

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

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| In the Matter of |) | |
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| Implementation of the Telecommunications Act of 1996; |) | CC Docket No. 96-115 |
| |) | |
| Telecommunications Carriers' Use of Customer Proprietary Network Information and other Customer information; |) | |
| |) | |
| IP-Enabled Services |) | WC Docket No. 04-36 |
| To: The Commission, <i>en banc</i> | | |

**COMMENTS OF
AMERICAN ASSOCIATION OF PAGING CARRIERS
ON FURTHER NOTICE OF PROPOSED RULEMAKING**

THE AMERICAN ASSOCIATION OF PAGING CARRIERS (AAPC), by its attorney, respectfully submits its comments to the Federal Communications Commission in response to the Commission's Further Notice of Proposed Rulemaking (FNPRM) in the captioned proceeding, FCC 07-22, released April 2, 2007 and published at 72 Fed. Reg. 31782 (June 8, 2007). As its comments, AAPC respectfully states:

The FNPRM follows promulgation by the Commission, in the same order, of stringent new regulations directed at carrier handling of individually identifiable Customer Proprietary Network Information (CPNI), information that primarily includes customer call data and related service information. The new regulations are not, however, confined to call record details and

similarly sensitive CPNI, but instead impose sweeping new requirements on all carriers that in large part are indiscriminately applicable to both sensitive and non-sensitive CPNI.

In the FNPRM portion of the order, moreover, the Commission inquires whether it should go even further in its regulation of CPNI. More specifically, the Commission inquires whether it should extend a password protection regimen to non-call detail CPNI as well as call-detail CPNI; whether it should require audit trails for customer contacts and CPNI disclosure; whether it should regulate the physical safeguards employed by carriers when transferring or allowing access to CPNI by joint venture partners and independent contractors, such as requiring encryption, logs, etc.; whether it should regulate data retention practices of carriers; and whether the Commission should mandate carrier practices in erasing, or allowing customers to erase, personal information stored in mobile communications devices prior to discarding such devices.

AAPC is the national trade association representing the interests of paging carriers throughout the United States. AAPC's members include a majority of the nationwide paging operators licensed under Parts 22, 24 and 90 of the Commission's rules; a representative cross-section of operators of regional and local paging systems licensed by the Commission; as well as equipment suppliers and other vendors to the carrier industry. Paging carriers are classified as Commercial Mobile Radio Service providers pursuant to Section 20.9 of the Commission's rules and as telecommunications carriers pursuant to Section 3(44) of the Communications Act, 47 U.S.C. §153(44). Paging carriers thus are subject to the CPNI regulations, notwithstanding that they do not record or store call record information.

AAPC participated in the proceedings which resulted in the new CPNI regulations, requesting that any new or modified regulations adopted by the Commission to enhance the protection afforded for CPNI be appropriately tailored to address the underlying problems it identifies.

AAPC further requested that the Commission not impose new reporting or other requirements on paging carriers or other groups that generally do not compile significant amounts of individually identifiable CPNI.

Unfortunately, AAPC's request was essentially ignored in the order adopting the new regulations, despite the fact that the order explicitly acknowledges at the outset that it "is directly responsive to the actions of data brokers, or pretexters, to obtain unauthorized access to CPNI." (Order & FNPRM at ¶2). The only reported instances of unauthorized access to CPNI by data brokers or pretexters are for call record information, information that paging carriers simply do not have. Accordingly, AAPC respectfully submits that the short answer to the questions posed in the FNPRM is that the Commission should *not* adopt any new regulations at this time. Instead, at a minimum, the Commission should pause and assess the impact of its new regimen on the underlying problems before considering any additional regulations.

The customer base of paging carriers at this point overwhelmingly consists of commercial enterprises rather than individuals; and the individually identifiable CPNI maintained by paging carriers, e.g., name, contact, address and telephone number, consists, with at most limited exception, of information that is readily and prominently displayed in the local Yellow Pages directory. Moreover, because the customers are commercial enterprises, their incentives are precisely the *opposite* of the Commission's premise in adopting its CPNI regulations. That is, rather than desiring to keep the collected information private, as the CPNI regulations presume, commercial customers pay to *advertise* the information to the public. None of this supports adopting new or more sweeping CPNI regulations.

Even to the limited extent paging carriers may collect sensitive CPNI, such as Social Security Numbers, their situation is no different than any other business that extends credit to cus-

tomers; and they must likewise comply with the myriad state and federal regulations generally applicable to such activities. The fact that paging carriers happen to be engaged in telecommunications, rather than some other commercial endeavor, does not warrant separate or more stringent treatment of this limited segment of CPNI than is applicable to non-telecommunications businesses generally that collect like information from their customers.

Similarly misguided and unnecessary, in AAPC's view, would be new regulations applicable to erasing customer information stored on paging devices. One-way paging devices do not have significant customer information in storage, by virtue of the fact that they are receivers rather than generators of messages; and the messages themselves can be readily erased by the customer before disposing of the device. All such stored information is routinely erased in any event as part of the refurbishment process.

Two-way pagers do have the capability of generating messages, and thus do have the capability of storing some information such as address book entries. Again, however, these entries typically are telephone numbers or email addresses that are publicized to others, in order to facilitate communications with the customer, rather than sensitive information that needs special protection. Like messages stored on one-way pagers, all such information can be readily erased by the customer and is routinely erased during refurbishment. Additional regulations in this area would be unwarranted.

Finally, AAPC would remind the Commission that the impetus for this proceeding, as the order itself acknowledges, is to be "directly responsive to the actions of data brokers, or pretexters, to obtain unauthorized access to CPNI." (Order & FNPRM at ¶2). Since paging carriers do not collect the type of sensitive information sought by data brokers, and thus have not been vic-

timized by such entities, there is no justification for broadening the CPNI regulatory regimen as it applies to paging carriers.

Respectfully submitted,

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