

**SECTION 222 OF THE  
COMMUNICATIONS ACT OF 1934, AS AMENDED  
47 U.S.C. 222**

Section 222 [47 USC Section 222]. Privacy of Customer Information

(a) In General

Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

(b) Confidentiality of Carrier Information.

A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

(c) Confidentiality of Customer Proprietary Network Information.—

(1) Privacy requirements for telecommunications carriers.

Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of

(A) the telecommunications service from which such information is derived, or

(B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

(2) Disclosure on request by customers.

A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

(3) Aggregate customer information.

A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefore.

(d) Exceptions.

Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—125

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

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services;

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d))—

(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.

(e) Subscriber List Information.

Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

(f) **AUTHORITY TO USE WIRELESS LOCATION INFORMATION.** For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d)), other than in accordance with subsection (d)(4); or

(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

(g) **SUBSCRIBER LISTED AND UNLISTED INFORMATION FOR EMERGENCY SERVICES.**

Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide information described in subsection (i)(3)(A) (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.

(h) Definitions.

As used in this section:

(1) Customer proprietary network information.

The term "customer proprietary network information" means—

(A) 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; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information.

(2) Aggregate information.

The term "aggregate customer information" means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

(3) Subscriber list information.

The term "subscriber list information" means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(4) PUBLIC SAFETY ANSWERING POINT.

The term "public safety answering point" means a facility that has been designated to receive emergency calls and route them to emergency service personnel.

(5) EMERGENCY SERVICES.

The term "emergency services" means 911 emergency services and emergency notification services.

(6) EMERGENCY NOTIFICATION SERVICES.

The term "emergency notification services" means services that notify the public of an emergency.

(7) EMERGENCY SUPPORT SERVICES.

The term "emergency support services" means information or data base management services used in support of emergency services.

## **EXISTING FCC RULES GOVERNING THE USE OF CPNI**

### **PART 64 SUBPART U Customer Proprietary Network Information**

#### **47 C.F.R. § 64.200164.2009**

##### **64.2001 Basis and purpose.**

(a) Basis. The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended.

(b) Purpose. The purpose of the rules in this subpart is to implement Section 222 of the Communications Act of 1934, as amended, 47 USC §222.

##### **64.2003 Definitions.**

Terms used in this subpart have the following meanings:

(a) Affiliate. The term "affiliate" has the same meaning given such term in Section 3(1) of the Communications Act of 1934, as amended, 47 USC 153(1).

(b) Communications related services. The term "communications related services" means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

(c) Customer. A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(d) Customer proprietary network information (CPNI). The term "customer proprietary network information (CPNI)" has the same meaning given to such term in Section 222(h)(1) of the Communications Act of 1934, as amended, 47 USC 222(h)(1).

(e) Customer premises equipment (CPE). The term "customer premises

equipment (CPE)” has the same meaning given to such term in Section 3(14) of the Communications Act of 1934, as amended, 47 USC 153(14).

(f) Information services typically provided by telecommunications carriers. The phrase “information services typically provided by telecommunications carriers” means only those information services (as defined in Section 3(20) of the Communications Act of 1934, as amended, 47 USC 153(2)) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. Such phrase “information services typically provided by telecommunications carriers,” as used in this subpart, shall not include retail consumer services provided using Internet websites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

(g) Local exchange carrier (LEC). The term “local exchange carrier (LEC)” has the same meaning given to such term in Section 3(26) of the Communications Act of 1934, as amended, 47 USC 153(26).

(h) Optin approval. The term “optin approval” refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier 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 consistent with the requirements set forth in this subpart.

(i) Optout approval. The term “optout approval” refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in §64.2009(d)(1) after the customer is provided appropriate notification of the carrier's request for consent consistent with the rules in this subpart.

(j) Subscriber list information (SLI). The term “subscriber list information (SLI)” has the same meaning given to such term in Section 222(h)(3) of the Communications Act of 1934, as amended, 47 USC 222(h)(3).

(k) Telecommunications carrier or carrier. The terms “telecommunications carrier” or “carrier” shall have the same meaning as set forth in Section 3(44) of the Communications Act of 1934, as amended, 47 USC 153(44).

