

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
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

**COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA) hereby submits its comments in the above-captioned proceeding.¹ As explained below, NCTA opposes the adoption of any new requirements regarding the use of customer proprietary network information (CPNI).

NCTA is the principal trade association representing the cable television industry in the United States. Its members include cable operators serving more than 90 percent of the nation's cable television subscribers, as well as more than 200 cable programming networks. The cable industry is the nation's largest provider of high-speed Internet access after investing over \$110 billion since 1996 to build out a two-way interactive network with fiber optic technology. Cable operators also are providing voice services to over 10 million customers.

¹ *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 6927 (2007) (*CPNI Order and Further Notice*).

In its recent *CPNI Order and Further Notice*, the Commission adopted a number of new requirements regarding the use of CPNI.² It also extended all of its CPNI requirements to providers of Interconnected VoIP service.³ Implementation of those requirements, which take effect later this year, may require a commitment of significant resources for some companies.

In the *CPNI Order and Further Notice*, the Commission solicits comment on whether it should impose additional CPNI obligations on telecommunications carriers and Interconnected VoIP providers. Specifically, the Commission identifies five areas where it is considering new obligations: passwords for non-call detail CPNI, audit trails, physical safeguards, data retention, and mobile devices.⁴

The cable industry recognizes that protecting the privacy of CPNI is critical, but NCTA believes it would be premature to impose additional CPNI requirements at this time. Before giving any serious consideration to new requirements, the Commission should first give providers the opportunity to implement the existing requirements and determine whether they are effective. There is no reason for the Commission to assume that these requirements, in conjunction with recent legislation imposing criminal penalties on pretexters,⁵ will not prove effective in minimizing pretexting activity.

While the benefits of additional CPNI regulation are uncertain, the burdens associated with the proposals identified in the *CPNI Order and Further Notice* – for providers and consumers – are significant. For example, applying password requirements to all CPNI, rather than just call detail records, would greatly expand the number of cable voice customers affected

² *CPNI Order and FNPRM* at ¶ 3.

³ *Id.* at ¶ 54.

⁴ *Id.* at ¶¶ 68-72.

⁵ Telephone Records and Privacy Protection Act, Public Law 109-476 (Jan. 12, 2007).

by those requirements. The original password requirement had a limited effect because most cable voice customers take service under flat-rated pricing plans, and therefore are unlikely to have billing disputes that could be resolved by reference to call detail records. Extending these requirements to all CPNI potentially affects many more customers.

Expanding the number of customers affected by password requirements is a significant concern to the cable industry because a password requirement is not an unqualified benefit. As the record in this docket demonstrates, passwords add a level of inconvenience for all consumers, and they may be particularly burdensome for certain groups of customers, such as senior citizens,⁶ people with disabilities,⁷ or non-English speaking customers.⁸ Given these concerns, extending the password requirement to new types of CPNI is not warranted at this time.

The Commission also asks whether it should adopt rules requiring providers to maintain audit trails or to limit data retention. As the Commission notes, it has asked these same questions before and concluded that neither approach is warranted.⁹ As NCTA explained in comments filed in 2006, audit trails do nothing to prevent the serious problem of pretexting.¹⁰ At best they might be helpful in investigating security breaches after they occur, but these benefits

⁶ See Letter from Krisitin Fabos, Executive Director, SeniorNet, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-115 (filed Dec. 12, 2006) (“[W]e ask that you not overreach and unnecessarily burden America’s seniors and all consumers by imposing a mandatory password requirement in order to access account information.”).

⁷ See Comments of the American Association of People With Disabilities, et al., CC Docket No. 96-115 (filed Dec. 8, 2006) at 2 (“[W]e believe that a requirement that ‘everyone must use passwords’ will prevent some people with disabilities from accessing the information they need to effectively manage cost and usage or to make changes to an account.”).

⁸ See Letter from Linda Sherry, Director, Consumer Action, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-115 (filed Dec. 13, 2006) (“We question how a mandatory password requirement would impact individuals who have little experience with passwords because they don’t have computers or Internet access. This could include vulnerable populations such as seniors, people with low incomes, immigrants and certain minority communities.”).

⁹ *CPNI Order and FNPRM* at ¶ 69.

¹⁰ Comments of the National Cable & Telecommunications Association, CC Docket No. 95-116 (filed Apr. 28, 2006) at 4 (NCTA 2006 Comments).

do not outweigh the significant costs of implementing an audit trail requirement. The Commission reached this same conclusion in 1999,¹¹ and it is no less accurate today.

Rules regarding data retention also raise concerns because they would limit the flexibility of a company to develop retention policies that respond to the needs of its business. As NCTA explained in its previous comments, there are costs to storing data; companies must balance these costs against the need to retrieve data to resolve disputes or comply with legitimate requests from customers or law enforcement.¹² An inflexible, across-the-board rule is neither necessary nor advisable under these circumstances.

For all the reasons explained herein, NCTA opposes the adoption of any new CPNI requirements.

Respectfully submitted,

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¹¹ *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, Order on Reconsideration and Petitions for Forbearance, 14 FCC Rcd 14409, 14475 (1999).

¹² NCTA 2006 Comments at 5.