

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

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996:	)	CC Docket No. 96-115
	)	
Telecommunications Carriers' Use of Customer Proprietary Network Information And Other Customer Information	)	

**COMMENTS OF VERIZON<sup>1</sup> TO  
FURTHER NOTICE OF PROPOSED RULEMAKING**

**Introduction**

It is not necessary for the Commission to adopt any new regulations regarding customer proprietary network information (“CPNI”) or carrier proprietary information.<sup>2</sup> The Commission should not adopt regulations regarding the foreign storage of or access to domestic CPNI, because such regulations are not needed to protect customer privacy, and would not be an appropriate exercise of the authority delegated to the Commission under the Act. In addition, no additional safeguards are required to protect the confidentiality of carrier proprietary information because the Act already sets forth adequate protections, and there is no evidence that additional regulations are necessary. The Commission also should not implement new regulations regarding the CPNI of carriers that are going out of business, but it should grant Verizon’s Emergency Petition request to require exiting carriers to provide the circuit identification number and related information necessary to avoid confusion and interruption of customer service.

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<sup>1</sup> The Verizon telephone companies (“Verizon”) are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

<sup>2</sup> See generally 47 U.S.C. § 161 (requiring Commission every two years to review and repeal or modify any regulation that is not “necessary in the public interest”).

**I. The Commission Should Not Create Special Regulations Regarding Foreign Storage of and Access to Domestic CPNI**

It is neither necessary nor appropriate for the Commission to pass special rules regarding foreign storage of or access to domestic CPNI.

As an initial matter, the regulations at issue here are designed to implement a statute on consumer privacy; Section 222 does not authorize rules imposing special burdens or restrictions in order to ensure that information is available for law enforcement or other purposes.<sup>3</sup> Congress is considering specific legislation designed to address national security issues, and a new Department of Homeland Security is currently under development.<sup>4</sup> If there are concerns about the security of information stored outside the United States, the appropriate governmental entities, working with the President and others, should take the lead to ensure that these concerns are addressed in a comprehensive and cohesive manner. But these measures are in no way related to the Commission's authority under Section 222 to safeguard consumer privacy, and go beyond the authority granted to the Commission in the Act. And, in any event, the Commission should not impose potentially burdensome (and costly) regulations on carriers without any evidence that such regulations are necessary to achieving the goals of the Act.

Moreover, there is no evidence in the record that the theoretical concerns raised by the FBI present any particular danger that is not already being addressed by current regulations and standard carrier business practices. Thus, there is no demonstrated need for the Commission to prohibit foreign storage of or access to domestic CPNI, or to impose other potentially

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<sup>3</sup> See *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, Second Report and Order on Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061, ¶ 209 (1998) (describing reasons articulated by the FBI in support of request for additional regulations).

<sup>4</sup> See *To Establish the Department of Homeland Security*, H.R. 5005, 107<sup>th</sup> Cong. (2002) and related materials at <http://thomas.loc.gov/cgi-bin/bdquery/z?d107:h.r.05005>:

burdensome regulations, such as requiring customer consent to store CPNI in a foreign country. Carriers already are required to undertake appropriate measures to protect the confidentiality of domestic CPNI, regardless of whether it is stored domestically or abroad. Specifically, the Act states that “[e]very telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunications carriers, equipment manufacturers, and customers . . .” 47 U.S.C. § 222(a). And establishing procedures and mechanisms to protect and back-up critical business information has always been an integral part of carriers’ business planning, regardless of whether such information is stored domestically or in a foreign country. In addition, as several commenters pointed out when this issue was first addressed by the Commission, the existence of the Internet has proven that the physical location of data storage has little bearing on how and where the information can be used.<sup>5</sup>

However, the costs of the proposed regulations are high. In particular, the suggestion that carriers either be prohibited from foreign storage of or access to CPNI, or that they be required to obtain customers’ express approval to store such CPNI, could cause significant economic harm to carriers at a time when the telecommunications industry already is under severe financial pressure. For example, such regulations would prohibit – either explicitly or in effect – use of a relatively inexpensive Canadian call center to handle inbound requests for information about new telephone service offerings. Any carriers that currently store domestic CPNI outside the United

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<sup>5</sup> See *Implementation of Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information And Other Customer Information*, CC Docket No. 96-115, MCI comments at 18 (filed March 30, 1998); *Implementation of Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information And Other Customer Information*, CC Docket No. 96-115, AT&T Reply Comments at 9, OmniPoint Reply Comments at 6 (filed April 14, 1998).

States, even under conditions that make that information as secure as domestic storage, would be required to transfer all of their CPNI-related operations to the United States.<sup>6</sup>

## **II. It Is Not Necessary For The Commission To Create Additional Protections For Carrier Information and Enforcement Mechanisms**

The Commission also asked carriers to refresh the record on whether additional safeguards are needed to protect the confidentiality of carrier proprietary information, including that of resellers and ISPs. There is no need for such additional regulation. Section 222(b) of the Act sets out a clear obligation: “A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.” 47 U.S.C. § 222(b). Carriers who are the beneficiaries of this provision can be expected to be vigilant in protecting their rights, either through contract terms, complaints filed with regulators or courts, or other legal measures. Moreover, there is no evidence of any abuse of the confidentiality of carrier proprietary information. Unless and until there is evidence that carriers are not protecting the confidential information of other carriers, or that adequate remedies do not already exist to address potential violations of Section 222(b), the Commission should not impose new, potentially burdensome, regulations regarding carrier proprietary information.

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<sup>6</sup> Requiring a customer’s express consent prior to foreign storage of or access to CPNI would have the practical effect of precluding such storage or access. Otherwise, if even a small number of customers declined to provide consent, the carrier would be forced to establish entirely duplicative systems and functions to handle the two classes of customers – those that agreed to foreign storage and those that did not. As the Commission has recognized in other contexts, requiring opt-in consents may impose significant burdens which limit a carrier’s ability to operate effectively. *See generally Implementation of Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information And Other Customer Information*, Third Report and Order, CC Docket No. 96-115, ¶ 45 (rel. July 25, 2002) (“We also realize that carrier burdens could be significant for these types of uses under an opt-in scenario because opt-in could immediately impact the way carriers conduct business”).

### **III. There Is No Need for New CPNI Rules Regarding Carriers That Go Out of Business, But the Commission Should Ensure That Exiting Carriers Provide the Information Necessary To Transition Customers to New Carriers**

There is no need for the Commission to establish additional rules to address the CPNI implications regarding carriers that are going out of business. However, as Verizon explained in its Petition for Emergency Relief, the Commission should require carriers that are going out of business to provide the information necessary to properly coordinate the transfer of new customers from one CLEC to another.<sup>7</sup> In particular, for carriers who are going out of business without a voluntary migration, the Commission should require that the exiting carrier reveal *all* information necessary to coordinate the transfer of its customers to other carriers – including but not limited to the circuit identification number and related information.<sup>8</sup> This information is essential to avoid confusion and interruption of customer service. Because such information relates to a carrier’s purchase of service from another carrier, the issue of individual customer proprietary network information is never raised.

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<sup>7</sup> See *Petition for Emergency Declaratory and Other Relief*, WC Docket No. 02-202, at 10-11 (filed July 24, 2002); see also *Petition for Emergency Declaratory and Other Relief*, WC Docket No. 02-202, Reply Comments of Verizon, at 31-33 (filed August 22, 2002).

<sup>8</sup> See *id.*

**Conclusion**

The Commission should not adopt any new CPNI regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A Rakestraw". The signature is written in a cursive style with a large initial "A".

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THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.