prejudice them and render moot any successful appeal.

Pursuant to Section 1.1206(b)(1) of the Commission's rules, an original and one copy of this letter are being provided for inclusion in the public record of the above-referenced proceeding. Acknowledgment of the date of receipt of this material is requested. An additional copy of this letter is also enclosed for this purpose.

Sincerely,

Kathryn Marie Krause SKA

Kathryn Marie Krause

Attachment

¹ See 5 U.S.C. § 552(b)(4); Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992), cert. denied, 507 U.S. 984 (1993).



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July 2, 2002

Ms. Lorrie Sherwood, Executive Editor
Privacy & American Business
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Re: Federal Communications Commission proceeding *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115 and submission of "Privacy On & Off the Internet: What Consumers Want" and accompanying analysis

Dear Ms. Sherwood:

This is to confirm our conversations regarding the Federal Communications Commission's ("FCC" or "Commission") request that a complete copy of "Privacy On & Off the Internet: What Consumers Want" ("Survey"), along with the associated analysis by Privacy & American Business ("P&AB"), be submitted to the Commission. Qwest had made limited reference to the Survey in filings with the Arizona Corporation Commission ("ACC") and the FCC. The Commission wishes to have the complete survey in the record of the proceeding.

Qwest has negotiated with you as a representative of the copyright owner, P&AB, to secure your permission to submit the full Survey and the accompanying analysis. I understand the Survey and associated analysis contain trade secret information, as well as technical data, that is not customarily or routinely made public by P&AB, in the absence of specific commercial transactions. You consider the Survey and analysis to include sensitive and proprietary information; and it is your opinion that disclosure would compromise not only the information disclosure expectations of P&AB but its financial interests, as well.

My discussions with the FCC staff confirm that it understands the Survey and analysis will be filed by Qwest with a request for confidential treatment. That request should result in a Protective Order being issued by the FCC which will make clear that the Survey and analysis are to be viewed only by those executing a signed declaration. Signatories to such declarations would agree to be bound by the terms of the Protective Order and to use the information only for purposes of the proceeding (including regulatory and judicial appeals). Under the anticipated provisions of the Protective Order, persons viewing or reproducing the document would be required to return or destroy the document upon conclusion of the proceeding.

Ms. Lorrie Sherwood
Privacy & American Business
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My reading of the relevant appellate rules indicates that parties wishing to include the Survey and analysis in any appellate record could do so while still maintaining the confidentiality of the document. Advocacy might require limited references to facts from the Survey or commentary included therein. However, at this time there is no reason to believe that extensive quotations from the Survey or analysis would be necessary. Should that change, you would be consulted on the proposed uses, at least insofar as Qwest was aware of them.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

Kathryn Marie Krause SKF