(l) Telecommunications service. The term “telecommunications service” has the same meaning given to such term in Section 3(46) of the Communications Act of 1934, as amended, 47 USC 153(46).

#### **64.2005 Use of customer proprietary network information without customer approval.**

(a) Any telecommunications carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (i.e., local, interexchange, and CMRS) to which the customer already subscribes from the same carrier, without customer approval.

(1) If a customer subscribes to more than one category of service offered by the carrier, the carrier is permitted to share CPNI among the carrier's affiliated entities that provide a service offering to the customer.

(2) If a telecommunications carrier provides different categories of service, but a customer does not subscribe to more than one offering by the carrier, the carrier is not permitted to share CPNI with its affiliates, except as provided in 64.2007(b).

(b) A telecommunications carrier may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the subscriber does not already subscribe from that carrier, unless that carrier has customer approval to do so, except as described in paragraph (c) of this section.

(1) A wireless provider may use, disclose, or permit access to CPNI derived from its provision of CMRS, without customer approval, for the provision of CPE and information service(s). A wireline carrier may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of CPE and call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.

(2) A telecommunications carrier may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers. For example, a local exchange carrier may not use local service CPNI to track all customers that call local service competitors.

(c) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(2) CMRS providers may use, disclose, or permit access to CPNI for the purpose of conducting research on the health effects of CMRS.

(3) LECs and CMRS providers may use CPNI, without customer approval, to market services formerly known as adjunct basic services, such as, but not limited to, speed dialing, computer provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain Centrex features.

(d) A telecommunications carrier may use, disclose, or permit access to CPNI to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services.

#### **64.2007 Approval required for use of customer proprietary network information.**

(a) A telecommunications carrier may obtain approval through written, oral or electronic methods.

(1) A telecommunications carrier relying on oral approval shall bear the burden of demonstrating that such approval has been given in compliance with the Commission's rules in this part.

(2) Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a telecommunications carrier must remain in effect until the customer revokes or limits such approval or disapproval.

(3) A telecommunications carrier must maintain records of approval, whether oral, written or electronic, for at least one year.

(b) Use of OptOut and OptIn Approval Processes.

(1) A telecommunications carrier may, subject to optout approval or optin approval, use its customer's individually identifiable CPNI for the purpose of marketing communications related services to that customer. A telecommunications carrier may, subject to optout approval or

optin

approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications related services to that customer, to its agents; its affiliates that provide communications related services; and its joint venture partners and independent contractors. A telecommunications carrier may also permit such persons or entities to obtain access to such CPNI for such purposes. Any such disclosure to or access provided to joint venture partners and independent contractors shall be subject to the safeguards set forth in paragraph (b)(2) of this section.

(2) Joint Venture/Contractor Safeguards. A telecommunications carrier that discloses or provides access to CPNI to its joint venture partners or independent contractors shall enter into confidentiality agreements with independent contractors or joint venture partners that comply with the following requirements. The confidentiality agreement shall: (i) Require that the independent contractor or joint venture partner use the CPNI only for the purpose of marketing or providing the communications related services for which that CPNI has been provided; (ii) Disallow the independent contractor or joint venture partner from using, allowing access to, or disclosing the CPNI to any other party, unless required to make such disclosure under force of law; and (iii) Require that the independent contractor or joint venture partner have appropriate protections in place to ensure the ongoing confidentiality of consumers' CPNI.

(3) Except for use and disclosure of CPNI that is permitted without customer approval under §64.2005, or that is described in paragraph

(b)(1) of this section, or as otherwise provided in Section 222 of the Communications Act of 1934, as amended, a telecommunications carrier may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to optin approval.

#### **64.2008 Notice required for use of customer proprietary network information.**

(a) Notification, Generally.

(1) Prior to any solicitation for customer approval, a telecommunications carrier must provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.

(2) A telecommunications carrier must maintain records of notification, whether oral, written or electronic, for at least one year.

(b) Individual notice to customers must be provided when soliciting approval to use, disclose, or permit access to customers' CPNI.

