

Donna Epps
Vice President
Federal Regulatory



1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2527
Fax 202 336-7922
donna.m.epps@verizon.com

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Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

Re: Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96-115; Petition for Rulemaking to Enhance Security and Authentication Standards for Access to Customer Proprietary Network Information, RM-11277

Dear Ms. Dortch:

Verizon supports the Commission's goal of preventing pretexting and protecting confidential subscriber information from unauthorized release. But the Commission should ensure that its efforts to address pretexting do not have the unintended consequence of decreasing consumer access to advanced services and other beneficial offers. A broad requirement that carriers obtain opt-in authorization prior to sharing *any* CPNI with third party marketing firms would prevent consumers from receiving useful information about new services, including new broadband services. This information aids consumer understanding of the rapidly changing array of new technologies and thereby significantly impacts consumer likelihood of adopting such new technologies. In virtually all of its DSL and FiOS telemarketing campaigns, Verizon provides third party marketing firms with access to some general CPNI, subject to appropriate confidentiality protections, but not call detail records. A broad opt-in requirement would end such targeted marketing, preventing Verizon from communicating with the consumers most likely to be interested in these services and preventing those consumers from hearing about new services from which they could benefit. Moreover, a broad opt-in requirement would subject consumers to broader, less targeted mass marketing that they may not want and, by increasing overall marketing costs, could increase the costs of the services they purchase. Accordingly, if the Commission elects to require opt-in authorization before carriers can share CPNI with independent contractors, joint venture partners, or other third parties for marketing purposes, it should limit the opt-in requirement to call detail records only because this is the information targeted by pretexters.

Verizon, like other carriers, uses marketing vendors extensively, including in outbound telemarketing, door-to-door sales, and direct mail campaigns, because it is the most effective and lowest cost means to reach consumers interested in its services. Indeed, 95 percent of Verizon's outbound telemarketing is done by outside marketing vendors,¹ including DSL and FiOS marketing. Verizon provides its outbound telemarketing vendors with "lead lists" of customers who may be interested in a specific product or service. These lead lists are based on factors such as the services the customers currently have, their usage patterns regarding those services, or other relevant indicators.² In recent campaigns, over half of these lead lists were supplied for DSL or FiOS marketing efforts. And Verizon provided those third party marketers and local door-to-door sales teams with general CPNI information about the customer's current services, so that they can answer customer's questions about current services and the benefits of any new services over the existing ones. While some of this customer information falls within the Commission's definition of CPNI, Verizon does not provide the call detail records sought by pretexters to its marketing vendors.³ In addition, the most sensitive information – social security and credit card numbers, for example – is never shared.

An opt-in requirement could effectively end most forms of targeted marketing. Prior experience with opt-in regimes has shown that obtaining opt-in consents from the mass market is extremely ineffective, confusing to customers, and costly.⁴ In practice, opt-in amounts to a ban on target marketing.⁵

The use of summary account information qualifying as CPNI – not call detail records – by third party marketing firms has been at the heart of several recent, and successful, Verizon marketing campaigns. A few years ago, Verizon launched a revolutionary new fiber optic broadband Internet access service called "FiOS." To market the product, Verizon used CPNI to identify local and long distance service customers that already subscribe to Verizon's DSL or dial-up Internet access services and would likely be interested in switching to a FiOS bundle that

¹ See Letter from Donna Epps, Vice President, Verizon, to Marlene H. Dortch, Secretary, FCC (Jan. 29, 2007), Decl. of Judy K. Verses, Senior Vice President of Retail Markets, ¶ 7. ("Verses Decl.").

² *Id.*

³ Verizon does not provide its independent contractor marketing vendors with call detail records or access to call detail records for marketing purposes. In a few limited instances, independent contractors that perform general customer care services, such as handling billing inquiries over the telephone, may inform customers about other Verizon services when customers ask about them. In the process of providing that information, these customer care vendors may, in appropriate cases, access a customer's account, including call detail records, in order to respond to customer inquiries.

⁴ Verses Decl. ¶ 16.

