

March 5, 2007

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Via Electronic Filing

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

Re: **WRITTEN EX PARTE NOTICE** - Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information - CC Docket No. 96-115, RM-11277

Dear Ms. Dortch:

T-Mobile USA, Inc. ("T-Mobile"), by its counsel, urges the Commission to adopt reasonable time periods for carriers to implement new regulations regarding customer proprietary network information ("CPNI"). T-Mobile is dedicated to protecting customer information while providing outstanding customer service. Indeed, J.D. Power and Associates has recognized T-Mobile five times in a row for highest ranking wireless customer care. T-Mobile believes that the Commission should adopt CPNI rules that provide customers with ready access to account information while preventing unauthorized use of that information.

T-Mobile is concerned that inadequate time for carriers to implement new CPNI rules will cause customer confusion and result in wasteful, unnecessary implementation costs. Other carriers – both wireless and wireline – have expressed similar concerns.

The Commission should permit a reasonable time to implement any new or modified CPNI rules. T-Mobile recommends a twelve-month implementation period if the effect of new rules would require carriers to (i) change the way they interact with customers, (ii) change their automated customer care or billing systems, or (iii) conduct extensive new employee training. T-Mobile recognizes that the complexity of implementing new rules depends in part on the specifics of the rules themselves. Some CPNI rule changes can and should take

¹ See, e.g., Letter from Kent Y. Nakamura, Sprint Nextel, to Marlene Dortch, Secretary, FCC, CC Docket 96-115, RM-11277 (Feb. 12, 2007), Attachment at 1; Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-115, RM-11277 (Dec. 22, 2006) at 4.

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effect relatively quickly, such as changes to the annual CPNI certificate requirement, which T-Mobile and numerous other parties have supported. But many implementation efforts – especially those that affect T-Mobile’s relations with its customers and employees -- necessarily will be large-scale projects.

T-Mobile now has more than 25 million customers. To provide these customers with the best service possible, T-Mobile employs more than 11,000 customer service representatives in multiple call centers and uses extensive and complex automated systems. For rule changes that affect these large populations, a twelve-month implementation period would permit T-Mobile to engage in the necessary customer education and notification, employee training, and system changes in a thorough and systematic way.

T-Mobile’s goal is to comply with the Commission’s new rules while minimizing confusion and errors among its customers and employees. A twelve-month implementation period for rules that touch those customers and employees would help meet that goal.²

For example, as described earlier in this rulemaking,³ T-Mobile currently guards against pretexters by restricting its representatives from disclosing call detail records over the phone. If the Commission were to adopt a rule that narrowed the definition of call detail records or placed additional limits on the types of discussions between customers and T-Mobile representatives that are now permissible, T-Mobile would have to plan and decide exactly how to implement the new rule. Once its plan is complete, T-Mobile would have to notify and retrain its entire force of customer service representatives in order to implement the rule, a process which can take multiple weeks or months. It also could be necessary to notify customers of the changes in T-Mobile’s practices, potentially another multi-month process. At the same time, T-Mobile might need to evaluate its automated customer care and/or billing systems to determine whether to flag or restrict access to information barred from disclosure under the new rule. Any automated system changes then would have to be made. These changes could include the coding, testing, and installation of new software, as well as technical training and troubleshooting. Twelve months is a reasonable period for completing the numerous steps needed to implement these possible rule changes.

As another example, the U.S Department of Justice has proposed a rule that would require carriers to notify federal law enforcement of CPNI breaches prior to those carriers notifying

² As Verizon has shown, in past phases of this rulemaking, the Commission has recognized these implementation issues by establishing multi-month implementation timeframes. *See* Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-115, RM-11277 (Feb. 23, 2007) at 1, 5-6.

³ *See, e.g.*, Letter from William F. Maher, Jr., Counsel, T-Mobile, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-115, RM-11277 (Jan. 25, 2007) (“T-Mobile January 25 Letter”) at 1.

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their customers.⁴ T-Mobile is concerned about the breadth of the DOJ proposal and has urged the Commission to release a targeted further notice of proposed rulemaking on that proposal.⁵ If the Commission were to adopt the DOJ proposal unchanged, T-Mobile and other carriers would face a major challenge in implementing it, especially because the DOJ proposal apparently would require carriers to notify federal law enforcement of *any* unauthorized use, disclosure, or access to CPNI.⁶ This could require substantial employee retraining for compliance purposes, as well as extensive changes to T-Mobile's automated systems to detect and report CPNI breaches. Further, if the DOJ proposal were adopted in its current form, T-Mobile believes that it may have to notify its customers of the new requirements and their effects on them. Because of the breadth of the DOJ proposal, twelve months is a reasonable period to provide for compliance.

As a final example, T-Mobile has urged the Commission not to adopt an opt-in consent regime for use of CPNI by certain third parties and not to disrupt the existing total service approach, by leaving unaltered the current operation of section 64.2005 of the Rules.⁷ If the Commission were to make any rule changes in this area, and depending on the exact nature of those changes, carriers might have to engage in major customer education and notification campaigns as well as extensive changes to their marketing systems and arrangements. Again, a twelve-month implementation period would provide the time needed for carriers to transition to new rules.

* * *

As the foregoing examples show, the Commission should permit a reasonable time to implement those portions of any new or modified CPNI rules that would require T-Mobile to change the way it interacts with customers, change its automated customer care or billing systems, or conduct extensive new employee training. T-Mobile believes that twelve months is a reasonable implementation period in such cases.

⁴ See Letter from Paul J. McNulty, Deputy Attorney General, U.S. Department of Justice, to Kevin J. Martin, Chairman, FCC, CC Docket No. 96-115 (Dec. 28, 2006).

⁵ See T-Mobile January 25 Letter at 2-3.

⁶ T-Mobile believes that this broad notification and record-keeping requirement will be overly inclusive and potentially very burdensome without some reasonable narrowing, as AT&T and CTIA have suggested. See Letter from Christopher Guttman-McCabe, CTIA, to Hon. Kevin J. Martin, Chairman, FCC, CC Docket No. 115 (Feb. 5, 2007) (stating that the DOJ proposal "inadvertently could require carriers to report immaterial breaches"); Letter from Anisa A. Latif, AT&T, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-115 (Jan. 17, 2007). (proposing to require notification of law enforcement only of "material fraudulent access" to customer accounts).

⁷ See T-Mobile January 25 Letter at 3-4.

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Pursuant to Section 1.1206 of the Commission's rules, an electronic copy of this letter is being filed with the office of the Secretary. Please contact the undersigned with any questions about this letter.

Very truly yours,

/s/ William F. Maher, Jr.
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