(c) Content of Notice. Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

(1) The notification must state that the customer has a right, and the carrier has a duty, under federal law, to protect the confidentiality of CPNI.

(2) The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI

at any time.

(3) The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, carriers may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

(4) The notification must be comprehensible and must not be misleading.

(5) If written notification is provided, the notice must be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

(6) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(7) A carrier may state in the notification that the customer's approval to use CPNI may enhance the carrier's ability to offer products and services tailored to the customer's needs. A carrier also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

(8) A carrier may not include in the notification any statement attempting to encourage a customer to freeze third party access to CPNI.

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

(10) A telecommunications carrier's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

#### (d) Notice Requirements Specific to OptOut.

A telecommunications carrier must provide notification to obtain optout approval through electronic or written methods, but not by oral communication (except as provided in paragraph (f) of this section). The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(1) Carriers must wait a 30day minimum period of time after giving customers notice and an opportunity to optout before assuming customer approval to use, disclose, or permit access to CPNI. A carrier may, in its discretion, provide for a longer period. Carriers must notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period shall begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period shall begin to run on the third day following the date that the notification was mailed.

(2) Carriers using the optout mechanism must provide notices to their customers every two years.

(3) Telecommunications carriers that use email to provide optout notices must comply with the following requirements in addition to the requirements generally applicable to notification:

- (i) Carriers must obtain express, verifiable, prior approval from consumers to send notices via email regarding their service in general, or CPNI in particular;
- (ii) Carriers must allow customers to reply directly to emails containing CPNI notices in order to optout;
- (iii) Optout email notices that are returned to the carrier as undeliverable must be sent to the customer in another form before carriers may consider the customer to have received notice;
- (iv) Carriers that use email to send CPNI notices must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and
- (v) Telecommunications carriers must make available to every customer a method to optout that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. Carriers may satisfy this requirement through a combination of methods, so long as all customers have the ability to optout at no cost and are able to effectuate that choice whenever they choose.

(e) Notice Requirements Specific to OptIn.

A telecommunications carrier may provide notification to obtain optin approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of paragraph (c) of this section.

(f) Notice Requirements Specific to One Time Use of CPNI.

- (1) Carriers may use oral notice to obtain limited, onetime use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether carriers use optout or optin approval based on the nature of the contact.
- (2) The contents of any such notification must comply with the requirements of paragraph (c) of this section, except that telecommunications carriers may omit any of the following notice provisions if not relevant to the limited use for which the carrier seeks CPNI:

- (i) Carriers need not advise customers that if they have optedout previously, no action is needed to maintain the optout election;
- (ii) Carriers need not advise customers that they 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;
- (iii) Carriers need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as carriers explain to customers that the scope of the approval the carrier seeks is limited to onetime use; and
- (iv) Carriers may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the carrier clearly communicates that the customer can deny access to his CPNI for the call.

**64.2009 Safeguards required for use of customer proprietary network information.**

- (a) Telecommunications carriers must implement a system by which the status of a customer's CPNI approval can be clearly established prior to the use of CPNI.
- (b) Telecommunications carriers must train their personnel as to when they are

and are not authorized to use CPNI, and carriers must have an express disciplinary process in place.

(c) All carriers shall maintain a record, electronically or in some other manner, of their own and their affiliates' sales and marketing campaigns that use their customers' CPNI. All carriers shall maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Carriers shall retain the record for a minimum of one year.

(d) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with the rules in this subpart for outbound marketing situations and maintain records of carrier compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(e) A telecommunications carrier must have an officer, as an agent of the carrier, sign a compliance certificate on an annual basis stating that the officer has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart.

(f) Carriers must provide written notice within five business days to the Commission of any instance where the optout mechanisms do not work properly, to such a degree that consumers' inability to optout is more than an anomaly.

(1) The notice shall be in the form of a letter, and shall include the carrier's name, a description of the optout mechanism(s) used, the problem(s) experienced, the remedy proposed and when it will be/was implemented, whether the relevant state commission(s) has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

(2) Such notice must be submitted even if the carrier offers other methods by which consumers may optout.