⁵ *Id.*

included voice and Internet access services. As part of this campaign, Verizon relied on targeted marketing using door-to-door sales representatives. This was a particularly useful approach and a critical component of FiOS's successful roll-out because this service is not yet available in all markets. In executing the marketing campaign targeted to these customers, Verizon shared general CPNI (but not call detail information) with its marketing vendors so that the vendors could have a meaningful conversation about the customer's existing services and the benefits of the new services. Without the ability to share general CPNI with the marketer, the successful marketing for FiOS would not have been possible, and many interested customers would not have become aware of the service.⁶ Likewise, many consumers interested in Verizon's ONE BILL® program – a free convenience that enables customers that subscribe to Verizon's wireless and local services to receive a single bill for both services – would have been similarly affected.⁷ Verizon's "Freedom" calling plans offer customers the ability to receive discounts when they combine several services, such as local, regional, and long distance calling.⁸ In order to execute this campaign, Verizon provided general CPNI (but not call detail information) to marketing vendors to answer customer's questions about current services; without the ability to provide such CPNI to third party vendors, Verizon would not have been able to discuss the product with those customers most likely to benefit.

The primary reason for the success of each of these campaigns is that Verizon, relying on third party vendors, was able to execute marketing campaigns that were targeted to customers whose current service profile and other CPNI directly matched that of the product being sold.⁹ Using outside marketing vendors that specialize in large-scale marketing efforts enabled Verizon to implement these campaigns efficiently and cost effectively.¹⁰ An opt-in requirement would prevent such efficient – and successful – campaigns in the future.

Furthermore, a broad opt-in rule that, as a practical matter, interferes with such targeted campaigns would result in significant public interest harms. As the Commission works aggressively to promote broadband deployment, an opt-in requirement that bans target marketing would greatly inhibit Verizon's ability from marketing DSL and FiOS to the consumers most likely to be interested in such services. Similarly, such a rule would inhibit target marketing aimed at *lowering* customers' monthly bills in order to reduce churn and increase customer retention in the face of competition. Limitations on target marketing may also result in increased unwanted mass marketing materials because it would eliminate the focused marketing that is made possible by the use of CPNI. Thus, the amount of unwanted marketing materials would increase without any improvement in data security.

⁶ *Id.* ¶ 21.

⁷ *Id.* ¶ 22.

⁸ *Id.* ¶ 23.

⁹ *Id.* ¶ 24.

¹⁰ *Id.*

A broad opt-in rule also would increase costs both in the short and long term. As an initial matter, the costs associated with changing carrier systems and processes to conform to an opt-in regime would be significant. The process of administering an opt-in campaign would be very costly and time-consuming because it would require adapting carriers' computer systems and internal business practices to new rules. It would also affect Verizon's ability to use outside vendors to handle customer calls concerning special promotions because those vendors would need some access to some customer CPNI in order to ensure that any new service does not conflict with existing ones.

In addition, limiting carriers' ability to share CPNI with independent contractors would severely curtail targeted marketing campaigns, harm customers by leaving them less informed in an increasingly complex world of new services, and require more expensive mass marketing efforts.¹¹ Not being able to use CPNI and instead relying on demographic data supplied by third parties increases customer acquisition costs as well as the cost of unproductive marketing directed to customers for whom an offering is inappropriate.¹² The costs of such campaigns ultimately would be borne by customers in higher rates – and result in more unwelcome marketing, eroding consumer goodwill.

Finally, as we have previously explained, a broad rule requiring opt-in consent prior to sharing *any* CPNI with third party marketing firms is not consistent with the First Amendment. Such a requirement does not “directly advance” the government's interest in preventing pretexting, and is not “narrowly tailored” because other methods of preventing pretexting – such as limiting opt-in to call detail records – would be equally effective in preventing pretexting and less burdensome on protected speech.¹³

Accordingly, should the Commission elect to require opt-in authorization prior to sharing confidential subscriber information with third party marketing firms, it should limit the requirement to call detail records. This approach strengthens protection of the data targeted by pretexters with minimal disruption to established business practices that benefit consumers.

Respectfully submitted,



¹¹ *Id.* ¶ 25.

¹² *Id.* ¶ 18.

¹³ *Id.*