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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
Chairman
JIM IRVIN
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Commissioner

2002 OCT 25 P 4: 12

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE
DISSEMINATION OF INDIVIDUAL
CUSTOMER PROPRIETARY NETWORK
INFORMATION BY
TELECOMMUNICATIONS CARRIERS.

DOCKET NO. RT-00000J-02-0066

NOTICE OF FILING

Staff of the Arizona Corporation Commission ("Staff") hereby files its
Report and Recommendation in regard to the above-entitled matter.

RESPECTFULLY SUBMITTED this 25th day of October, 2002.

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BEFORE THE ARIZONA CORPORATION COMMISSION

**WILLIAM A. MUNDELL
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**JIM IRVIN
COMMISSIONER**

**MARC SPITZER
COMMISSIONER**

**IN THE MATTER OF THE DISSEMINATION)
OF INDIVIDUAL CUSTOMER)
PROPRIETARY NETWORK INFORMATION) Docket No. RT-00000J-02-0066
BY TELECOMMUNICATIONS CARRIERS)
_____)**

STAFF REPORT AND RECOMMENDATION

OCTOBER 25, 2002

I. INTRODUCTION

In accordance with the Arizona Corporation Commission's ("Commission") September 25, 2002 Procedural Order, the Staff of the Commission ("Staff") hereby files its report and recommendation on regulations to govern the dissemination of individual Customer Proprietary Network Information ("CPNI") by telecommunications carriers. Staff believes telecommunications carriers are in a unique position to collect a consumer's private information. This private information includes, but is not limited to, private account information such as social security numbers, whom customers call, when they call, where they call and how long they call. All such information is sensitive and private in nature. The collection and dissemination of this CPNI raises serious privacy concerns.

Staff's recommendations focus on ensuring Arizona consumers are fully informed of their right to and have a real opportunity to protect against unwanted disclosure and dissemination of their proprietary account information. Staff's review of the carrier's performance of its duty to protect CPNI under an opt-out method shows carriers are failing to provide consumers with a meaningful opportunity to protect private information. Therefore, Staff believes requiring carriers to obtain express customer consent before sharing customer information directly and materially advances the stated interest of protecting the privacy of telecommunications consumers in Arizona. This "opt-in" approach fully protects the privacy interests of Arizona consumers while allowing carriers to realize the benefit of use of such information once consent is obtained. Staff believes the recommendations and the methods set out herein are necessary to protect the privacy interests of Arizona citizens envisioned by the Constitution of the State of Arizona, and the protection of consumer privacy interests demanded by Arizona statute and Federal Law.

Based upon the information gathered by Staff to-date, Staff recommends that the Commission adopt rules which require opt-in customer approval before CPNI can be used. As will be discussed, Staff's recommendations go beyond what is required in the FCC's recent rules in several respects. The rules must also require clear notice to the consumer of the right to protect against dissemination of CPNI. Notice must clearly define CPNI and inform the consumer of their right to protection without affecting their existing service. Customers must clearly understand as a result of the notice, who will receive their CPNI and for what purpose. Carriers should be required to periodically remind consumers of the status of their CPNI release election and their right to protection. The rules should also provide for only such use and dissemination of CPNI by the carrier as is intended by the consumer, once approval is properly obtained. Provisions for the confirmation of a change to the carrier's authority to disseminate should be included. A requirement for retention of documentation of customer approval should be set forth. Finally, provisions for waiver of the rules should be included.

Staff acknowledges the significant impact the adoption of these CPNI rules will have upon Arizona's telecommunications carriers. In light of responses to data requests, the Federal Communications Commission's ("FCC") recent Order and the impact rules will have upon carriers, Staff believes it would be beneficial to have a workshop once

Staff's proposed rules are released to discuss the Staff proposals and any changes interested parties believe to be appropriate, before a formal rulemaking is commenced.

II. BACKGROUND

Development of CPNI rules requires the application of both Federal and State law. Federal law considerations include Section 222 of the Act, the CPNI rules initially adopted by the FCC, the decision¹ of the United States Court of Appeals for the Tenth Circuit vacating portions of the FCC's initial CPNI Order, and the recent FCC Third Report and Order in response to the Tenth Circuit's Decision. State law considerations include the responsibility owed to the citizens of Arizona by the Commission under the Arizona Constitution and enabling statutes and the special privacy protections afforded Arizonans by their Constitution.² Staff also considered the concerns expressed by carriers in response to data requests issued by the Staff and in Comments filed in this Docket.

A. Federal Laws and Policies

1. Section 222 of the Act

Section 222, entitled "Privacy of Customer Information," obligates carriers to protect certain consumer information.³ Section 222 divides customer information into three categories: (1) individually identifiable CPNI, (2) aggregate customer information, and (3) subscriber list information.⁴ Section 222 defines CPNI as "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" including information contained in bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier.⁵ Congress afforded CPNI the greatest level of protection by stating it may only be used as required by law or with the consumer's approval.

2. The FCC's Initial CPNI Order

In its CPNI Order released February 26, 1998, the FCC addressed the scope and meaning of Section 222 in promulgating implementing regulations.⁶ In order to strike a reasonable balance between a carriers ability to conduct its business in an efficient manner and a consumer's reasonable expectations of privacy, the FCC adopted what is

¹ U.S. West, Inc. v. FCC, 182 F.3d 1224 (10th Cir. 1999), cert. denied, 530 U.S. 1213 (June 5, 2000).

² Article II, § 8 of the Arizona Constitution provides that "[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law."

³ 47 U.S.C. § 222.

⁴ 47 U.S.C. §§ 222(a)-(c).

⁵ 47 U.S.C. § 222(f)(1), 47 U.S.C. § 222(h)(1)(A).

⁶ Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; and Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended. Second Report and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 8061 (1998)(CPNI Order).

known as the "Total Service Approach." Under this approach the carrier is allowed to use CPNI to market services to its customers that fall within the packages of services already subscribed to by the customer without prior consent of CPNI use. The approach recognized that implied consent can reasonably be considered as having been given in this circumstance since customers would reasonably expect a carrier to review their existing services from time to time and propose changes to ensure their needs were being met.

In all other instances, the FCC adopted an opt-in approval mechanism which required carriers to obtain the express written, oral or electronic consent from their customers before release of any customer specific CPNI. The FCC also required that consumers be advised of their rights under Section 222 before the carrier sought approval of use of the information.

The FCC refused to adopt "preemptive" national rules determining to exercise its preemption authority on a case-by-case basis. Nonetheless, the FCC's initial order effectively created a presumption that inconsistent state regulations would be preempted. The FCC stated, in part, "[s]tate rules that likely would be vulnerable to preemption would include those permitting greater carrier use of CPNI than section 222 and our implementing regulations announced here, as well as those state regulations that sought to impose more limitations on carriers' use."⁷

3. The Tenth Circuit Decision

The FCC's CPNI Order was vacated in part by the Tenth Circuit Court of Appeals which found that the use of the "opt-in" approach violated a carrier's First Amendment rights, by restricting their commercial free speech. U.S. West brought suit against the FCC challenging the constitutionality of its CPNI rules.⁸ U.S. West challenged the rules on First and Fifth Amendment grounds.⁹ The Court applied the Central Hudson analysis to determine if the restriction violated the First Amendment by asking if the speech was lawful, if the government had a substantial state interest in regulating the speech, if the regulation directly and materially advances that interest, and if the regulation is no more extensive than necessary to serve the interest.¹⁰

The Court summarily dismissed the FCC's stated substantial state interest in promoting competition by limiting the dissemination of CPNI stating that the FCC had failed to put forth any "empirical evidence showing the harm to either privacy or competition."¹¹ The FCC had the burden of establishing that the harms recited were "real and that its restriction will in fact alleviate them to a material degree."¹² The Court found

⁷ CPNI Order at para. 18.

⁸ U.S. West v. FCC, 182 F.3d 1224 (10th Cir. 1999). U.S. West is now Qwest.

⁹ Id. at 1228.

¹⁰ Id. at 1233 (citing Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n of N.Y., 447 U.S. 557, 562-63, 100 S.Ct. 2343 (1980)).

¹¹ See id. at 1236-37.

¹² Id. at 1237.

that the government had failed to meet its burden,¹³ and that the harm cited was purely speculative.¹⁴ The FCC, the Court said, had failed to present any evidence about how dissemination of sensitive or embarrassing personal information would occur, or if it would ever actually occur at all.¹⁵ The Court also stated that the FCC had failed to provide any analysis of how the sharing of CPNI to allow for the marketing of new services would impede competition.¹⁶ Despite having found the harms stated by government to be unsupported, the Court assumed for purposes of discussion that the prong had been met.

