# Strategies Law Group, PLLC

February 27, 2012

**VIA ECFS**

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

RE: Annual CPNI Compliance Certification for 2007;
EB Docket No. 06-36

Dear Ms. Dortch:

Attached for filing on behalf of Convergence Technologies, Inc. ("Convergence") is the Annual CPNI Compliance Certification for 2007. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

Brian McDermott
Edward S. Quill, Jr.

Counsel for Convergence Technologies, Inc.

Enclosure

CC: Best Copy and Printing, Inc. (via email at FCC@BCPIWEB.com)

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**Annual 47 C.F.R. § 64.2009(e) CPNI Certification**

**EB Docket 06-36**

Annual 64.2009(e) CPNI Certification for 2007.

Name of company covered by this certification: **Convergence Technologies, Inc.**

Form 499 Filer ID: **82865**

Name of signatory: **Brian Young**

Title of signatory: **Chief Technical Officer**

I, Brian Young, certify that I am an officer of Convergence Technologies, Inc. (collectively, "the Company"), and acting as an agent of the Company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See* 47 C.F.R. § 64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining how the company's procedures ensure that the company is in compliance with the requirements set forth in section 64.2001 *et seq.* of the Commission's rules.

In 2007, the Company did not take any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission against data brokers) against data brokers.

The Company did not receive any customer complaints in the year 2007 concerning the unauthorized release of CPNI. Nor is the Company aware of any instances involving unauthorized disclosure of CPNI or improper access of CPNI by Company employees or access by individuals not authorized to receive or view the information.

Printed Name: Brian Young Position: Chief Technical Officer

Signature: Date: 2-27-12

# STATEMENT ON CONVERGENCE TECHNOLOGIES, INC.'S POLICY ON USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION

## Summary

The purpose of this statement is to memorialize the policy of Convergence Technologies, Inc. affiliates (collectively, "Convergence") on the use of Customer Proprietary Network Information ("CPNI"). Convergence provides VoIP services to business and residential customers throughout the United States. Convergence's policy is based upon and compliant with Federal Communications Commission ("FCC") rules and regulations governing CPNI.[1] Convergence is committed to the protection and non-disclosure of its customers' CPNI in compliance with existing rules and regulations.

Any questions regarding this policy or any use of CPNI should be directed to:

Deborah Cusack
Comptroller
Phone: (630) 344-1589
Fax: (773) 326-4641
Email: dcusack@converge-tech.com

Inquiries regarding any suspected violations by other carriers of the federal rules described in this policy should be directed to Deborah Cusack as well.

## Key Definitions

**Affiliate-** a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person. For the purposes of this paragraph, the term "own" means to own an equity interest of more than ten (10) percent.

**Customer Proprietary Network Information (CPNI)** – is defined as: (i) information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; (ii) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; (iii) except that such term does not include Subscriber List Information.

**Subscriber List Information**- means any information identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination of such listed names, numbers, addresses, or classifications; and that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

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[1] 47 U.S.C. § 222.

# Convergence's CPNI Policy

## I) USE OF CPNI WITHOUT CUSTOMER APPROVAL

In certain instances, Convergence may use, disclose or permit access to CPNI without having to obtain customer approval, including:

1) To initiate, render, bill and collect for telecommunications services;

2) To protect the rights or property of Convergence, or to protect users or other carriers from fraudulent, abusive, or illegal use of, or subscription to, such service;

3) To market services within the package of services to which the customer already subscribes; and,

4) To complete inside wiring installation, maintenance, and repair services.

## II) USE OF CPNI WHEN CUSTOMER APPROVAL IS REQUIRED

If Convergence's use of CPNI does not fall within one of the exception for which no notice is required, then Convergence will acquire customer approval before proceeding with such use. Convergence will utilize either the "Opt-Out" or "Opt-In" method at its discretion, each of which is described in greater detail below. Prior to any solicitation for customer approval, Convergence will provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI. Convergence's solicitation for use of CPNI will be proximate to the notification of a customer's CPNI rights.

### A. Notification Requirements Generally

1) The notification shall state that the customer has the right, and that Convergence has the duty, under federal law, to protect the confidentiality of the customer's CPNI.

2) The notification shall specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purpose for the which the CPNI will be used and inform the customer of their right to disapprove those uses, and deny or withdraw access to CPNI at any time.

3) The notification shall advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and shall clearly state that a denial of approval will not affect the provision of any services to which the customers subscribes. Convergence may state that the customer's approval to use CPNI may

enhance the carrier's ability to offer products and services tailored to the customer's need.

4) The notification shall state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes from the carrier is valid until the customer affirmatively revokes or limits such approval or denial.

5) Convergence will maintain records of notification, whether oral, written or electronic, for at least one (1) year from the date of notification.

**B. Opt-Out Approval**

The following are additional requirements concerning opt-out approval:

1) To ensure that customers have an opportunity to respond, there will be a reasonable waiting period, at least 30 days, before consent to use CPNI is inferred. Convergence will notify customers as to the applicable waiting period. Convergence will honor customer decisions to opt-out of requested uses whenever those decisions are communicated by customers, which may occur during or after the waiting period. Convergence will implement and honor the customer's later request for privacy as expeditiously as possible within the regular course of business. Convergence will notify customers as to the applicable waiting period for a response before approval is assumed.

