

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

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;	)	
	)	
Petition for Rulemaking to Enhance	)	
Security and Authentication Standards	)	RM-11277
for Access to Customer Proprietary	)	
Network Information	)	



**COMMENTS**

**I. Introduction.**

In these Comments, ACA addresses whether the Commission should extend to VoIP and IP-enabled service providers the security and authentication requirements that the Commission adopts in this rulemaking.<sup>1</sup> Specifically, ACA recommends that the Commission adopt a waiver process for small and smaller-market cable operators.

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<sup>1</sup> *In the Matter of Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information, Notice of Proposed Rulemaking*, CC Docket No. 96-115 (rel. Feb.14, 2006) (“CPNI NPRM”).

ACA also explains that in an era of bundled services, extending the current CPNI framework as-is to VoIP and IP-enabled services will be unnecessarily cumbersome for cable operators marketing bundled services.<sup>2</sup>

**CPNI waivers.** ACA's Comments recommend that the Commission adopt a waiver process under which small and smaller-market operators could petition for exemption from the Commission's CPNI security and authentication requirements. Commission precedent supports such regulatory relief. Alternatively, the Commission should adopt less extensive CPNI security and authentication requirements for small and smaller-market operators.

**The current CPNI framework is unnecessarily cumbersome for bundled services.** The Commission's current CPNI rules prevent use of CPNI without customer "opt-in" approval to market video services to customers. The distinction between these services may have been appropriate at the time the Commission adopted the current CPNI rules, but will be unnecessarily cumbersome if applied to cable operators that bundle VoIP and cable modem services with video services.

**American Cable Association.** ACA represents nearly 1,100 small and medium-sized cable companies that serve about 8 million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states, and in virtually every congressional district. The companies range from family-run cable businesses serving a single town to multiple system operators with small systems in

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<sup>2</sup> Id. at ¶ 28.

small markets. About half of ACA's members serve fewer than 1,000 subscribers. All ACA members face the challenges of building, operating, and upgrading broadband networks in lower density markets. ACA members are at the forefront of smaller-market broadband deployment.

Almost 75% of ACA's members have deployed broadband to their small market and rural subscribers, and an ever-increasing number of ACA's members are now providing VoIP services in these markets.

**II. The Commission should adopt a waiver process under which small and smaller-market operators can petition for exemption from the security and authentication requirements for CPNI.**

The *CPNI NPRM* proposes protections including consumer-set passwords, audit trails, encryption of CPNI, and notice to customers when the security of CPNI has been breached or CPNI has been released.<sup>3</sup> These proposed security and authentication requirements would be financially or technologically unfeasible for many small and smaller-market providers, the majority of which operate on tight budgets and are very leanly staffed. Each one of the above requirements would require the development of specialized software and the devotion of significant administrative resources.

Accordingly, ACA recommends that the Commission implement a process to grant waivers of any such requirements based on financial or technological hardship.

**Precedent for regulatory relief.** Congress and the Commission have consistently expressed special concern for small cable systems and the public interest

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<sup>3</sup> *CPNI NPRM* at ¶¶ 14-21. The *CPNI NPRM* also suggests a limited data retention period. ACA's position is that this requirement would not be unduly burdensome.

in maintaining a viable small cable sector in smaller and rural markets.

The 1992 Cable Act and the 1996 Telecommunications Act both contain Congress' express recognition of the public interest in a viable small cable sector through inclusion of specific small cable provisions.<sup>4</sup> Likewise, extensive Commission action has demonstrated the importance to the public interest of maintaining viable smaller cable companies and the need to provide regulatory relief to further this public interest.<sup>5</sup>

In its *Small System Order*, the Commission analyzed the economic, physical, and financial characteristics of cable systems above and below 15,000 subscribers and determined that there were significant differences between these two groups, while finding that systems serving fewer than 15,000 subscribers "face many of the same challenges that systems of 1,000 or fewer subscribers do in providing cable service."<sup>6</sup> Accordingly, the Commission extended badly needed relief to such systems.<sup>7</sup>

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<sup>4</sup> See, e.g., 47 USC § 543(i) ("In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers."); Section 301(c) 1996 Telecommunications Act (providing greater deregulation for small systems), codified at 47 USC § 543(m).