The Court then found the rules to be more extensive than necessary to serve the stated interests.¹⁷ The Court stated that while the test did not require the least restrictive alternative, it did require the regulation to be narrowly tailored to its objective, with a careful balance of the costs and benefits of the burdens imposed on commercial free speech.¹⁸ The Court further stated that although the least restrictive alternative need not be adopted to pass the test, when such alternatives are available and are obviously less restrictive of free speech, they must be considered.¹⁹ The Court stated that the FCC had failed “to adequately consider an obvious and substantially less restrictive alternative, an opt-out strategy, indicat[ing] that it did not narrowly tailor the CPNI regulations regarding customer approval.”²⁰

4. The FCC’s Third Report and Order

On remand, the FCC considered the burden of its regulations on carriers’ free speech rights.²¹ The FCC determined that use of CPNI by carriers or disclosure to their affiliated entities providing communications-related services, as well as third-party agents and joint venture partners providing communications-related services, requires a customer’s knowing consent in the form of notice and “opt-out” approval. Second, disclosure of CPNI to unrelated third parties or to carrier affiliates that do not provide communications-related services requires express customer consent, described as “opt-in” approval. The FCC also noted its interpretation of the Tenth Circuit Opinion as having left the “Total Service Approach” in effect which permits the carrier to use CPNI to market new product offerings within the carrier-customer service relationship, on the basis of the customer’s implied consent.

The FCC also adopted a policy which gives States much wider latitude in addressing CPNI concerns at the state level. The FCC stated that should states adopt CPNI requirements that are more restrictive than those adopted by the FCC, it would decline to apply any presumption that such requirements would be vulnerable to

¹³ U S West v. FCC, 182 F.3d at 1237-38.

¹⁴ See id. at 1237.

¹⁵ See id. at 1237-38.

¹⁶ See id. at 1238.

¹⁷ See id.

¹⁸ See U S West v. FCC, 182 F.3d at 1238. (internal citations omitted).

¹⁹ See id.

²⁰ Id. at 1238-39.

²¹ Third Report and Order, at ¶ 30.

preemption. The FCC acknowledged that states may develop different records should they choose to examine the use of CPNI for intrastate services. The FCC also acknowledged that states may find further evidence of harm, or less evidence of burden on protected speech interests. Accordingly, the FCC stated that applying the same standard, the states may nevertheless find that more stringent approval requirements survive constitutional scrutiny, and thus adopt requirements that "go beyond" those adopted by the FCC.

B. State Constitution and Laws Re: Privacy

The Staff and Commission must also be mindful that the Arizona Constitution, unlike the United States Constitution, specifically provides for the right to privacy of Arizona citizens at Article II § 8, which provides "[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law." Commenting on this provision the Arizona Supreme Court stated "Arizona is one of the first states whose founders thought it necessary to adopt explicit protection for the privacy of its citizens."²² The Commission is empowered by statute to protect the privacy of consumer information: "In supervising and regulating public service corporations, the commission's authority is confirmed to adopt rules to: "... Provide that, notwithstanding any other law, customer information, account information and related proprietary information are confidential unless *specifically waived by the customer in writing.*"²³

Clearly, the framers of the Arizona Constitution, the legislators of the State of Arizona and the Congress of the United States have recognized a substantial state interest in the protection of the privacy of Arizona citizens in general and particularly in the protection of information shared with a carrier facilitating the customer's ability to access phone service. According to Arizona statute the duty to ensure carriers fulfill this duty lies with the Commission.

III. DISCUSSION

A. Notice and Use of CPNI by Telecommunications Carriers in Arizona

On June 4, 2002 Staff issued data requests to nine telecommunications carriers operating in Arizona. The questions presented were designed to determine the nature of use of CPNI, to what was being provided, and the notice provided to customers prior to use by carriers in Arizona. Responses indicate that CPNI is being used to market products and services to telecommunications customers. While not all carriers indicated such use, all carriers indicating use of CPNI in marketing report compliance with FCC rules. Following is a summary by company of CPNI use and notice provided by carriers to their customers. Also included is a summary of the carrier's comments regarding any rules the Commission may adopt on the dissemination of CPNI.

²² Godbehere v. Phoenix Newspapers Inc., 162 Ariz. 335, 342, 783 P.2d 781,787 (1989).

²³ A.R.S. § 40-202.C.5 (emphasis added).

1. Qwest

Qwest reported that it does not use CPNI to market new services unless having secured approval. Qwest once having obtained approval may share CPNI with other Qwest corporations such as Qwest Communications, the long distance arm of Qwest, Qwest Wireless, or QwestDex. Qwest lists a total of 52 affiliates, spread throughout the United States, and in Mexico, Hong Kong, the Netherlands, the United Kingdom, Japan, and Singapore. Qwest may also share CPNI with companies not within its corporate structure but which act as independent contractors or agents to assist in customer care, billing, marketing contacts, or collection services. Qwest does not sell CPNI as such, although notes that CPNI is sold as part of selling an exchange, such as its sale of an exchange to Saddleback Communications. Qwest indicates it uses CPNI in "winback" efforts, keeping CPNI records for two years. Qwest provides CPNI to CLECs who represent they are authorized to receive it.

Qwest provides one time notification prior to soliciting what it terms as long-term customer CPNI approval. This notification has in the past been sent as a bill insert or in combination with an area code notification change. Qwest provided copies of both its opt-in insert used from August 1998 to April 1999 and its opt-out insert used in December, 2001. (Attachments A & B respectively). Qwest also provided a copy of the scripting used by Qwest to obtain oral approval. (Attachment C). Notice of the customer's ability to withdraw prior approval is also given only once. Qwest states that notice should be "clear and conspicuous and understandable to the average person."

Qwest uses a code in its customer information systems to verify the customer's current CPNI approval status. The status is maintained until changed by the customer. Qwest states it used a variety of methods to follow up to ensure customer understanding of CPNI status over a three month period. Qwest believes follow up activities should be left to the discretion of the carrier because of the cost involved compared to the customer benefit derived.

Qwest opposes use of an "opt-in" mechanism. Qwest stated that customer interests in protecting the privacy of CPNI are adequately addressed through a businesses' use of an opt-out CPNI approval process. In its Comments, Qwest stated that its limited use of "opt-in" under the FCC's ONA CPNI orders and during 1998-99 when the FCC's CPNI Order was in effect demonstrate that the costs associated with attempts to secure affirmative approvals are beyond any rational cost/benefit analyses and would be impossible for business to recoup.²⁴ Qwest cited an article that stated when a default approval mechanism was opt-in, 85 percent of consumers chose not to provide personally-identifiable information. In contrast, 95 percent chose to allow use of such information when the default was opt-out.²⁵ Qwest stated that the authors concluded that

²⁴ Qwest Comments at p. 3.

²⁵ See Paul H. Rubin and Thomas M. Lenard, Privacy and the Commercial Use of Information, Boston: The Progress & Freedom Foundation and Kluwer Academic Press, 2002.

requiring opt-in would dramatically reduce the amount of information available to the commercial sector and would impose substantial costs on consumers. Qwest also commented that an opt-in policy would result in insurmountable (and unwarranted) costs for carriers seeking affirmative CPNI approvals. Qwest stated that it is clear that due to inertia no amount of expense would be enough to secure affirmative approvals in sufficient numbers to allow a carrier to make practical or effective use of information to formulate and market offers designed to meet customers' individual needs.

Qwest identified three competitive concerns with opt-in. First, restrictions on the free flow of information hinder the ability of carriers to compete through formulating and targeting offers to particular consumers. Second, to the extent restrictive regulations are applied to some carriers but not others, the carriers subject to the restrictions will be placed at a competitive disadvantage relative to the carriers who are not subject to the restrictions. Third, because customers may choose their carriers based in part on competing carriers' CPNI policies, processes and procedures, competition between carriers may be affected by the choices these customers make with respect to opt-in, opt-out or other CPNI issues.

Qwest believes that an opt-out policy is sufficient to address any consumer privacy interests involving customer information. Qwest noted that this is particularly true in light of the fact that additional judicial and regulatory mechanisms are available to protect individuals from any actual carrier misuse of CPNI.²⁶

Qwest also stated that the Commission should not adopt rules concerning the form of CPNI opt-in or opt-out notices. Carriers should be free to dictate the contents of a carrier's communications with its customers. According to Qwest, the Federal standards are sufficient. Any governmental insinuation regarding the text of the communication must pass constitutional muster as outlined in U S West v. FCC.

Qwest believes that CPNI is less sensitive than much of the information collected by other industries.²⁷ Qwest also believes that notices should be sent out only once to a carrier's existing customer base and once to persons who subsequently become new customers. Valuable resources are consumed in sending out periodic notices according to Qwest. Qwest also stated that carriers should not be required to verify or confirm customer CPNI approval decisions.²⁸ Qwest states that this would be inappropriate in the absence of any meaningful cost/benefit analysis. Qwest believes that the costs of verification would not be trivial and would lack any overall "public interest" benefit. Should verification be required, carriers should be permitted to choose the method.

2. WorldCom

WorldCom reported that it does not have a system in place to include CPNI in its marketing programs, but may use CPNI to determine if a particular service would benefit

²⁶ Qwest Comments at p. 9.

²⁷ Qwest Comments at p. 15.

²⁸ Qwest Comments at p. 17.

a particular customer. WorldCom shares CPNI between its affiliated companies and lists eight such affiliates. WorldCom stated that because it has no systematic approach to CPNI usage, it cannot inform Staff of which of these affiliates it actually shares CPNI with. WorldCom stated that it does not share CPNI with non-affiliated entities and that it never has, nor has any intention to sell CPNI. WorldCom may use CPNI in "winback" efforts and relies on FCC rules to do so. WorldCom may use calling pattern information to assess customer service and product needs.

