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

EB Docket 06-36

Annual 64.2009(e) CPNI Certification for 2013 covering the prior calendar year 2012

1. Date filed: February 22, 2013

2. Name of company covered by this certification: Smartcom Telephone, LLC

3. Form 499 Filer ID: 822978

4. Name of signatory: Alan Yoder

5. Title of signatory: President

6. Certification:

I, Alan Yoder, certify that I am an officer of the Company named above, 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 (including those mandating the adoption of CPNI procedures, training, recordkeeping, and supervisory review) set forth in section 64.2001 *et seq.* of the Commission's rules.

The Company has not taken any actions (*i.e.*, 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 in the past year.

The Company has not received customer complaints in the past year concerning the unauthorized release of CPNI.

The Company represents and warrants that the above certification is consistent with 47 C.F.R. § 1.17 which requires truthful and accurate statements to the Commission. The Company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed: _____

Attachment: Accompanying Statement Explaining CPNI Procedures

Statement Concerning the Protection of Customer Proprietary Network Information And Explanation of How Company's Procedures Ensure Compliance With FCC Rules

1. Smartcom Telephone, LLC, ("Company") is a telecommunications carrier subject to the requirements set forth in Section 64.2009 of the Federal Communications Commission's ("FCC's") rules. Company has established policies and procedures to satisfy compliance with the FCC's rules pertaining to use, disclosure and access to customer proprietary network information ("CPNI") set forth in sections 64.201 et. seq.

2. The Company recognizes that CPNI includes information that is personal and individually identifiable, and that privacy concerns have led Congress and the FCC to impose restrictions upon its use and disclosure, and upon the provision of access to it by individuals or entities inside and outside the Company.

3. The Company has designated a CPNI Compliance Officer who is responsible for: (1) communicating with the Company's attorneys and/or consultants regarding CPNI responsibilities, requirements and restrictions; (2) supervising the training of Company employees and agents who use or have access to CPNI; (3) supervising the use, disclosure, distribution or access to the Company's CPNI by independent contractors and joint venture partners; (4) maintaining records regarding the use of CPNI in marketing campaigns; and (5) receiving, reviewing and resolving questions or issues regarding use, disclosure, distribution or provision of access to CPNI.

4. Company employees and agents that may deal with CPNI have been informed that there are substantial federal restrictions upon CPNI use, distribution and access. In order to be authorized to use or access the Company's CPNI, employees and agents must receive training with respect to the requirements of Section 222 of the Communications Act and the FCC's CPNI Rules (Subpart U of Part 64 of the FCC Rules).

5. Before an agent, independent contractor or joint venture partner may receive or be allowed to access or use the Company's CPNI, the agent's, independent contractor's or joint venture partner's agreement with the Company must contain provisions (or the Company and the agent, independent contractor or joint venture partner must enter into an additional confidentiality agreement which provides) that: (a) the agent, independent contractor or joint venture partner may use the CPNI only for the purpose for which the CPNI has been provided; (b) the agent, independent contractor or joint venture partner may not disclose or distribute the CPNI to, or allow access to the CPNI by, any other party (unless the agent, independent contractor or joint venture partner is expressly and specifically required to do so by a court order); and (c) the agent, independent contractor or joint venture partner must implement appropriate and specific safeguards acceptable to the Company to ensure the confidentiality of the Company's CPNI.

6. If a customer calls Company requesting information that is considered CPNI, Company does not release such information unless customer provides a pre-established password, requests that the information be sent to the customer's address of record, or Company calls the telephone number of record and discusses the requested information.

7. Without customer approval, Company does not use, disclose or permit access to CPNI to provide or market service offerings within a category of service to which the customer does not already subscribe, except as permitted by the FCC rules.

8. Information protected by Company includes information that relates to the quantity, technical configuration, type, destination, location and amount of use of a telecommunications service subscribed

to by a customer and made available to Company by the customer solely by virtue of the carrier-customer relationship. Also protected is information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer.

9. Company does not use, disclose or permit access to CPNI to identify or track customers that call competing service providers.

10. Company has established a system by which they can determine whether a customer has approved or disapproved of Company's release or use of CPNI prior to that information being used or released.

