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May 10, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* in WC Docket No. 07-244,
Local Number Portability Porting Interval and Validation Requirements

Dear Ms. Dortch:

On May 7, 2010, and May 10, 2010, Jeb Benedict (CenturyLink) and I (Windstream) met with, respectively, Jennifer Schneider, Senior Policy Advisor and Legal Advisor to Commissioner Michael Copps, and Christine Kurth, Policy Director and Wireline Counsel to Commissioner Robert McDowell, regarding the North American Numbering Council's Recommendation for implementing FCC Order 09-41.¹

Windstream and CenturyLink reiterated their joint request that the Federal Communications Commission (Commission) modify portions of the NANC Recommendation that would require carriers to disclose customer service records to a third party entity without any evidence that the customer at issue has approved this disclosure. Under the NANC Recommendation, customer service records must include data required to complete the fields used to validate a port, and also generally include customer names, addresses, and other sensitive and personally identifiable data, such as data on services and features to which the customer subscribes. It would make little sense for the NANC Recommendation to allow third party entities (or their agents, which may reside outside of the United States and may be telecommunications carriers in their own right) to access customer service records without at least the same level of authentication as that required for customers' accessing their own records. The NANC Recommendation's failure to permit any safeguards to ensure customers have approved disclosure of these data contradicts Section 222 of the Communications Act² (which requires carriers to protect sensitive customer data) and the Commission's *Four Fields*

¹ Letter from Betty Ann Kane, Chairman, North American Numbering Council, to Sharon E. Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket 07-244 (filed Dec. 2, 2009).

² 47 U.S.C. § 222.

*Order*³ (which ensures carriers have sufficient information to validate a customer’s request to port out a telephone number). Our discussion of these concerns was consistent with attached handouts and joint comments filed by CenturyLink, Iowa Telecom, and Windstream.⁴

Windstream and CenturyLink also stated that it would be insufficient for the Commission to adopt a “wait and see” approach toward abuses arising from undue disclosure of customer service records. Relying on after-the-fact reporting would place sensitive customer data immediately at risk and would be contrary to the prospective protections established by Section 222. Moreover, relying on disclosing carriers to report abuses would be insufficient: (1) it may be impossible for these carriers to know about abuses by others that access their customer service records, and (2) even if they could identify abuses, requiring disclosing carriers to report violations may put these carriers in legal jeopardy for failing to protect sensitive consumer data (as mandated by Section 222).⁵

Please feel free to contact me if you require additional information.

Sincerely,

/s/

Jennie B. Chandra

Attachments

cc: Christine Kurth
Jennifer Schneider

³ *Telephone Number Requirements for IP-Enabled Service Providers, Local Number Portability Porting Interval and Validation Requirements, et al.*, WC Docket Nos. 07-243, 07-244, *et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19554 ¶ 42 (2007) (“*Four Fields Order*”).

⁴ Comments of CenturyLink, Iowa Telecommunications, and Windstream, WC Docket No. 07-244 (filed Feb. 16, 2010).

⁵ The Commission, of course, could consider forbearing from Section 222 when adopting the NANC Recommendation. We, however, have no indication that the facts would satisfy the forbearance standard in this instance, or that the Commission would even consider this measure. Indeed, forbearance from Section 222 would run contrary to long-standing Commission precedent that requires carriers to safeguard sensitive customer data. *See, e.g., Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927 (2007).

Recommendation: The NANC Recommendation should be modified to permit carriers to require *Four Fields Order* validation data before disclosing a customer service record to a third party.

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Background

- The NANC Recommendation requires a customer service record to contain data required to complete the fields used to validate a port.¹ Pursuant to the *Four Fields Order*, these data include a customer's 10-digit telephone number, account number, and 5-digit ZIP Code.²
- To facilitate processing of ports, customer service records also generally contain customer names, addresses, and other sensitive and personally identifiable data, such as data on services and features that the customer subscribes to and identities of other carriers (like PICs) providing services.³

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Why the NANC Recommendation Must Be Modified

(1) The NANC Recommendation contradicts existing law and FCC precedent requiring carriers to safeguard sensitive customer data.

- The NANC Recommendation's failure to include concrete safeguards for sensitive customer data in customer service records⁴ invites abuse by unscrupulous carriers attempting to use customer service record requests to fish for sensitive customer data.⁵
- The NANC Recommendation is contrary to Section 222 of the Communications Act and the FCC's rules – which *obligate* carriers to enact safeguards to protect proprietary data.⁶
 - ❑ It makes little sense for the NANC Recommendation to allow wholesale entities (or their agents, some of which reside outside of the United States and may not be telecommunications carriers in their own right) to access customer service records without at least the same level of authentication as that required for the customers themselves.⁷

(2) The NANC Recommendation undermines FCC-approved protections that ensure validity of port requests.