2) In the case of written notification by mail, the waiting period will begin to run on the third day following the date the notification was mailed. In the case of electronic notification, the waiting period will begin to run on the date the notification was sent.

3) Convergence will transmit refresher notices to customers of their opt-out rights at least every two (2) years. The refresher notice will advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election. However, customers who wish to reverse their previous decision to opt-out, or consumers who have not previously opted-out but wish to do so, must take action as described in the notice.

4) If Convergence's opt-out mechanisms break down, Convergence will notify the FCC within five (5) business days in a format compliant with FCC rules.

5) When Convergence uses an electronic form of Notification, Convergence will also:

   a) obtain express, verifiable prior approval from the customer that electronic notices are acceptable for their services in general or CPNI in particular.

b) allow customers to reply directly to the electronic notice to opt-out.

c) not count electronic notices that were returned as undeliverable as having satisfied the Notification requirement.

d) ensure that the subject line clearly identifies the subject matter of the e-mail.

e) make available to every customer (including but not limited to those without Internet access and disabled customers) a method to opt-out that is of no additional cost to the customer and available 24 hours a day, seven days a week.

### C. Opt-In Approval

Opt-In approval means that Convergence will obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure or access after the customer is provided appropriate notification of the carrier's request.

### D. Oral Notification

Convergence will provide notification to obtain opt-out approval through electronic or written methods and not by oral methods, except that Convergence may use oral notice to obtain limited, one time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether Convergence uses opt-out or opt-in approval based on the nature of the contact. When using the one time oral notice, the Convergence representative will clearly communicate the same information that is provided in an Convergence written notice; however, the Convergence representative need not advise customers that: (1) Convergence may share CPNI with their affiliates or third parties and need not name those entities if the limited CPNI usage will not result in use by or disclosure to an affiliate or third party; (2) certain steps are necessary to approval or restrict use of CPNI as long as the representative makes it clear that the customer can deny access for the call; and, (3) previous opt-out decisions require no further action to maintain the opt-out election.

Notation will be made in the customer records of any one-time oral notice to the customer and the customer's acceptance or rejection of one-time use of CPNI.

### E. Subsequent Notices

Convergence will honor its customers' CPNI elections until a customer affirmatively changes his or her election. Following a customer's election to withhold approval of CPNI usage, Convergence may subsequently attempt to secure the customer's approval to use, disclose, or permit access to CPNI as frequently as Convergence deems appropriate, however, Convergence will not force customers to opt-out repeatedly in an attempt to wear the customer down and

obtain an inadvertent approval. Upon receipt of written request by the customer, Convergence will disclose CPNI to the customer.

### F. New Customers

Convergence may request that consumers affirmatively make a CPNI election when the customer signs up for service. However, if Convergence provides an opt-out notice but does not require the customer to specifically demonstrate his decision to opt-out, then Convergence will abide by the thirty (30) day waiting period. The customer's election will be separate and distinct from the customer's decision to purchase Convergence's service. Convergence will not require customers to assent to CPNI as a condition of service. New customers will also be required to select a password for accessing CPNI.

## III) ADDITIONAL SAFEGUARDS

1) **Customer Status**: Convergence has implemented a system where a customer's CPNI approval status is clearly indicated on the customer's records.

2) **Training**: Convergence personnel will be trained as to when and how CPNI may be used and will sign a statement attesting that they have been trained.

3) **Disciplinary Action**: Failure to abide by the Convergence's CPNI policy will result in disciplinary action, including possible termination, in accordance with the company's then current employment policies and procedures in place.

4) **Marketing Campaigns**: Convergence and its affiliates that utilize CPNI in marketing campaigns must create a record specifying when and how CPNI was used and to whom it was disclosed or to whom access was permitted. This record must include a description of the campaign, the CPNI used, and the products and services offered in the campaign. Copies of all records will be retained by Deborah Cusack. The records will be maintained for at least one year.

5) **Outbound Marketing**: All sales personnel are required to obtain supervisory approval of any proposed outbound marketing request for customer approval.

6) **Carrier Authorization Requirements**: In order to prevent data brokers or "pretexters" from illegally collecting CPNI information, Convergence will not release call detail information to customers during customer-initiated telephone contact except when the customer provides a password. If a customer does not provide a password, Convergence will either send it to an address of record or call the customer at the telephone of record. Convergence also requires mandatory password protection for online account access. Convergence will provide CPNI to customers based on in-store contact with valid photo identification.

7) **Reporting:** Convergence is aware of its obligation to report any breach in CPNI policy. Records pertaining to breaches will be kept for at least two years.

**Employee Acknowledgement**

**I, _____, hereby acknowledge that I have reviewed and are familiar with Convergence's CPNI Policy ("Policy"). I acknowledge that I understand the obligations that those rules impose upon me in protecting customer information and that I am obligated to report any violation in that Policy. I further attest that I have been given a copy of Convergence's CPNI Policy and that I have been made aware that disciplinary action may be taken if I fail to abide by the obligations in the Policy including possible termination from employment.**

_____

**(Signature and Date)**