**NEW FCC RULES GOVERNING THE USE OF CPNI  
PART 64 SUBPART  
U Customer  
Proprietary Network Information**

**47 C.F.R. § 64.200164.2011**  
**(Effective Date Yet to Be Announced)**

## **APPENDIX 2**

# **TABLE OF FCC ORDERS**

### ***CPNI Order***

*Implementation of the Telecommunications Act of 1986: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the NonAccounting Safeguards of Sections 271 and 272 of the Communications Act of 1934 as Amended, CC Docket Nos. 96115, 96149, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 9827*  
13 FCC Rcd 8061 (rel. Feb. 26, 1998)

### ***First CPNI Clarification Order***

*Implementation of the Telecommunications Act of 1986: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96115, Order, 13 FCC Rcd 12390 (1998) DA 98971*  
(rel. May 21, 1998)

### ***Electronic Safeguards Order***

*Implementation of the Telecommunications Act of 1986: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96115, Order, FCC 98239*  
(rel. Sept. 24, 1998)

### ***CPNI Reconsideration Order***

*Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information; CC Docket No. 96115, and Implementation of the NonAccounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96149, Order on Reconsideration and Petitions for Forbearance, 14 FCC Rcd 14409 (1999), FCC 99223 (Rel. Sept. 3, 1999)*

***Second CPNI Clarification Order and CPNI Second Further NPRM***  
*Implementation of the Telecommunications Act of 1996: Telecommunications Carrier's Use of Customer Proprietary Network Information and Other Customer Information; CC Docket No. 96115,*  
*Implementation of the NonAccounting Safeguards of Section 271 and 272 of the Communications Act of 1934, As Amended, CC Docket No. 96149,*  
Clarification Order and Second Further  
Notice of Proposed Rulemaking, 16 FCC Rcd 16506 (2001) FCC 01247  
(Rel. Sept. 7, 2001)

***CPNI Third Report and Order***

*Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, CC Docket No. 96115,*  
*Implementation of the NonAccounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended, CC Docket No. 96149,*  
*2000 Biennial Regulatory Review Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 00257, Third Report and Order and Third Further Notice of Proposed Rulemaking, 17 FCC Rcd 14860 (2002), FCC 02214*

***Pretexting Order***

*Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, IPEnabled Services, CC Docket No. 96115,*  
*WC Docket No. 0436*  
(*Pretexting Order, Report and Order and FNPRM*) (Rel. April 2, 2007)

# **APPENDIX 3**

## **GLOSSARY OF CPNI TERMS**

### **USED IN THIS MANUAL**

## **APPENDIX 3**

### **GLOSSARY OF CPNI TERMS USED IN THIS MANUAL**

#### **Account Information**

Account information includes such things as account number or any component thereof, the telephone number associated with the account, or amount of last bill. (See Footnote 56 in Pretexting Order).

#### **Address of Record**

In the context of its new CPNI rules, the FCC reference to an “address of record,” whether postal or electronic, is an address that the carrier has associated with the customer’s account for at least 30 days. (See Footnote 46 in Pretexting Order).

#### **Affiliate**

The Communications Act defines "affiliate" as a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. In this context, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent. (47 U.S.C. § 153(1). This definition is incorporated into the FCC’s CPNI rules at 47 C.F.R. § 64.2003(a).

#### **Aggregate Customer Information**

The term "aggregate customer information" means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed. (47 U.S.C. § 222(f)(2)).

#### **Billing Name and Address (BNA)**

The term Billing Name and Address (BNA) means the name and address provided to a local exchange company by each of its customers to which the local exchange company bills for its services. (47 C.F.R. §64.4001(b)). Section 64.1201 of the FCC’s rules regulates the provision of BNA to others, specifically BNA with respect to nonsubscribed or operator services where a carrier does not have a record of the customer and must obtain BNA from the LEC associated with the ANI in order to bill the call. Section 64.1201(c) limits telecommunications service provider and authorized billing and collection agent use of BNA to: i) billing and collecting for the services provided by the telecommunications service provider; ii) equal access balloting upon initial conversion of an office from nonequal access to equal access; and iii) verification of service orders of new customers, identification of customers who have moved to a new address, fraud prevention, and similar nonmarketing purposes.