The MCI group, an affiliate of WorldCom, accesses CPNI in the course of a local sale. MCI, after receiving real time oral consent from the prospective customer, accesses the customer's CPNI on the incumbent carrier's database. The consent is valid for the duration of the call only. The consent solicitation is scripted as follows: "Mr./Mrs. Customer, to assist in setting up your new service, may I view all of your current telecom carrier selections, existing local plans and features during this call? Your service will not be affected if you say No." WorldCom Group's notification and customer consent typically are documented in the customer's service agreement, WorldCom Group's General Terms and Conditions of Service. (Attachment D). WorldCom opined that its notices are understandable. WorldCom also stated that any follow up requirement to ensure customer awareness of his or her CPNI status is expensive, time consuming, that the benefit does not justify the cost, and will result in higher costs for consumers.

In its Comments, WorldCom suggested that an opt-in policy would result in additional costs to telecommunications providers relative to an opt-out policy. An opt-in policy reasonably can be expected to result in a great reduction in the usability of such data to telecommunications providers for marketing purposes, based on the higher transaction costs it imposes on customers in requiring them to affirmatively respond, and on the low response rates that direct solicitations generally receive. As a result, telecommunications providers would need to either vastly increase the amounts they spend to increase their response rates or purchase alternative data sources for marketing (which sources are likely to be inferior to the customer's CPNI information). While WorldCom has conducted no formal studies, in WorldCom's experience, its own direct response campaigns rarely have a response rate higher than 2 percent.²⁹ WorldCom would not expect the response to a positive opt-in request would be any higher.

An opt-out policy starts with every customer being eligible. The company estimates that with an opt-out policy, a small minority of its customers would affirmatively opt-out. The vast majority of customers would be expected to allow their CPNI to be used by the company for marketing new services. WorldCom would expect that an opt-out policy would preserve much of the value of customer data for marketing purposes. According to WorldCom, an opt-in policy would largely destroy WorldCom's ability to use its customer data to market new and different services to its customers without incurring additional, unnecessary expenses. While WorldCom thinks an all-inclusive opt-out policy is appropriate, if an opt-in policy is to apply to some categories,

²⁹ WorldCom Comments at p. 5.

it should be limited to the use of CPNI by entities that are not telecommunications providers.³⁰

WorldCom does not believe any rules are required beyond those established by the FCC. WorldCom believes that the notice should be that required by the FCC. While WorldCom does not believe that any additional confirmation notice requirements are required, if confirmation/verification notice is required, carriers should be given maximum flexibility so that they can do it efficiently.

WorldCom stated that there should be no restrictions on carriers sharing of CPNI once the customer has consented.

3. Cox

Cox indicated it uses CPNI in its marketing of feature and long distance packages to customers who do not already subscribe to them. Cox shares CPNI with its cable affiliate and with Cox Business Services. Cox does not sell CPNI. Cox does not share CPNI with non-affiliated entities and does not use CPNI in "winback" efforts. Cox uses CPNI for quality control purposes, to monitor and prevent fraud, to verify identity, and for internal market research activities. Cox may use calling pattern information to assess product and service needs.

Cox includes information concerning CPNI rights with the customer's first bill. (Attachment E). Cox also informs of CPNI rights in an annual disclosure. (Attachment F). Cox states that its notice is understandable. Cox customer's CPNI approval status is listed in a field on the customer account record and maintained as long as the customer remains a customer. Cox states that it would agree to follow up as part of an opt-out program. Cox believes that requiring an opt-out consent for some types of CPNI while requiring opt-in for the most sensitive types of CPNI would be administratively difficult to manage.

Cox opposes an opt-in policy because it would increase the costs of services to customers.³¹ Cox stated that this could put a LEC at a disadvantage to competitors that may not need to use an opt-in policy, such as wireless providers (potentially) and internet telephony providers who position themselves as long distance providers that also carry local exchange and local toll traffic. It could also limit the customer's access to information about new services or more competitive service packages or pricing.³² Cox also stated that some of the increased costs would consist of significant additional administrative costs, including substantial software upgrades, data base modifications, and increased monitoring. Cox further stated that marketing costs would also increase due to a need to use more mass marketing and less targeted marketing.³³

³⁰ WorldCom Comments at p. 12.

³¹ Cox Comments at p. 3.

³² Cox Comments at p. 3.

³³ Cox Comments at p. 5.

With regard to the notice, Cox stated that there should be no significant difference in the notice for either opt-out or opt-in except to explain the difference between the two. Cox also stated that the notice should be provided in multiple languages if the Commission determines it is appropriate based on the demographics of a service area. Cox also stated that it would be appropriate to adopt a standard default format that is not unduly burdensome and that can be modified subject to Commission approval. Cox believes that companies should be required to provide notice of CPNI issues a minimum of one time per year.³⁴ The notice should be provided within the first billing cycle and CPNI should not be provided to affiliated companies for at least 30 days after the notice to allow customers adequate time to respond.

Cox stated that it believes a verification process is generally unnecessary and creates increased costs, administrative difficulties and potential customer confusion.³⁵

As to the provision of CPNI to unaffiliated entities, Cox stated that it is not its policy to provide or sell CPNI data to nonaffiliated entities.³⁶

4. Citizens

Citizens uses only subscriber list information, that is customer name, address, and phone number in its marketing efforts. It does not use CPNI but instead bases its marketing effort on payment history information, making offers only to those customers with good payment history. Because Citizens reports no use of CPNI in marketing it reports no sharing of CPNI with either affiliates or non-affiliates. Citizens does not sell CPNI. Citizens' customer service representatives may use CPNI in "winback" efforts. CPNI can be accessed by representatives for six months after customer leaves and is archived for seven to ten years. Citizens may disseminate CPNI to its marketing department and uses CPNI for provisioning, repairing, installing, billing and collecting, and to respond to customer service inquiries. Citizens opined that the most sensitive CPNI it acquires are customer calling patterns and customer social security numbers. This information is restricted to access by "appropriate personnel." Citizens does not disseminate CPNI to anyone outside of the company and would do so only upon court order, subpoena or other legal order.

Citizens stated that it does not solicit approval for use of CPNI because it assumes it would be denied. Based on its assumption, Citizens uses only CPNI not requiring consent for use. That is, subscriber list information. Citizens' customer service representatives seek approval to view account information during the course of calls. The approval given is considered valid only for the duration of the call.

In its Comments, Citizens stated that it believes that an "opt-out" CPNI policy is more practical for ILECs to administer and for the Commission to supervise than an "opt-in" policy. It also stated that the Commission should defer to the FCC's CPNI rules in

³⁴ Cox Comments at p. 7.

³⁵ Cox Comments at p. 9.

³⁶ Cox Comments at p. 10.

order that a national policy and practice might be applied uniformly in Arizona as well as other states.³⁷

5. Sprint

Sprint uses CPNI to market services and products not currently subscribed to. Information used includes usage levels, calling patterns, and information about what time of day and days of week customer frequently calls. Sprint Long Distance shares CPNI with Sprint Wireless, with Sprint's local telephone division, and vice versa. Sprint does not seek to share CPNI with other Sprint affiliates or with non-affiliates. Sprint does use CPNI in "winback" efforts and maintains notices for 13 months. Customer CPNI consent remains in the repository as long as the customer remains active with Sprint. Sprint reports using CPNI for internal reporting, customer evaluation and other purposes "permitted under section 222." Sprint opined that call detail is probably the most sensitive CPNI it collects and it does not release calling pattern information. Sprint does, however, use calling pattern information in its own marketing efforts.

Sprint advises its customers of their right to protect CPNI at the time of subscription. Sprint then provides a second notice in the customer welcome packet. After this initial notice, Sprint provides periodic notices. Sprint provided such notice in its booklet of revised terms and conditions sent out June 1, 2002. (Attachment G). From time to time Sprint sales representatives ask for verbal approval in the course of a sales call. When this occurs Sprint captures verbal approval on tape and stores the tape in its repository. Sprint reports that 18% of Arizona customers have opted out and impliedly consented to Sprint sharing CPNI with affiliates or third parties. Sprint opined that its notice is clear and understandable.

Sprint uses a systematic centralized repository and notes customer accounts with codes to verify customer's CPNI approval status. Sprint reported that it does not provide follow up notice of the customer's CPNI status to ensure the customer is informed as to his or her status. It believes provision of such notice would be confusing to the customer and costly to the company.

In its Comments, Sprint noted that as of February 2002, 6.64% of Sprint's customers have elected to opt-out. Sprint has no estimate of the costs involved in administering an opt-out policy but such costs are significantly less than the costs of administering an opt-in policy.³⁸ Sprint believes that an opt-in policy provides a significant competitive advantage to the incumbent carrier, because the ILEC is able to obtain opt-in consent from customers more easily and at less cost than its competitors.³⁹ As the provider of local service to nearly all of the residents of Arizona, the ILEC is more likely to receive calls from Arizona residents with respect to such service.

³⁷ Citizens' Comments at p. 1.

³⁸ Sprint Comments at p. 2.

³⁹ Sprint Comments at p. 3.