<sup>5</sup> For a summary of these efforts in the context of rate regulation, see *In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration* 10 FCC Rcd. 7393, at 7401-7402 and 7420 (1995) ("*Small System Order*"); for special small cable leased access rules, see *In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Leased Commercial Access, Second Report and Order and Second Order on Reconsideration of the First Report and Order*, 12 FCC Rcd. 5267 at 5331-5332, 5333 (1997).

<sup>6</sup> *Small System Order* at ¶¶ 25-27.

<sup>7</sup> *Id.* at ¶ 38.

Similarly, the Commission has recognized the increased financial burdens faced by cable systems serving smaller markets. Most recently, the Commission has recognized that the cost of EAS compliance continues to be out of reach for many smaller-market systems, and recently extended the EAS compliance deadline to June 30, 2006 for many operators with smaller-market systems.<sup>8</sup>

As shown below, the financial burden placed on small operators and smaller-market systems by the proposed CPNI requirements could be substantially greater than the approximately \$10,000 per system cost of EAS compliance. If small operators and operators with smaller market systems are not able to obtain waivers from the Commission's proposed CPNI requirements, broadband and VoIP deployment in rural areas will be significantly impacted.

**III. If the Commission does not implement a waiver process, it should adopt less extensive rules for small and smaller-market operators.**

If the Commission does not implement a waiver process, it should adopt less extensive CPNI requirements for small and smaller-market operators. The rules for small and smaller-market operators should include a longer implementation timeframe. This would allow time for technology to develop and for compliance costs to come down. The Commission's EAS rules provide precedent for such relief.<sup>9</sup>

Further, if the current CPNI rules are extended as-is to small and smaller-market cable operators' VoIP and cable modem services, they will face unreasonable burdens

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<sup>8</sup> See *EAS Waivers for Certain Small Cable Television Systems Requesting Waiver Extensions Extended to June 30, 2006, Public Notice*, DA 06-483 (rel. March 1, 2006).

<sup>9</sup> See 47 CFR §11.51(g) and (h).

in trying to market bundled video services.

#### **IV. The current CPNI rules are outmoded in the era of bundled services.**

Under the current CPNI rules, a provider's compliance obligations depend on whether it is marketing "communications-related services" or other services. There are less burdensome notice and approval requirements for "communications-related services." This is because "telecommunications consumers expect to receive targeted notices from their carriers about innovative telecommunications offerings that may bundle desired telecommunications services and/or products, save the consumer money, and provide other consumer benefits."<sup>10</sup> Video and cable modem services do not fall within the definition of "communications-related services," however.<sup>11</sup> To use CPNI to market video and cable modem services, a carrier must obtain burdensome opt-in approval.<sup>12</sup>

Accordingly, if the current CPNI requirements are extended as-is to VoIP and cable modem services, a cable operator would need to obtain burdensome "opt-in" approval to market its video services to its VoIP and cable modem customers.

Drawing distinctions between VoIP, cable modem and video is unwarranted in today's competitive environment, where consumers demand bundled services and

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<sup>10</sup> *In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Third Report and Order and Third Further Notice of Proposed Rulemaking*, 17 FCC Rcd. 14,860 (2002) at ¶ 36.

<sup>11</sup> The term "communications-related services" means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment. 47 CFR § 64.2003.

billing, expect to receive targeted notices from their cable operators about their “triple play” voice, video and data offerings, and receive all three services over the same cable facilities.

To maintain a distinction that is based on the way that telecommunications carriers offered services a decade ago ignores the reality of today’s market, and needlessly increases compliance burdens on all providers, especially on ACA’s members trying to bring economically bundled services to small and rural markets.

**V. Conclusion.**

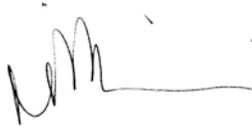
ACA’s members have taken the lead in deploying broadband to smaller and rural markets. This deployment could be stalled if the Commission does not provide for financial or technological hardship waivers from its CPNI requirements for small and smaller-market operators. Alternatively, the Commission should ease the burden of compliance by adopting less burdensome CPNI requirements for these providers. Further, the Commission should take into consideration market realities and eliminate the CPNI distinction between voice, data and video services.

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<sup>12</sup> See 47 CFR § 64.2007(b)(3).

Respectfully submitted,

**AMERICAN CABLE ASSOCIATION**

By:   
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