11. Company personnel are trained as to when they are and are not authorized to release or use CPNI, and violation of these rules will subject personnel to express disciplinary action (including remedial training, reprimands, unfavorable performance reviews, probation, and termination), depending upon the circumstances of the violation (including the severity of the violation, whether the violation was a first time or repeat violation, whether appropriate guidance was sought or received from the CPNI Compliance Officer, and the extent to which the violation was or was not deliberate or malicious).

12. If and when customer approval to use, disclose, or permit access to customer CPNI is desired, Company obtains such customer approval through written or oral methods (however, we only utilize the oral authorization to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts, and such CPNI authority, if granted, lasts only for the duration of that specific call). Company honors a customer's approval or disapproval until the customer revokes or limits such approval or disapproval.

13. Company has established a procedure whereby all sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval of the use of CPNI and records reflecting carrier compliance with the Commission Rules are maintained for a minimum of one year.

14. Prior to any solicitation for customer approval, Company provides notification to customers of their right to restrict use of, or disclosure of, and access to the customer's CPNI. Records of these notifications are maintained for a period of at least one year.

15. Company's notifications provide information sufficient to enable our customers to make informed decisions as to whether to permit the use or disclosure of, or access to, their CPNI. Company's notifications do: (1) contain a statement that the customer has a right, and Company has a duty under federal law, to protect the confidentiality of CPNI; (2) specify the types of information that constitute CPNI and the specific entities that will receive the CPNI; (3) describe the purposes for which the CPNI may be used; and (4) inform the customer of the right to disapprove those uses and deny or withdraw access to or use of CPNI at any time.

16. Company's notifications inform the customer that any approval or denial of approval for the use of CPNI outside of the service to which the customer already subscribes is valid until the customer affirmatively revokes or limits such approval or denial.

17. Company advises its customers of the precise steps the customer must take in order to grant or deny access to CPNI, and that denial of approval will not affect the provision of any services to which the customer subscribes.

18. Company maintains a record of its sales and marketing campaigns that use customer's CPNI. Further, a record of all instances where CPNI was disclosed or provided to third parties or where third parties were allowed access to CPNI is maintained by Company. These records reflect a description of the

campaigns, the specific CPNI used in the campaign and what products or services were offered as part of the campaign. These records are retained for a minimum of one year.

19. Company maintains appropriate paper and/or electronic records that allow its employees, independent contractors and joint venture partners to clearly establish the status of each customer's Out-out and/or Opt-In approvals (if any) prior to use of the customer's CPNI. These records include: (i) the date(s) of any and all of the customer's deemed Opt-out approvals and/or Opt-in approvals, together with the dates of any modifications or revocations of such approvals; and (ii) the type(s) of CPNI use, access, disclosure and/or distribution approved by the customer.

20. Before a customer's CPNI can be used in an out-bound marketing activity or campaign, the Company's records must be checked to determine the status of the customer's CPNI approval. Company employees, independent contractors and joint venture partners are required to notify the CPNI Compliance Officer of any access, accuracy or security problems they encounter with respect to these records.

    If new, additional or extended approvals are necessary, the CPNI Compliance Officer will determine whether the Company's "Opt-Out CPNI Notice" or "Opt-In CPNI Notice" must be used with respect to various proposed out-bound marketing activities.

21. If a breach of CPNI occurs, Company will provide electronic notification of the breach to the U.S. Secret Service and the FBI as soon as practicable and in no event more than seven (7) days after reasonable determination of the breach. Company will also notify customer within seven (7) more days unless there is a risk of immediate and irreparable harm to the customer in which case Company will notify the customer immediately after consulting with and in cooperation with the relevant investigative agency. Company will keep records or discovered breaches for at least two (2) years.

22. If Company determines that the opt-out mechanisms did not work properly, Company will notify the Commission by way of written notification within five (5) business days of said determination. The notice will be in the form of a letter and include, among other things, a description of the opt-out mechanism used, the problem experienced, the remedy proposed and when it will be or was implemented. In addition, the letter will inform the Commission as to whether or not the relevant state commission has been notified, whether it has taken any action, a copy of the notice provided to the customer and contact information. This notice will be submitted even if Company has other methods in place by which consumers may opt-out.