Sprint believes that an opt-in policy would deprive customers of receiving information about the products and services offered by their telecommunications provider that may be of interest to them. Sprint would incur significant additional costs to transition to and administer an opt-in policy since customers would be forced to contact Sprint with their decision. Sprint has approximately 93% of its customers that have decided through an opt-out program to allow Sprint to share their customer information. This means that under an opt-in policy approximately 93% of new customers would need to contact Sprint with their CPNI decision. This means that Sprint would incur a significant financial burden to increase the work force, implement additional training, in addition to other related expenses.⁴⁰

Sprint believes that with regard to the notice, the issues do not change regardless of whether an opt-in or opt-out policy is used.⁴¹ Sprint provides CPNI notification in English and Spanish. Sprint believes that the Commission should not adopt rules to regulate the content of its notices. Sprint stated that 47 C.F.R. 64.2007(f) requires telecommunications carriers to provide a one-time notification to the customer of the customer's right to restrict the use of CPNI information.⁴² Sprint also stated that it has not received any customer complaints related to this issue, and does not believe that multiple notices are necessary.

Sprint does not believe that a verification requirement is necessary. As far as sharing CPNI with unaffiliated entities, Sprint's position is that the Commission can prevent a carrier from selling a customer's CPNI data to outside entities.⁴³ Sprint informs its customers that it will not share the customer's CPNI with outside entities without the customer's authorization. Finally, Sprint stated that there should be no restrictions on how CPNI data is used by affiliates of telecommunications companies.⁴⁴

6. AT&T

AT&T responded that it does not use CPNI to market services to which the customer does not currently subscribe. AT&T stated that it shares CPNI with "various affiliates" to market, bill, collect, prevent fraud, and to respond to customer service inquiries. AT&T stated that it may on occasion disseminate CPNI to non-affiliates for billing and collection purposes. AT&T uses CPNI in "winback" efforts and does not supply CPNI to new providers without customer consent. AT&T does not now nor does it plan to release calling pattern information. AT&T has not sold CPNI.

Because AT&T uses CPNI in ways not requiring customer approval no notice is given to customers concerning their CPNI rights. AT&T opined that any such notice provided would have to be reasonable and non-misleading per the FCC. They also stated

⁴⁰ Sprint Comments at p. 6.

⁴¹ Sprint Comments at p. 7.

⁴² Sprint Comments at p. 9.

⁴³ Sprint Comments at p. 11.

⁴⁴ Sprint Comments at p. 11.

their belief that requiring follow up with an opt-out approval method would amount to a variation on the opt-in method found unconstitutional by the Tenth Circuit.

In its Comments, AT&T stated that while it uses opt-in, it has consistently advocated that the FCC should construe Section 222 as allowing opt-out consent. Under this approach, carriers would have the choice of using either opt-out or opt-in consent.⁴⁵ AT&T also argued that recent amendments to Section 222 dealing with wireless location information (47 U.S.C. Section 222(f), Pub. L. 106-81, 113 Stat. 1288) show that Congress only intended use of opt-out consent under Section 222(c).⁴⁶ AT&T believes that an opt-in policy is not sufficiently and narrowly tailored to overcome First Amendment concerns and that the Commission should consider a more flexible opt-out policy.⁴⁷

AT&T does not believe that an opt-in policy would give consumers additional benefits. AT&T believes that opt-in approval may appear to customers to give them more control than opt-out, but it does not. Under opt-out, it is the customer's responsibility to invoke privacy. Under other instances, i.e., caller ID and nonpublished telephone numbers, the customer must take action in both instances to obtain privacy. AT&T stated that it cannot be presumed that customer will fail to protect their privacy.⁴⁸

AT&T stated that an opt-in policy would be considerably more expensive to administer, in that it typically requires outbound telemarketing efforts. With additional detailed notice requirements the costs of such telemarketing efforts could be prohibitive. By contrast, the opt-out mechanism requires the mailing of a single notice to the consumer.⁴⁹ AT&T stated that its own experience was that when polled orally, 86% of consumers agreed to give CPNI approval. AT&T stated that the results for opt-in approval on a mass market basis based on written notice and approval are likely to yield few CPNI approvals, not because customers are overly concerned about sharing of CPNI, but because of the likelihood that inertia will keep customers from responding.

AT&T stated that sufficiency of notice is the key to allowing the customer to make an informed choice.⁵⁰ AT&T stated that the narrowly tailored response to inadequate opt-out notices is not the elimination of opt-out approval altogether, but rather the implementation of guidelines ensuring that opt-out notices are clear and conspicuous. AT&T also stated that the FCC does not require carriers to provide notice in a language other than English. However, in the event any portion of a notification is translated in another language, then all portions of the notification must be translated into that language.⁵¹ AT&T believes that the notice requirements adopted by the FCC are more

⁴⁵ AT&T Comments at p. 3.

⁴⁶ AT&T Comments at p. 3.

⁴⁷ AT&T Comments at p. 4.

⁴⁸ AT&T Comments at p. 6.

⁴⁹ AT&T Comments at p. 6.

⁵⁰ AT&T Comments at p. 7.

⁵¹ AT&T Comments at p. 8.

than adequate to inform consumers of their rights. A one-time notice is all that should be required. CPNI approval once granted should be deemed permanent until withdrawn.⁵²

AT&T does not support a verification requirement since this would increase carrier costs and ultimately the prices paid by consumers without enhancing privacy.

With regard to disclosure to unaffiliated entities, AT&T stated that it does not disclose CPNI to third parties without express customer approval except to third parties who act as agents for AT&T (e.g., billing, telemarketing, etc.), for fraud detection purposes and as required by law.⁵³

7. Valley Telephone Cooperative, Inc., Copper Valley Telephone, and Valley Telecommunications, Inc.

Neither Valley Telephone Cooperative, Copper Valley Telephone nor Valley Telecommunications Company use CPNI in their marketing activities. Marketing materials and solicitations are utilized from time to time by each company, but such materials and solicitations are directed to each company's entire customer base, without the use of customer-specific CPNI. The Companies have no plans to use CPNI in the future.

The Companies do use CPNI on a regular basis to bill customers, to provide customer service response and support, to add or delete services as requested, to verify credit worthiness, to collect outstanding past due bills, to apply capital credits (in the case of Valley Telephone Cooperative), and to perform other functions essential to the operation of a telecommunications company.

The Companies do not voluntarily release or sell CPNI to any affiliate or non-affiliated entity. The Companies have not allowed any third party access to a customer's calling patterns in the past, and they have no plans to do so in the future. There may be circumstances under which the companies might be required to provide CPNI to law enforcement agencies, the courts or governmental regulatory authorities pursuant to subpoena or court order. CPNI is not currently used in any win-back efforts. For customer support reasons, the companies maintain historical customer data indefinitely.

The Companies stated that a single approach to the treatment and handling of all CPNI is essential in order to simplify the administrative burden for the companies that must comply, and to ensure that customers can easily understand their rights and responsibilities with regard to their CPNI.

Finally, the Companies stated that there are customers within their service areas who do not speak English as their primary language. These customers speak Spanish and other languages.

⁵² AT&T Comments at p. 10.

⁵³ AT&T Comments at p. 4.

8. RUCO

RUCO filed Comments stating that the residential consumer has a fundamental property and privacy interest in protecting private information that he or she must provide to get a telephone. Arizona law recognizes and protects this interest, which may be waived only by the individual's informed consent.

RUCO identified several harms associated with CPNI disclosure. RUCO noted that an observer can run consumers' call patterns through computerized screens to find consumers with "desirable" behavior patterns.⁵⁴ Only the observer's ethic will limit the ends and means for using the information. More importantly, a company can secretly target the consumer without revealing how extensively these phone patterns make the consumer's personal life an open book. Arizona law also recognizes that some people with an ax to grind will access and use personal information to harass or harm others and their families.⁵⁵ A person's identity has value that can be "stolen" and used for profit by others.

RUCO stated that many laws protect groups that, due to professional or circumstantial factors, have a high risk of suffering harm from such perpetrators. One method for protecting against such intrusions is to prevent access to personal identifiers, including the residential address or telephone number of the individual.⁵⁶

RUCO stated that since every person who uses telephone service in Arizona must provide personal information to the phone company as a condition of having a telephone, the personal information obtained by the company should not be disclosed for profit without the customer's explicit authorization. A phone company should never be allowed to presume that a consumer has agreed to the sale of personal information merely because the consumer has not responded to an offer by the phone company in a mailing. RUCO likened the issue to a contract, i.e., a notice or offer by a phone company desiring to sell a consumer's CPNI requires "approval" or "acceptance" by the consumer pursuant to Section 222 and A.R.S. Section 40-202(c)(5). RUCO believes that the First Amendment is not involved because the regulation does not concern "speech." Rather, the issue concerns conduct that is sufficient to support a mutual agreement allowing a phone company to disclose a customer's CPNI for profit.⁵⁷

RUCO also stated that it was difficult to draw analogies with other industries since the use of such information in other industries might be more rigorously regulated and subject to civil and criminal penalties than for telecommunications carriers.⁵⁸

RUCO believes the content, labeling and title of the notice should be regulated if the opt-out policy is mandated. RUCO stated that fewer notices might be required for an

⁵⁴ RUCO's Comments at p. 2.

⁵⁵ RUCO's Comments at p. 3.

⁵⁶ See A.R.S. Section 32-3801; A.R.S. Sections 11-483, 484; and A.R.S. Section 16.253; A.R.S. Sections 28-449, 450; and A.R.S. Section 40-202(c)(5).

