

Draft CPNI Rules (Call Detail Version)

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Edition: 1/27/2004 4:28 PM
Printed on: 3/30/2004



R14-2-xx01. Application of the Rule

These rules govern the treatment of Customer Proprietary Network Information for all telecommunications companies that provide telecommunications service in Arizona. In addition, the Commission adopts, incorporates, and approves as its own 47 CFR § 64.2001 through 2009, revised as of September 20, 2002 (and no future revisions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. These rules are in addition to the FCC rules and together with the FCC rules govern the release of CPNI in Arizona.

R14-2-xx02. Definitions

For purposes of this Article, the following definitions apply unless the context otherwise requires:

1. "Call detail" except as provided in subsection (e), means:
 - a. Any information that identifies or reveals for any specific call, the name of the caller (including name of a company, entity, or organization), the name of any person called, the location from which a call was made, the area code, prefix, any part of the telephone number of any participant, the time of day of a call, the duration of a call, or the cost of a call;
 - b. The aggregation of information in subsection (a) of this subsection up to and including the level where a specific individual is associated with information on calls made to a given area code, prefix, or complete telephone number, whether that information is expressed through amount spent, number of calls, or number of minutes used and whether that information is expressed in monthly, less-than-monthly or greater-than-monthly units of time;
 - c. The aggregation of the information in subsection (a) of this subsection up to and including the level where, expressed on a less-than-per-month basis, a specific individual is associated with general calling patterns (e.g. peak, off-peak, weekends) or amounts spent.
 - d. Information associating a specific customer or telephone number with the number of calls that are answered or unanswered, correlated with a time of the day, day of the week, week or weeks, or by any time period shorter than one month.
 - e. Call detail does not include information, other than information described in subsections (a), (b), (c), and (d) of this definition, compiled on a monthly basis. For example, call detail does not include the amount spent monthly by a specific customer on long distance calls, including the amount spent monthly on intra-LATA toll, intra-state toll, and interstate

toll; the amount spent monthly on ancillary services; or the number of unanswered calls per month for a specific telephone number. Call detail does include, for example, the amount spent monthly calling area code XXX; that a particular telephone number was called X times in a month; the number of unanswered calls between the hours of 8:00 A.M. and 5:00 P.M. each month and the number of unanswered calls on Tuesdays each month.

2. "Customer proprietary network information" means 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 carrier-customer relationship and 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. See 47 U.S.C. § 222(h)(1) revised 1999 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.
2. "Non-listed Service" means a service that ensures that customers' telephone numbers are not published in the telephone directory but are available through directory assistance.
3. "Non-published Service" means a service that ensures that customers' telephone numbers are not published in the telephone directory and are not otherwise available through directory assistance.
4. "Opt-In approval" means a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI that requires that the carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided notification of the carrier's request in conformance with this Article.
5. "Opt-Out approval" means a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI where a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to affirmatively object to approval within the waiting period provided in R14-2-xx05(E) after the customer is provided the notice as required in R14-2-xx05.
6. "Published" means authorized for voluntary disclosure by the individual identified in the listing.
7. "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 (as such classifications are assigned at the time

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of the establishment of such service), 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. See 47 U.S.C. § 222(e)(1) revised 1999 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

8. "Third Party" means a person who is not the customer, the customer's telecommunications service provider, or an affiliate of the customer's telecommunications service provider.

R14-2-xx03. Obtaining Customer Approval To Use, Disclose, Or Permit Access To Call Detail Information to Other Affiliates, Joint Venture Partners and Independent Contractors Acting On Behalf of the Company Providing Telecommunications Related Services.

- A. A telecommunications carrier may, subject to Opt-In approval, disclose or permit access to its customer's Call Detail information, for the purpose of marketing communications-related services to that customer, to:
1. Its affiliates that provide communications-related services to which services that customer does not already subscribe, and
 2. Its joint venture partners and independent contractors that market and provide communications-related services.
- B. Any solicitation for Opt-In customer approval must be accompanied by a written notice to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's Call Detail information. The notice must comply with the requirements of Section R14-2-xx04 of these rules.
- C. The telecommunications carrier shall be required to execute a proprietary agreement with said affiliates, joint venture partners and independent contractors to maintain the confidentiality of the customer's CPNI.