#### **Biographical Information**

“Readily available” biographical information includes such things as customer social security number or last four digits of the number, customer’s mother’s maiden name, home address, or date of birth. (Footnote 55 in Pretexting Order).

### **Call Detail Information or Call Records**

Any information that pertains to the transmission of specific telephone calls including, for outbound calls, the number called, and the time, location, or duration of any call and for inbound calls, the number from which the call was placed, the time, location, or duration of any call. (See, e.g., CPNI Third Report and Order, 17 FCC Rcd at 14864, para. 7).

### **Carrier Information**

Carrier information is defined within Section 222(b) of the Communications Act as “proprietary information from another carrier for purposes of providing any telecommunications service.”

### **Commercial Mobile Radio Service (CMRS)**

Section 20.3 of the FCC’s rules defines a “commercial mobile radio service” as follows: A mobile service that is: (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) an interconnected service; and (3) available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) the functional equivalent of such a mobile service described in paragraph (a) of this section. (47 C.F.R. 20.3).

### **Customer**

A customer as it is defined in the context of the FCC’s CPNI rules is a person or entity to which the telecommunications carrier is currently providing service. (47 C.F.R. 64.2003(c)).

### **Customer Name, Address and Telephone Number**

“[Use of] customers’ name, address, and telephone number for marketing purposes would not be subject to CPNI restrictions because such information is not CPNI. A carrier can contact all of its customers or all of its former customers, for marketing purposes, by using a customer list that contains each customer’s name, address, and telephone number, so long as it does not use CPNI to select a subset of customers from that list.” (First CPNI Clarification Order at ¶ 9).

### **Customer Proprietary Network Information (CPNI)**

The Communications Act defines Customer proprietary network information (CPNI) as: (1) information that relates to the quantity, technical configuration, type, destination, 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 customer-carrier relationship; and (2) information contained in bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; except that such term does not include subscriber list information. (47 U.S.C. 222(f)(1)). The FCC’s Part 64, Subpart U CPNI rules incorporate this definition at 47 C.F.R. 64.2003(d).

### **Customer Premises Equipment (CPE)**

The term "customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. (47 U.S.C. § 153(14)).

### **Digital Subscriber Line (DSL)**

Technology that allows simultaneous transmission of dialed calls and high speed data over the same loop.

### **Do Not Call Registry and Individual Entity Do Not Call Lists**

The FCC's Telemarketing Rules are codified at Part 64, Subpart, Subpart L (47 C.F.R. 1200 et. seq.). Commercial entities, including telecommunications common carriers shall not make calls to numbers on the national DoNotCall Registry unless the entity has a preexisting commercial relationship with the customer.

### **Information Service**

The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service (see 47 U.S.C. 153 (20)).

### **Information Services Typically Provided by Telecommunications Carriers**

For the purposes of its CPNI rules, the FCC uses the phrase "information services typically provided by telecommunications carriers" which means only those information services (as defined in 47 U.S.C. 153(20) – see above) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. The phrase does not include retail consumer services provided using Internet websites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services. (47 C.F.R. § 64.2003(f)).

### **Inside Wiring**

Customer owned or controlled wire on the subscriber's side of the demarcation point. (47 CFR § 68.3).

### **Interconnected VoIP Provider**

The FCC has defined an "interconnected VoIP provider" as a provider of interconnected VoIP service. This service is defined as a service that

(1) enables realtime, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public-switched telephone network and to terminate calls to the public-switched telephone network. (47 C.F.R. § 9.3). In its new CPNI rules, the FCC stated that a service offering is "interconnected VoIP" if it offers

the capability for users to receive calls from and terminate calls to the PSTN regardless of whether access to the PSTN is directly through the interconnected VoIP provider or through arrangements with a third party. (See Footnote 180 in Pretexting Order).