⁵⁷ RUCO's Comments at p. 4.

⁵⁸ RUCO's Comments at p. 5.

opt-in system than for an opt-out system since the customer's approval for opt-in is more likely to be voluntary.⁵⁹

RUCO stated that the permissible use of such information should be as limited as possible. RUCO also stated that the profits from such use should be imputed to the phone company for ratemaking purposes.

B. Staff Discussion and Recommendation

Under the Third Report and Order, the FCC gave State commissions wider latitude to tailor CPNI policies to meet stated consumer concerns and prevent against harm to customers. While the FCC stated that the record before it did not support "opt-in" in all instances, it acknowledged that the records developed before State commissions might support more restrictive policies such as "opt-in" or verification requirements, and that in such cases the States could adopt more stringent CPNI policies than those adopted by the FCC.⁶⁰

After its review of the FCC's Third Report and Order and the comments and data responses submitted by the carriers and RUCO in this Docket, and public comment received at various open meetings, Staff supports policies designed to assure informed customer consent prior to release of the customer's CPNI. Staff recommends that the Commission adopt rules setting forth its policies on carrier dissemination of CPNI in Arizona. Highlights of the Staff's recommendations on these policies follow.

The FCC's Total Services Approach defines what carriers may do under 47 U.S.C. Section 222(c)(1) without customer approval. Staff concurs with the FCC that Congress intended that a carrier could use CPNI without customer approval only when the information is used in the provision of the telecommunications service from which the information is derived, or services necessary to, or used in the provision of such telecommunications service, including the publishing of directories. The FCC's Total Services Approach utilizes the three traditional service distinctions: local, interexchange and commercial mobile radio service ("CMRS"). Under this approach, a customer's local exchange carrier would be able to use local service CPNI to market a call waiting feature to them, as one of many offerings that make up local service, but would not be able to use CPNI to market long distance or CMRS offerings, absent customer consent. Nonetheless, this concept would allow carriers to use the customer's entire record, derived from the complete service subscribed to from that carrier, for marketing purposes within the existing service relationship. In other words, the carrier's permitted use of CPNI would reflect the level of service subscribed to by the customer from the carrier.⁶¹ Carriers would be able to use CPNI to market offerings that are related to, but limited by, the customer's existing service relationship with their carrier.

⁵⁹ RUCO's Comments at p. 6.

⁶⁰ See Third Report and Order, at para. 70.

⁶¹ See CPNI Order at paras. 27-48.

If the service falls outside of the customer's existing subscribed services with the carrier, the issue becomes one of how best to obtain the customer's informed consent to release of his or her CPNI. The debate has focused upon whether an "opt-in" approach (which requires the affirmative consent of the subscriber) or "opt-out" approach (where consent is implied after a reasonable period) should be used? As discussed earlier, the FCC initially adopted an opt-in approach. On remand from the Tenth Circuit Court of Appeals, the FCC more narrowly tailored its approach to the record before it. In so doing, it adopted an "opt-in" approach for the release of CPNI to affiliated entities that do not provide telecommunications services and other third parties. However, it found the "opt-out" approach was sufficient for the release of CPNI to affiliated entities that provide telecommunications services. This would include joint venture use of CPNI by telecommunications carriers as well as agent use (such as telemarketers) to market and provide communications related services only.

Staff agrees with the FCC that an "opt-in" approach is justified for the release of CPNI to affiliated entities that do not provide telecommunications services. Staff believes that "opt-in" in this instance is also supported by the record in Arizona. As with the record before the FCC, the record here shows that the government's interest in protecting consumers from unexpected and unwanted disclosure of their personal information in CPNI is a significant one. The potential harm to consumers from disclosure to affiliated entities that do not provide telecommunications services far exceeds any potential harm that could be done through intracompany use with affiliates that do provide telecommunications services. As the FCC noted, "...if a consumer's CPNI is disclosed to entities unaffected by section 222 and our rules, that entity can resell or use the CPNI in any lawful way without limitation."⁶² "Once CPNI enters the stream of commerce, consumers are without meaningful recourse to limit further access to, or disclosure of, that personal information."⁶³ In these instances the customer has a reasonable expectation of privacy. Where the customer has contracted for the provision of telecommunications services, it is reasonable to presume that the customer has a reasonable expectation of privacy with regard to the dissemination of his or her CPNI to an affiliate that does not provide telecommunications services. Staff recommends flexibility in the manner in which customer consent is obtained in such cases, to include written, oral or electronic consent by the customer.

While the FCC new rules allow use of the "opt-in" approach also for release to unaffiliated third parties, Staff believes that this goes beyond a reasonable interpretation of Section 222, and would permit dissemination in instances where it may not have been intended.⁶⁴ Staff recommends that when the information is going to be released to a third party, unrelated to the Company or the customer, that the customer be required to make an affirmative written request to the Company which designates the third party to which disclosure is to be made. Staff believes that this is required by Section 222(c)(2). We agree with the FCC's reasoning at para. 55 that the "...[h]arm to the consumer is exacerbated by the fact that third party entities receiving CPNI have no existing business

⁶² See Third Report and Order at para. 54.

⁶³ See Third Report and Order at para. 54.

⁶⁴ The Commission has filed a Petition for Clarification with the FCC on this issue.

relationship with the consumer and, hence, no accountability to the consumer.” The Comments of RUCO, in particular, also identify many real harms that can result through unintended disclosure of CPNI. Given these concerns, Staff recommends that the ACC go further than the FCC in such instances, and require that the customer be required to make an affirmative written request to the Company which designates the third party to which disclosure is to be made. Staff believes that this is actually more consistent with the practice of virtually all telecommunications carriers in Arizona. As the above comments by carriers indicate, most either do not release CPNI to unaffiliated entities (which are not telecommunications carriers) or do so only with a court order.

The other approval issue that remains is how to obtain customer approval when the telecommunications carrier desires to disseminate the customer’s CPNI to an affiliate, joint venture partner or independent contractor in connection with communications-related services that are provided by the carrier (or its affiliates) individually, or together with the joint venture partner. The FCC found that the use of opt-out was an appropriate approval mechanism in such cases. The FCC reasoned in such cases that a large percentage of telecommunications customers expect that carriers will use CPNI to market their own telecommunications services and products, as well as those of their affiliates.⁶⁵ The FCC also reasoned that the potential privacy harm from an inadvertent approval under opt-out is significantly reduced in the intra-company context by the carrier’s need for a continuing relationship with the customer⁶⁶. The FCC also found that the threat of an enforcement action would also serve as a deterrent against misuse by an entity providing communications services.

Given the concerns expressed by consumers in Arizona at the various open meetings, as well as the potential harm to consumers in disclosing CPNI to intra-company affiliates outside the customer’s existing relationship with the carrier such that the consumer would have a reasonable expectation of privacy, Staff recommends that the Commission require the use of the more stringent “opt-in” methodology in this instance as well.

In recommending rules that require affirmative action by the customer approving the release of his or her CPNI, the Staff is mindful of the concerns expressed by carriers. Staff does not agree, however, with those carriers which commented that CPNI is not as sensitive as other information such as a customer’s financial information. Rather, Staff agrees with the following characterization of CPNI from the FCC’s initial CPNI Order:

“Much CPNI, however, consists of highly personal information, particularly relating to call destination, including the numbers subscribers call destination, including the numbers subscribers call and from which they receive calls, as well as when and how frequently subscribers make their calls. This data can be translated into subscriber profiles containing information about the identities and whereabouts of subscribers’ friends and relatives; which businesses subscribers patronize; when subscribers

⁶⁵ See Third Report and Order at para. 36.

⁶⁶ See Third Report and Order at para. 37.

are likely to be home and/or awake; product and service preferences; how frequently and cost-effectively subscribers use their telecommunications services; and subscribers' social, medical, business, client, sales, organizational and political telephone contacts."⁶⁷

Most of the carriers also expressed a concern that their costs of marketing and administration would increase substantially if the Commission imposed an "opt-in" requirement. Yet, many of the carriers could not quantify with any precision to what extent costs would increase with an opt-in requirement. Additionally, Valley Telephone Cooperative, Copper Valley Telephone and Valley Telecommunications stated that what was important from an administration perspective, was that a single approach to the treatment and handling of all CPNI be used. They stated that this would simplify the administrative burden for companies that must comply, and to ensure that customers can easily understand their rights and responsibilities with regard to their CPNI.

The carriers also argued that requiring opt-in would dramatically reduce the amount of information available to the commercial sector and would impose substantial costs on consumers. However, AT&T's experience refutes Qwest's assertions in this regard. AT&T stated that its own experience was that when polled orally, 86% of consumers agreed to give CPNI approval.

In addition, Qwest, Sprint and Cox identified several competitive concerns with an "opt-in" requirement. Qwest and Cox both argued that to the extent restrictive regulations are applied to some carrier but not others, carriers are placed at a competitive disadvantage. Staff does not believe that this is a valid concern since it is Staff's understanding that at the federal level the regulations are applied to all telecommunications carriers, and this would be the result at the state level as well. Sprint argued that an "opt-in" requirement would create a competitive advantage for the ILEC. Staff disagrees and believes that just the opposite is true. An "opt-out" requirement would create a competitive advantage for the ILEC given the ILEC's monopoly in the local exchange market and the fact that Qwest still has approximately 95% of the residential market in Arizona. Under "opt-out", the customers' consent would be implied in many cases which would advantage the ILEC given their much larger customer base.