R14-2-xx04. Information Requirements For Customer Opt-In Notice

- A. The notice must:
1. Include the definition of Customer Proprietary Network Information contained in 47 USC § 222(h)(1); 1999 amendment (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Commission Office, Legal Division, 1200 West Washington, Phoenix, Arizona 85007 and the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. The notice must also include the definition of Call Detail Information;

2. The notice must be mailed separately from any advertising or promotional information. The notice shall not be included in the customer's bill.
 3. The notice must be clearly legible, in twelve-point or larger print.
 4. The notice must be posted on the company's web site and must be readily accessible from the company's home page.
 5. Inform customers that their name, address, and telephone number, if published in the telephone directory or associated with a customer who subscribes to non-listed service, is not private information and will not be withheld from telemarketers;
 6. State that the customer has a right to direct the company not to use the customer's CPNI or limit the use, disclosure, and access to the customer's CPNI;
 7. State that the telecommunications company has a duty to comply with the customer's limitations on use, disclosure of, and access to the information;
 8. State that Call Detail Information includes all information related to specific calls initiated or received by a customer;
 9. Inform the customer that deciding not to approve the release of CPNI will not affect the provision of any services to which the customer subscribes; and
 10. State that any customer approval for use, disclosure of, or access to CPNI may be revoked or limited at any time.
- B. The notice must be in both English and Spanish.

R14-2-xx05. Additional Information Requirements for Customer Opt-Out Notice

- A. This section applies when the Telecommunications Company requests consent to use, disclose or permit access to customer's CPNI (except Call Detail) by the Opt-Out approval mechanism and is in addition to the notice requirements contained in R14-2-xx04. In addition to the preceding notice requirements, the Opt-Out notice must be in compliance with the following requirements:
1. The notice must include a disclaimer that an opt-out directive for customer proprietary network information does not prevent the company from making telephone solicitation or telemarketing calls to the customer and does not prevent the company from including the customer's listed name, address, and telephone number in lists sold, leased or provided to other firms. This disclaimer is not required if the company's practice is to exclude customers who opt-out of customer proprietary network information use from use or disclosure for telemarketing purposes.
- B. Sixty days after the implementation of the Opt-Out approach, the company must provide confirmation to customers of their selection to either have the CPNI available or not available. The notice must be mailed separately from any

advertising or promotional information. The notice shall not be included with the customer's bill.

R14-2-xx06. Verification Of Customer Approval To Use CPNI

- A. A telecommunications company may use a customer's CPNI obtained with Opt-Out approval as long as verification of the customer's approval is obtained within a reasonable time. Verification of the customer's approval shall be obtained in accordance with the verification procedures set forth below.
- B. No telecommunications company shall use a customer's CPNI obtained with Opt-In approval unless the customer's election authorizing the company to use the CPNI has first been confirmed in accordance with one of the following:
 - 1. The telecommunications company has obtained the customer's written authorization in a form that meets the requirements of this section;
 - 2. The telecommunications company has obtained the customer's authorization in accordance with the requirements of R14-2-xx04;
 - 3. The telecommunications company has obtained the customer's Internet enabled authorization with electronic signature that meets the requirements of this section; or
 - 4. An independent third party, qualified under the criteria set forth in subpart F, has obtained and recorded the customer's verbal authorization that confirms and includes appropriate verification data pursuant to the requirements of this section.
- C. Written authorization obtained by a telecommunications company shall:
 - 1. Be a separate document having the sole purpose of authorizing a telecommunications company to use the customer's CPNI in accordance with this article;
 - 2. Be signed and dated by the customer authorizing the use of the customer's CPNI;
 - 3. Not be combined with any inducement;
 - 4. Be written in the same language used in the underlying customer education materials; and
 - 5. Include electronically signed letters of agency (Internet LOAs).
- C. A telecommunications company that obtains a customer's electronic voice recorded authorization shall confirm the customer identification.
- D. A telecommunications company electing to confirm customer approval telephonically shall establish one or more toll free telephone numbers exclusively for that purpose.
- E. A call to a toll free number shall connect a customer to a recording mechanism that shall record the required information regarding the authorization to use the customer's CPNI, including automatically recording the originating automatic number identification information, if that information is available.