### **Law Enforcement**

In the context of CPNI and notifying law enforcement of a breach of its customers' CPNI, the term "law enforcement" refers to the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI). The FCC will maintain a link to report CPNI breaches to law enforcement at [www.fcc.gov/eb/cpni](http://www.fcc.gov/eb/cpni). (See para. 29 and footnote 95 in Pretexting Order).

### **Local Exchange Carrier**

The term "local exchange carrier" means any person that is engaged in the provision of telephone exchange service or exchange access. (47 U.S.C. § 153(26)).

### **Long Distance or Interexchange Carrier**

The term long distance carrier or "interexchange carrier" means a telephone company that provides telephone toll service. An interexchange carrier does not include commercial mobile radio service providers as defined by federal law. (47 C.F.R. 64.4001(d)).

### **OptIn Approval**

The term "optin approval" refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier 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 consistent with the requirements set forth in the FCC's CPNI rules. (47 C.F.R. § 64.2003(h)).

### **Optout Approval**

The term "optout approval" refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in Section 64.2009(d)(1) of the FCC's CPNI rules, after the customer is provided appropriate notification of the carrier's request for consent consistent with the FCC's CPNI rules. (47 C.F.R. 64.2003(i)).

### **Preferred Interexchange Carrier (PIC)**

The term preferred interexchange carrier means the carrier to which a customer chooses to be presubscribed for purposes of receiving intraLATA and/or interLATA and/or international toll services. (47 C.F.R. 64.4001(f)). This term was originally "primary interexchange carrier;" however, when the FCC revised its slamming rules, the revised rules replaced the term "primary interexchange carrier" with "preferred interexchange carrier."

## **Pretexting**

The practice of pretending to be a particular customer or other authorized person in order to obtain access to that customer's call detail or other private communications records. This practice is a criminal offense subject to fines and imprisonment. Telephone Records and Privacy Protection Act of 2006, Pub. L. No. 109476, 120 Stat. 3568 (2007) (codified at 18 U.S.C. § 1039). (See Footnote 1 in Pretexting Order).

## **Streamlined Consent for OneTime Use of CPNI**

Under a policy adopted in the CPNI Third Report and Order, the FCC allows carriers to utilize a streamlined approach in providing notice for limited, onetime use during an inbound calls from customers or outbound calls to customers. (See Paragraph 98 of the Third CPNI Report and Order). If approval is obtained for the use of CPNI during a call under this streamlined approach, the approval lasts only for the duration of the call.

## **Subscriber List Information**

Subscriber List Information is not CPNI. Subscriber list information is any information (1) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and (2) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format." (47 U.S.C. § 222(f)(3)). Section 222(e) of the Communications Act requires local exchange carriers to provide subscriber list information on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

## **Telecommunications Carrier or Carrier**

The terms "telecommunications carrier" and "carrier" in the context of the FCC's CPNI rules refer to telecommunications carriers and providers of interconnected VOIP service. (See Footnote 3 in Pretexting Order). The FCC defines telecommunications carriers as those that provide "telecommunications service" which is defined below. These include incumbent and competitive local exchange companies, long distance companies and Commercial Mobile Radio Service (CMRS) companies. Providers of interconnected VOIP services are defined above.

## **Telecommunications Service**

The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(47 U.S.C. § 153(46)). The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (47 U.S.C. § 153(43)).

**Telephone Number of Record**

In its new CPNI rules, the FCC defined “telephone number of record” as the telephone number associated with the underlying service, rather than some other telephone number supplied as a customer’s “contact information.” (See Footnote 46 in Pretexting Order).

**Total Service Approach**

The FCC interpreted Section 222 of the Communications Act to mean that a telecom carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of telecommunications service offerings to which the customer already subscribes from the same carrier, without customer approval. The three “categories” of telecommunications service are local exchange, long distance and commercial mobile radio service (CMRS or wireless). (See CPNI Order at para. 24).

**Valid Photo ID**

In the context of its new CPNI rules, the FCC requires that customers that wish to access CPNI at the carrier’s retail location must present a valid photo ID and the valid photo ID matches the name on the account. In this context, a valid photo ID includes a government issued personal identification with a photograph such as a current driver’s license, passport, or comparable ID. (See Footnote 80 in Pretexting Order).