Moreover public input at the various open meetings in Arizona was predominantly in favor of an "opt-in" requirement. Qwest itself stated in its March 29, 2002 comments to the Commission that "[t]he market, rather than the government, should decide which approval process should be used for CPNI." In Arizona, consumers want "opt-in".

Finally, Staff believes that the extensive record compiled to-date in Arizona demonstrates that "opt-out" is not sufficient to protect consumers' privacy concerns. Implementation of "opt-out" in Arizona has not allowed for a knowing and informed consent to release to CPNI by consumers, as required by 47 U.S.C. Section 222. Carrier notices have been confusing, have been combined with other notices and in many

⁶⁷ CPNI Order at para. 61.

instances have not been bilingual, even though a large percentage of Arizona consumers are Spanish speaking. Thus Staff believes that the use of "opt-out" in Arizona has resulted in consent being implied in many instances when it may not have been intended.

Therefore, Staff recommends that it publish proposed rules which require the use of "opt-in"; and application of Section 222(c)(2) in instances where CPNI is to be disseminated to an unrelated third party which does not provide telecommunications services.

Staff also recommends that the rules contain provisions covering notice to subscribers. Staff agrees with AT&T that the sufficiency of notice is the key to allowing the customer to make an informed choice. Staff disagrees with others that suggest that the form of notice need not vary depending upon whether an opt-in or opt-out requirement is put in place, or that the Commission should rely solely on federal requirements. Staff also recommends that the rules contain flexible verification requirements, so as not to be overly burdensome to the carriers.

Staff proposes that a workshop be conducted and that carriers be afforded an opportunity to comment on Staff's proposed rules.

Staff does not believe the Tenth Circuit's Decision in U S West v. FCC prevents the Arizona Corporation Commission from adopting and enforcing an opt-in program for two reasons. Staff's recommendations meet the requirements of the Central Hudson test applied by the Tenth Circuit. The Commission has a substantial state interest in regulating notice and dissemination of CPNI. As outlined above, Arizona's telecommunications customers enjoy an enhanced privacy interest in the proprietary information collected by carriers. Arizona statutes specifically empower the Commission to pass rules requiring the written consent of telecommunications customers before carriers may breach the confidentiality of CPNI. By passing this law the Arizona legislature has identified the protection of CPNI as a specific privacy interest to be protected by the rule of the Commission.

The rules recommended by Staff will directly and materially advance that interest. Staff's recommended rules will ensure consumers are fully informed of their CPNI rights. The rules will require the consumer to actively waive those rights. The interest of protecting CPNI will be directly and materially advanced by ensuring informed active customer decisions. Staff believes its recommendations are no more extensive than necessary to serve its interest in protecting CPNI. The alternative to an opt-in method is the opt-out method currently employed by carriers sharing CPNI. Staff believes the opt-out method has proven ineffective in ensuring informed decisions by customers to waive their CPNI rights.

IV. CONCLUSION

Staff believes the responses to its data requests reflect substantial usage of CPNI by carriers. All carriers questioned with the exception of Citizens and AT&T use CPNI to some extent in their marketing efforts.

It is Staff's opinion that the FCC's Third Report and Order allows the Commission wide latitude in fashioning CPNI policies to address the concerns and harms associated with its dissemination in Arizona. Staff recommends that the Commission adopt rules consistent with the discussion above. Staff proposes that it distribute proposed rules reflective of the above discussion and that a workshop be held to obtain the input of carriers and interested members of the public. Staff recommends that after the workshop is concluded on Staff's proposed rules, and the input of interested parties is received, revised proposed rules be distributed and the Commission commence the formal rulemaking process.

EXHIBIT A

Qwest's Comments Re: CPNI
March 29, 2002

ATTACHMENT 1

Scripting on the bill envelope:

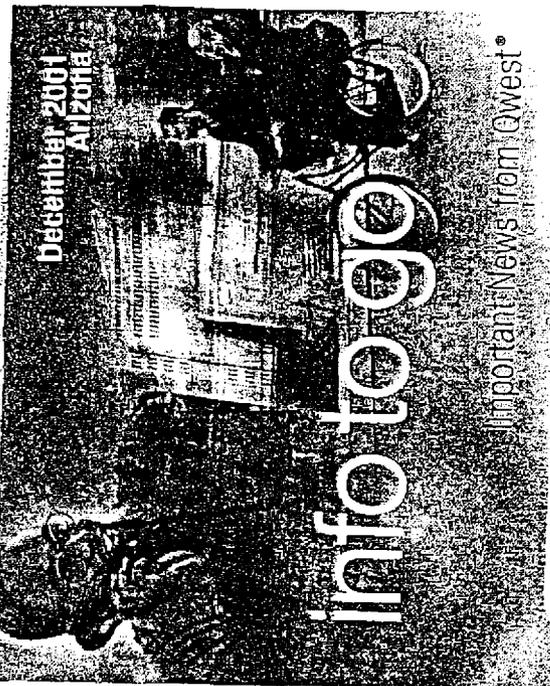
Important news about your telephone account information.

At U S WEST customer privacy has always been a priority and we want to assure you that your telephone account information, such as calling and billing records, the number of lines and features you have and how you use them, is protected. We use this information to provide your service, as well as to introduce new products and services that are tailored to your needs.

Recent changes in government regulations require that we obtain your approval to use your telephone account information within U S WEST for certain purposes. With your approval, we will use this information only within the U S WEST companies, such as our wireless, long distance, telephone equipment, and voice mail divisions. We will not share this information outside of U S WEST without your authorization.

Your approval will remain in effect unless you decide to change it, which may be done at anytime by just calling us. The choice you make will not affect the quality of your service and will have no impact on the products and services to which you currently subscribe.

If you haven't give your approval, please call us at 1-800-CALLUSW (1-800-225-5879).



Important Notice Regarding Your Qwest Account Information

The following information does not impact your Qwest billing.

Qwest has a long history of treating customer account information confidentially. We think that's one reason you trust us. As we develop new services, we want to maintain your trust while continuing to meet your service needs with innovative products. By sharing account information among Qwest's family of companies, and by aggregating information to learn more about trends and purchasing patterns, we can serve you better.

All telecommunications carriers have a duty to treat customer account information confidentially by law. If you don't currently subscribe to a particular telecommunications service, you have a right to prohibit us from sharing account information for marketing purposes with other Qwest business divisions. For example, if you have local service with Qwest but not wireless service, you can ask us not to share the local service information with the wireless part of our business.

(continued, next)

Qwest

1505-2177

A. THESE PREFIXES WILL STAY IN THE 520 AREA CODE
*** PREFIX 601 IS DUPLICATED IN BOTH 520 AND 928**

202	250	299	363	404	452	512	566	619	695	761	823	873	924
205	251	302	364	406	455	513	568	620	696	762	824	874	930
206	252	303	365	407	456	514	570	621	697	763	825	875	931
207	256	307	367	407	457	515	571	622	698	764	826	876	932
208	258	312	371	408	458	516	572	623	699	765	827	877	933
209	259	313	374	409	459	517	573	624	700	766	828	880	940
212	260	315	375	410	460	518	574	625	701	767	829	881	941
215	264	316	376	413	463	519	575	626	702	768	830	882	945
216	267	318	378	414	464	520	576	627	703	769	831	883	946
218	270	319	381	417	465	523	577	628	704	770	832	884	947
219	271	320	382	418	466	524	578	629	705	771	833	885	948
224	272	321	383	419	467	525	579	630	706	772	834	886	949
225	275	322	384	421	470	526	580	631	707	773	835	887	950
226	276	323	385	423	471	527	581	632	708	774	836	888	951
229	280	324	387	424	481	528	582	633	709	775	837	889	952
230	281	325	388	426	483	529	583	634	710	776	838	890	953
232	285	326	389	428	484	530	584	635	711	777	839	891	954
233	287	327	390	430	485	531	585	636	712	778	840	892	955
237	290	331	391	431	486	532	586	637	713	779	841	893	956
239	291	340	393	432	487	533	587	638	714	780	842	894	957
240	292	342	394	434	488	534	588	639	715	781	843	895	958
241	293	343	395	435	489	535	589	640	716	782	844	896	959
243	294	347	396	438	491	536	590	641	717	783	845	897	960
245	295	348	397	439	492	537	591	642	718	784	846	898	961
246	296	349	398	440	493	538	592	643	719	785	847	899	962
247	297	351	401	446	494	539	593	644	720	786	848	900	963
249	298	352	403	449	495	540	594	645	721	787	849	901	964
250	299	353	404	450	496	541	595	646	722	788	850	902	965
251	300	354	405	451	497	542	596	647	723	789	851	903	966
252	301	355	406	452	498	543	597	648	724	790	852	904	967
253	302	356	407	453	499	544	598	649	725	791	853	905	968
254	303	357	408	454	500	545	599	650	726	792	854	906	969
255	304	358	409	455	501	546	600	651	727	793	855	907	970
256	305	359	410	456	502	547	601	652	728	794	856	908	971
257	314	353	433	482	532	592	638	674	713	757	789	890	972
261	317	354	436	484	535	593	640	677	715	759	891	922	918

