

January 22, 2007

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Notice of Ex Parte Communication in CC Docket No. 96-115, In the Matter of Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information

Dear Ms. Dortch,

On January 19, 2007, Luisa Lancetti, Frank Triveri, and Kent Nakamura of Sprint Nextel Corporation met in separate meetings with Ian Dillner of the office of Commissioner Tate; Barry Ohlsen of the office of Commissioner Adelstein; and John Hunter, Angela Giancarlo, and Melissa Slawson of the office of Commissioner McDowell to discuss the above-captioned proceeding.

During the meeting, Sprint Nextel expressed its concerns over possible requirements that carriers obtain customers' opt-in consent prior to allowing independent contractors and joint venture partners to access customers' CPNI to provide back-office services. Specifically, Sprint Nextel explained that an opt-in consent requirement would:

- Not address the issue of pretexting—a phenomenon that relies on impersonation and not rogue joint-venture partners or independent contractors. Sprint Nextel explained that the record in this proceeding is devoid of evidence showing that an opt-in requirement would prevent pretexting. Consequently, as Sprint Nextel noted, an opt-in requirement would likely be held unconstitutional under *U.S. West, Inc. v. Federal Communications Commission*, 182 F.3d 1224 (10th Cir. 1999). Sprint Nextel further explained that security measures, and not a customer opt-in requirement, are the most effective and cost-beneficial way to advance the government's interest in preventing unauthorized access to CPNI. Accordingly, Sprint Nextel advocated that the Commission focus instead on security measures, such as a requirement to contractually bind carriers' joint venture partners and independent contractors to security obligations, in addition to the confidentiality obligations enumerated in Section 64.2007 of the Commission's Rules (47 C.F.R. § 64.2007).
- Prevent customers from receiving product and service offerings that are tailored to their needs. Sprint Nextel binds its independent contractors to strict confidentiality and security obligations; they perform valuable analytical, marketing, and customer care services that benefit customers with better service, more flexibility and lower costs.
- Potentially put some carriers at a disadvantage by virtue of their business model or corporate structure. Sprint Nextel explained that some carriers (particularly carriers that

do not offer all categories of telecommunications service) market and offer suites of services through partnering arrangements; these carriers may be competitively disadvantaged against carriers that offer all categories of service without reliance on partnering.

- Frustrate customers who want efficient customer service. Sprint Nextel discussed Section 64.2008 of the Commission's Rules (47 C.F.R. § 64.2008) to illustrate how carriers currently obtain opt-in consent. The three pages of rule provisions enumerate exacting procedures that would greatly inconvenience customers.

Sprint Nextel also:

- Expressed concerns that any new rules to combat pretexting might inadvertently affect existing well-established rules and practices concerning a carrier's total service relationship with its customers.
- Requested flexibility in managing any new password and customer notification requirements the Commission might adopt.
- Argued that certain types of customer information, such as the number of minutes remaining in a customer's rate plan in a particular month, did not require the degree of protection of other types of information such as call detail records.
- Reiterated its position that business accounts having dedicated service representatives should not require a passcode before CPNI could be shared and that certain calls whose authenticity was unquestionable should not require a passcode.
- Expressed concern about the likely unintended adverse effects of an overbroad requirement that requires carriers to notify law enforcement of *any* unauthorized access to CPNI. Sprint Nextel stated that the duty to notify law enforcement should focus on apparent or real attempts to circumvent the security of a carrier to gain access to CPNI.

Finally, Sprint Nextel explained that it would take a minimum of 12 months to implement the requirements of new rules. Sprint Nextel elaborated that compliance could not be achieved through policy changes alone; that it would require time to (1) develop software and procedures, (2) test software and system impacts, (3) deploy software, and (4) train personnel on new software and procedures.

Should you have any questions, please contact the undersigned.

Sincerely,

/s/ Kent Nakamura

Kent Nakamura
Vice President and Chief Privacy Officer

cc: Ian Dillner
Barry Ohlsen
John Hunter
Angela Giancarlo
Melissa Slawson