- F. A telecommunications company that obtains a customer's authorization verified by an independent third party shall comply with the following:
1. The independent third party shall not be owned, managed, or controlled by the telecommunications company or the telecommunications company's marketing agent(s);
 2. The independent third party shall not have any financial incentive to confirm customer CPNI use authorizations for the telecommunications company or the telecommunications company's marketing agents;
 3. The independent third party shall operate in a location physically separate from the telecommunications company or the telecommunications company's marketing agent(s);
 4. The independent third party shall inform the customer that call is being recorded and record the customer's authorization to use the customer's CPNI; and
 5. All third party verification methods shall elicit, at a minimum:
 - a. the identity of the customer;
 - b. confirmation that the person on the call is authorized to make CPNI available to the telecommunications company;
 - c. confirmation that the person on the call wants to make the CPNI release authorization change;
 - d. the telephone numbers for which CPNI information release is authorized; and
 - e. the types of service involved.
- G. All third party verifications shall be conducted in the same language that was used in the sales transaction.
- H. A telecommunications company relying on "Opt-In" or "Opt-Out" approval must bear the burden of demonstrating that such approval has been given in compliance this Section of these rules.

R14-2-xx07. Reminders To Customers Of Their Current CPNI Release Election

- A. Telecommunications companies must notify customers on every monthly bill of their current election regarding the treatment of their CPNI. The companies must notify the customers that the customer has elected to:
1. Let the company provide their information to its affiliates that provide communications-related services to which services that customer does not already subscribe.
 2. Let the company provide their information to its joint venture partners and independent contractors that provide communications-related services.
 3. Not let the company provide their information available to its affiliates that provide communications-related services to which services that customer does not already subscribe.

4. Not let the company provide their information available to its joint venture partners and independent contractors that provide communications-related services.
- B. If the company is not able to notify customers of their election on every monthly bill, the company must mail a separate notice quarterly. The notice must not be mailed with any advertising or promotional information. The notice shall **not** be included with the customer's bill.

R14-2-xx08. Dissemination Of CPNI and Non-Published Customer Information To Third Parties and Affiliates That Do Not Provide Telecommunications-Related Services

In addition to the FCC's rules, telecommunications carriers shall be required to comply with the following:

- A. CPNI shall not be released to third parties, absent written customer Opt-In approval.
- B. Non-published customer information shall not be provided to affiliates or third parties, absent written customer Opt-In approval.
- C. CPNI and Non-published customer information shall not be released to affiliates that do not provide telecommunications-related services absent written Opt-In approval by the customer and the execution of a proprietary agreement to maintain the confidentiality of subscriber information.

R14-2-xx09. Confirming A Change In A Telecommunications Company's Authority to Disseminate A Customer's CPNI

- A. Each time a telecommunications company receives a customer's "Opt-In" approval to let the telecommunications company make CPNI available to itself, its affiliates, independent contractors or joint venture partners, the telecommunications company must confirm in writing the change in approval status to the customer within ten days. The written confirmation must be mailed or e-mailed to the customer and must be separate from any other mail from the telecommunications company. The confirmation must clearly advise the customer of the effect of the customer's Opt-In choice and must provide a reasonable method to notify the telecommunications company, including a toll free telephone number if the telecommunications company made an error in changing the customer's approval status. The notice shall be mailed separately from any advertising or promotional information. The notice shall **not** be included with the customer's bill.
- B. A telecommunications company may not use, disclose, or permit access to a customer's CPNI based on a customer's "Opt-In" approval until thirty (30) days after mailing the confirmation to the customer.

R14-2-xx10. Duration Of Customer Approval Or Disapproval To Disseminate The Customer's CPNI

- A. Any "Opt-In" or "Opt-Out" approval received by a telecommunications company will remain in effect until the customer revokes, modifies, or limits such approval.

R14-2-xx11. Waiver from the Provisions of this Article

- A. The Commission may waive compliance with any of the provisions of this Article upon a finding that such waiver is in the public interest.
- B. Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies noncompliance with all or part of the provisions of this Article.
- C. If the Commission fails to approve, disapprove, or suspend for further consideration an application for waiver within 30 days following filing of a verified application for waiver, the waiver shall be considered denied.