B. THESE PREFIXES WILL MOVE TO THE 928 AREA CODE
*** PREFIX 601 IS DUPLICATED IN BOTH 520 AND 928**

200	202	328	355	437	485	536	595	641	679	716	763	812	859
203	265	329	359	438	486	537	596	643	680	717	764	813	860
204	266	330	367	441	487	538	597	645	681	718	765	814	861
205	267	331	368	442	488	539	598	646	682	719	766	815	862
210	268	332	369	443	489	540	599	647	683	720	767	816	863
213	273	334	372	445	492	542	599	649	684	724	767	819	866
214	274	335	373	447	493	543	600	651	685	725	768	821	867
217	277	336	376	448	494	544	601	652	686	726	769	822	868
220	279	337	379	449	495	545	602	653	687	727	770	823	869
221	282	338	380	450	496	546	603	654	688	728	771	824	870
222	283	339	381	451	497	547	604	655	689	729	772	825	871
223	284	340	382	452	498	548	605	656	690	730	773	826	872
225	286	341	385	454	499	549	606	657	691	731	774	827	873
227	289	343	386	456	501	551	607	658	692	732	775	828	874
231	291	344	387	457	502	552	608	659	693	733	776	829	875
233	293	346	389	459	504	554	610	661	695	735	777	830	876
234	294	347	390	460	505	555	611	662	696	736	778	831	877
235	295	348	391	461	506	556	612	663	697	737	779	832	878
236	301	345	415	474	524	581	633	667	704	752	791	838	879
244	303	346	416	475	525	582	634	668	705	753	792	839	880
246	305	348	425	477	527	584	636	670	707	754	793	840	881
253	306	349	426	478	528	585	637	671	708	755	794	841	882
254	308	350	427	479	529	586	638	672	709	756	795	842	883
255	309	351	428	479	530	587	639	673	710	757	796	843	884
257	314	353	433	482	532	592	638	674	713	757	789	890	972
261	317	354	436	484	535	593	640	677	715	759	891	922	918

C. THESE PREFIXES ARE GRANDFATHERED AND WILL KEEP THE 520 AREA CODE. LOCAL CALLS TO AND FROM THESE PREFIXES WILL REQUIRE DIALING TEN DIGITS AFTER THE MANDATORY DATE.

520	310	FLAGSTAFF	520	420	PRESCOTT	520	451	SEDONA
520	431	FLAGSTAFF	520	831	PRESCOTT	520	921	SEDONA
			520	238	YUMA			

Prefix list prepared November 8, 2001, based on adjusted industry documents. DISCLAIMER: This prefix list was developed by Qwest based on information obtained from telecommunications industry documents. Qwest is not responsible for the accuracy or completeness of information for non-Qwest prefixes.

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AZ 12/01

Some telephone equipment used by businesses will not recognize the new area code until that equipment has been reprogrammed or upgraded. If your business uses specialized communications equipment (often called PBX equipment), electronic telephone sets, auto-dial systems or multi-line key systems, you may need to reprogram or upgrade your equipment.

Businesses can test their telephone equipment to determine if it recognizes the new 928 area code by calling the free test numbers: **928-348-7928, 928-526-4928** (a 1+ the number may be required), if a call to the test number does not go through, contact your equipment provider. If your equipment is not the cause of the problem, please call Qwest's business repair service at 1-800-954-1211.

Businesses with the new 928 area code. You will need to change your area code on such things as stationery, business cards, and advertisements. Ask your employees to always include your area code whenever they give out the phone number for your business. Notify your local, national and international customers and clients that your area code is changing. Tell them you can be reached through either your new or old area code until January 5, 2002. However, advise your customers that beginning January 5, 2002, they can only reach you by using your new 928 area code.

Other communication services affected. Some other communication services that might be affected are:

- Your wireless phone may need to be reprogrammed if your phone number contains one of the three-digit prefixes assigned to the 928 area code (refer to the list on back).
- Calling features such as speed-dialing and call-forwarding may need to be reprogrammed.
- Owners of coin-operated telephones should contact their equipment vendor for specific equipment requirements.
- Some alarm systems may need to be reprogrammed.
- Internet dial-up connections may need to be reprogrammed.
- Check with your service provider to determine if 800, 888 and 877 numbers in the new area code need to be reprogrammed.

Additional information. Additional information is available by calling Qwest's Fax-On-Demand service at 1-800-450-6267 or through Qwest's web site www.qwest.com/areaCodes or call 1-800-603-6000 for business, 1-800-244-1111 for residence.

continued on back panel

Account information includes details about your service, such as how many lines you have; features you may subscribe to or use (such as Caller ID, Call Waiting, and Last Call Return); information about wireless services, if you have them; as well as calling and billing records. For toll calls that you are billed for, the information includes the number the call comes from, the number it goes to and how many minutes the call takes.

We expect to share account information with Qwest companies, many of which you probably already know. These include Qwest Corporation (your local telephone company), Qwest Wireless, Qwest DEX (our directory services), Qwest Communications Corporation (our long distance division), and our Internet operations. In the future, we may change our structure or enter new lines of business (for example, we hope to offer interexchange long distance services in our states over the next year or two). As such changes happen, we will also share account information when it helps to provide you quality services, packages and promotions.

You don't have to do anything to permit us to use your information. If you do not want us to share account information within the Qwest family of companies, let us know within the next 30 days. Residential customers should call toll free 1-877-628-3732. For business customers, contact your Qwest representative or call the business office telephone number on your Qwest bill. Both business and residential customers may also let us know their preference by using the following website: www.qwest.com/cpnl. If we do not hear from you within 30 days, we'll use the account information in the ways described here. Of course, if you change your mind in the future, you can always contact us to change your decision. Whatever you decide will not affect the quality of the Qwest products and services you use now or your ability to order new products from us in the future. But, it may mean you are not informed of special offers or new products or services, packaged offerings, or promotions.

Even if you notify us not to use account information for marketing purposes, by law we can and do use such information for reasons you might expect -- billing, collection, and protecting ourselves and others against unlawful acts such as fraud or theft of service. And, your name, address and telephone number are not generally considered confidential account information. We also mix information together about groups or categories of services or customers so that specific customers are not identified.

Of course, provide your account information to anyone you wish, such as other carriers or service providers -- so long as it comes from you personally and is in writing.

We also sometimes disclose account information to third parties who are not part of the Qwest family of companies when required by law, when it further's prompt and accurate delivery of your service, or when it is commercially reasonable to do so. So, we provide account information when presented with lawful demands by regulatory agencies, subpoenas, or by law enforcement. Qwest is also required to provide account information to other carriers when they tell us you have consented and they need the information to offer you their services. We may provide account information to companies where the "service package" involves part of a Qwest service (a DSL line, for example) and part of another company's service (like Internet access), so that the service you receive works despite there being two companies involved. There are other examples, also. We may provide account information to companies that provide support services to us (such as billing or account management) and to firms that have marketing agreements with us. We also may disclose account information if we decide to sell a line of business to another company, so that you can continue to receive service with as little disruption as possible.

We believe our information practices promote your interests and ours. We are better able to understand the kinds of services you have and might like to receive in the future. And we can limit our contacts with you to those times when we have products you may be interested in hearing about.

Please note: Not all of Qwest's information practices are included in this short notice about account information. Also, we may make changes in the future to the way in which we share account information internally or disclose it outside our company. You can learn more about Qwest's privacy policies and information practices by visiting Qwest's web site at www.qwest.com.

2 Arizona's New 928 Area Code

On June 23, 2001, the region served by Arizona's 520 area code was split into two area codes: 520 and 928. Below is important information about the new area code change.

New area code necessary. Arizona is running out of usable telephone number prefixes in the region served by the 520 area code. This is happening due to growth and the many choices in service providers. To keep up with the current needs in products and additional lines, and to allow for increasing prefix numbers to telecommunications providers.

Area code effective date. The new 928 area code became effective on June 23, 2001. During a transition period, callers will be able to use either the new or old area code to complete a call. Mandatory use of the correct area code begins January 5, 2002.

520/928 area code split. Effective June 23, 2001, the region served by the 520 area code was split into two different area codes: 520 and 928.

- The **520 area code** will be kept by Ajo, Benson, Bisbee, Blackwater, Bowie, Casa Blanca, Casa Grande, Caspabel, Coolidge, Douglas, Effie, Eloy, Florence, Hayden, Komatke, Lone Butte, Maricopa Village, Maricopa, Nogales, Patagonia, Pearce, Portal, Saco, San Manuel, San Simon, Santa Rosa, Sasabe, Sells, Sierra Vista, Sulcot, Sunizona, Superior, Tombstone, Tucson, West San Simon, Willcox, and Willcox.

• The **928 area code** is being assigned to the following communities, among others: Bullhead City, Camp Verde, Clifton, Cottonwood, East Kingman, Flagstaff, Gila Bend, Globe, Grand Canyon, Kingman, Lake Havasu City, Mohave Valley, Page, Payson, Pinetop, Prescott, Quartzsite, Safford, Sedona, Show Low, Somerton, Wickenburg, Window Rock, Winslow, and Yuma.

See the outside panel of this brochure for a list of telephone prefixes that will have the new 928 area code and those that will keep the 520 area code.