- The FCC has specified “four fields” that “constitute the minimum but reasonable amount of information to validate a customer request and perform a port.”⁸
- The NANC Recommendation vitiates the protection established by the *Four Fields Order*.
 - ❑ Because the NANC Recommendation requires a customer service record to contain data needed to validate a number port, effectively a carrier must give a requesting entity “the answers to the test,” rather than ask it to “do its homework” with end users.
 - ❑ The NANC Recommendation and the porting fields proposals before the FCC would expressly prohibit the use of “carrier-initiated” passwords or PINs to protect data in the customer service record.⁹ This restriction is inconsistent with the *Four Fields Order*, which does not distinguish between carrier-assigned and customer-assigned pass codes.

¹ NANC Recommendation at 18, § 3.2; *id.* at 25, § 3.5.2.

² *Telephone Number Requirements for IP-Enabled Service Providers, Local Number Portability Porting Interval and Validation Requirements, et al.*, WC Docket Nos. 07-243, 07-244, *et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, 22 FCC Rcd 19531, 19554 ¶ 42 (2007) (“*Four Fields Order*”) (endorsing the use of these three fields and a fourth field for any pass code). The four validation fields are in addition to fields necessary to provision the new service (e.g., due date for porting out the number).

³ CPNI includes information about the services and features to which the customer subscribes and the identities of other carriers providing services on the line. 47 U.S.C. § 222(h).

⁴ NANC Recommendation at 17-18, § 3.2; *id.* at 25, § 3.5.2.

⁵ This concern is not merely theoretical. Commenters have received very large numbers of customer service record requests from particular carriers, very few of which were followed by actual port requests. It appears these carriers were attempting to abuse the ability to request customer service records to fish for customer data or for other improper purposes.

⁶ As the FCC has noted, section 222(a) “imposes a general duty on telecommunications carriers to protect the confidentiality of proprietary information – a duty owed to . . . customers.” See 47 U.S.C. § 222(a) (“Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, . . . customers”); *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; IP-Enabled Services*, CC Docket No. 96-115; WC Docket No. 04-36, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927 at n.6 (2007) (“*2007 CPNI Order*”). Section 222(c) and the Commission’s implementing Rules further impose explicit restrictions on disclosure of CPNI, given CPNI “includes some highly-sensitive personal information.” 47 U.S.C. § 222(c); 47 C.F.R. § 64.2010(a) (requiring that carriers “take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI”); *2007 CPNI Order* at ¶ 5. In the porting context in particular, the Commission has “reject[ed] . . . various requests for disclosure of CPNI by former carriers, *without* customer approval, to new carriers to enable the new carriers to initiate service.” *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended*, CC Docket Nos. 96-115 and 96-149, Order on Reconsideration and Petitions for Forbearance, 14 FCC Rcd 14409, 14454 ¶ 87 (1999) (emphasis in original).

⁷ Even with respect to non-call detail CPNI, a carrier is obligated to “properly authenticate” a customer requesting such information. See 47 C.F.R. § 64.2010(a). And in any event, a carrier’s overarching obligation to “take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI” does not distinguish between purported requests from customers and purported requests from other carriers. See *id.* In either case, there is a risk of unauthorized CPNI disclosure.

⁸ *Four Fields Order* at 19554 ¶ 42. See also *Local Number Portability Porting Interval and Validation Requirements, Telephone Number Portability, Embarq Petition for Waiver of Deadline*, WC Docket No. 07-244, CC Docket No. 95-116, Order, 23 FCC Rcd 2425, 2427 ¶ 7 (2008) (recognizing that “unless validation is performed correctly to assure that numbers being ‘ported out’ are in fact those for which requests have been submitted to the current provider, there is a significant risk that the incorrect customer’s number may be ported, resulting in inadvertent disconnection of that subscriber”).

⁹ See NANC Recommendation at 18, § 3.2; *id.* at 25, § 3.5.2; Non-Consensus Recommendation at 2. The Alternative Proposal would not recognize any pass code field, customer-initiated or otherwise.

PORTING FLOW PROCESS

1. End User – New Service Provider
The New Service Provider establishes initial contact with the End User.

2. PRE-ORDER ACTIVITY (CSR)
The New Service Provider requests release of End User's Customer Service Record. The Customer Service Record is returned to the New Service Provider so that the New Service Provider can (1) accurately quote how much it would cost to provide comparable service to the customer and/or (2) complete the porting order in a manner that is consistent with the Old Service Provider's records (thereby eliminating undue rejections of port requests).

3. ORDER ACTIVITY (LSR)
The Local Service Request is submitted by New Service Provider. The Old Service Provider processes the Local Service Request and makes preparations for the port.

4. PROVISIONING ACTIVITY
The local number is ported out by the Old Service Provider.