Impact on home service. If you have a new area code, notify those who call you and make plans to change your area code on such things as stationery and checks. Also, you may wish to reprogram automatic dialers, fax machines or computer modems before January 5, 2002. Be sure everyone in your household knows your new area code. If you encounter a problem with the new area code, contact Qwest's residence repair at 1-800-573-1311.

Impact on businesses. All businesses should verify that the telephone equipment is capable of completing calls to the new 928 area code.

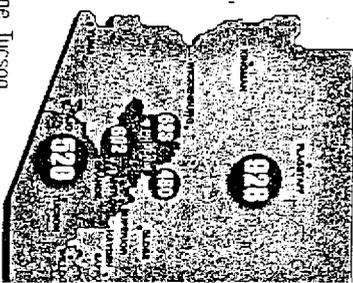


EXHIBIT C

B. Enclose with your response an original or copy of said notification. Please include both the initial notification to the customer and an example of a follow-up notification. If oral notice is provided, please include a copy of the script used.

Qwest has provided a copy of Qwest's (then U S WEST) opt-in notice, which was included on the back of customer bills from August 1998 to April 1999 (See Qwest ACC Response, response to Inquiry 1 and Attachment 1), as well as its December, 2001 opt-out bill insert (id. and Attachment 2).

Oral scripting is delivered along the following lines: "We want to assure you that we protect your telephone account information, such as your calling and billing records, the number of lines and features you have, how you use them. We use this information to provide your service, as well as to introduce new products and services that are tailored to your needs. With your approval, we make this information available only within our Qwest companies, such as our wireless and long distance, and yellow page advertising companies. We will not make it available to anyone outside of Qwest without your consent. Please be assured your choice will not affect the quality of service we provide you and it will have no impact on products and services you currently subscribe to. May I have your approval to use your account information as I have described? If you choose to remove your approval at a later date, just give us a call to let us know you've changed your mind."

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EXHIBIT D

GENERAL TERMS AND CONDITIONS OF SERVICE

Important Notice: These General Terms And Conditions Of Service apply to all the regulated interstate and international telecommunications services contained in this "Service Guide and Price Guide" ("Guide"). They may be modified or supplemented by service-specific terms conditions contained elsewhere in this Guide, specifically, where individual services are located, or by terms and conditions contained in a written contract between the Company and the Customer.

In the event of an inconsistency between a General Term or Condition, a service-specific term or condition, or a term or condition in a written contract, the relationship with the Customer will consist of the following, in order of precedence from (1) through (3): (1) the term or condition in the written contract; (2) the service-specific term or condition in this Guide; and (3) the General Term or Condition.

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EXHIBIT D

communications services necessary for interconnecting with the Company's service ("Facilities"). Customer is responsible for ensuring that such Facilities are and remain compatible with service. The Company is not responsible for the availability, capacity and/or condition of any Facilities provided by third parties. Customer hereby grants to the Company all licenses, waivers, consents, or registrations necessary to deliver, install, and maintain Company-provided equipment on Customer or Authorized User premises.

- .02 Security. Customer, at its expense, will take all reasonable steps necessary to preserve and protect Company-provided equipment, software, data and systems located on Customer's premises or, otherwise, in Customer's control and used in connection with Company service, whether owned by Customer, the Company, or a Company affiliate or subcontractor. Customer acknowledges and agrees that the Company will not be liable, either in contract or in tort, for any loss resulting from any unauthorized access to, alteration of, or use of Facilities used in connection with service.
- .03 Customer Site Access. Customer agrees to allow the Company and its affiliates or subcontractors and their respective employees and agents access to Customer or Authorized User premises at which service is being or will be provided (including access to associated equipment).
- .04 Customer Information. The Customer must furnish the Company with all information needed by the Company to install, maintain, change or remove service including, without limitation, circuit installation and disconnection authorization information.

7.F Customer Data and Privacy

Customer acknowledges that the Company, its affiliates and agents will, by virtue of the provision of service, come into possession of information and data regarding Customer, its employees and Authorized Users. This information and data ("Customer Data") shall include, but not be limited to, data transmissions (including the originating and destination numbers and IP addresses, date, time and duration of voice or data transmissions, and other data necessary for the establishment, billing or maintenance of the transmission), data containing personal and/or private information of Customer, its employees or Authorized Users, and other data provided to or obtained by the Company, its affiliates and agents in connection with the provision of service. Customer acknowledges and agrees that the Company, and its affiliates and agents, may use, process and/or transfer Customer Data (including intra-group transfers and transfers to entities in countries that do not provide statutory protections for personal information): (1) in connection with provisioning of service; (2) to incorporate the Customer Data into databases controlled by the Company and its affiliates for the purpose of providing service, administration, provisioning, billing and reconciliation, verification of Customer identity and solvency, maintenance, support and product development, fraud detection and prevention, sales, revenue and customer analysis and reporting, market and customer use analysis, and (3) to communicate to Customer regarding products and services of the Company and its affiliates by voice, letter, fax or email. Customer may withdraw consent for such communications (or any use, transfer or processing of Customer Data except for that required to provision, administer, bill or account for the service) by sending written notice to the Company. Customer warrants that it has obtained or will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of Customer Data as described in this Section.

7.G Software and Documentation

Software and related documentation provided by the Company to Customer in connection with service and not otherwise subject to either a separate written contract between the Company and the Customer or to an accompanying shrink wrap license (collectively the "Software") is subject to the following:

- .01 In consideration for payment of any applicable fees, Customer is granted a personal, non-exclusive, non-transferable license to use the Software, in object code form only, solely in connection with service for Customer's internal business purposes on Customer-owned or

Sep. 14. 2000 4:55PM

COX SYSTEMS INC

EXHIBIT E

No. 2647 P. 2/5

September 5, 2000
Account Number: 001 7210 043883210

405 S 16TH ST
APT 1102
OMAHA NE 68102-2613 05
Page 1 of 4

Previous Balance	Payments Received	Adjustments	Amount Past Due	Current Charges	Total Due	Due By
\$199.97	\$0.00	\$0.00	\$199.97	\$63.95	\$253.92	Aug 29, 2000

Current Charges as of September 5, 2000

Total Cable Services	48.04
Total Taxes	5.91
Total Current Charges	\$53.95

Questions?
CUSTOMER SERV: 402-933-3000

On-Line: www.cox.com/omaha

About Your Account

PAST DUE NOTICE Your payment may have crossed in the mail with this bill. If it did, please disregard this notice. Our records indicate the balance on your last bill was not paid by the due date. A late fee has been charged. PLEASE RUSH PAYMENT to our office to avoid interruption of service. If there is anything we can do to help clear up this matter, please call 933-3000. Both front counters are open 8AM-8pm Mon.-Fri. Our 50th & Dodge St. front counter is open Saturdays, 8AM-2PM. Cox accepts VISA, Mastercard, and Discover Card.

What's New from Cox

The Universal Fund Fee is \$.20/month per account and supports the Universal Service Fund created by the FCC which helps provide affordable telecommunications services for low-income families and remote areas and advanced services like Internet access to eligible organizations. All long distance carriers pay into this fund. The Carrier Line Fee is \$.85/month per Cox Long Distance account and helps recover a portion of fees paid to local telephone companies for access.

Continued on reverse...

FRANCHISING AUTHORITY: OMAHA CITY COUNCIL 1019 FARMAN STREET OMAHA, NE 68103 CUID 402-44-0520

COX
COMMUNICATIONS
11505 W. DODGE ROAD
OMAHA, NE 68164-2636

Account Number:
001 7210 043883210
Total Due: \$253.92
Payment Due By:
Aug 29, 2000

Please return this portion with your payment.

Amount Enclosed \$ _____

Allow 7 days for mail processing. Please include your account number on your check. Make checks payable to Cox Communications. Payment of this bill confirms your subscription to services and possession of equipment as listed.

07210001137043883210720025392

MAC 0010 20V RP 13 00115 09131000 *****

405 S 16TH ST
APT 1102
OMAHA NE 68102-2613

COX COMMUNICATIONS
P.O. BOX 2167
OMAHA NE 68103-2167

E

Sep. 14. 2000 4:55PM

CSC SYSTEMS INC

EXHIBIT E

No. 2647 P. 3/5

0400 0010 2W RP 13 00115 0013000 11010000
September 5, 2000
Account Number: 001 7210 0-3583210

Page 2 of 4

What's New from Cox continued

Identification of Telephone Customer's Right of Privacy

Cox has a privacy policy to protect our telephone Customer's Proprietary Network Information, "CPNI", as well as to protect our customer's identity if so requested. Specifically, Cox does not sell any of its telephone customer information. Cox adheres to the Federal Communications Commission's rules and the provisions as set forth in the 1996 telecommunications concerning its telephone customer's privacy. CPNI is information relating to your call patterns, service features, price plans, spending profiles, and call destinations.

CPNI does not include subscriber-listing information, i.e. name, address and telephone number. Cox needs to review your account information in order to provide you the best package of services. As such, Cox will access your CPNI to identify and notify you of new service offerings when they become available or when we determine new pricing plans, which will save you money. These existing or new services may be offered by affiliated companies of Cox yet this information will not be disclosed to third parties outside of Cox except as required by law.

If you prefer that Cox not access such information, you may either call or write Cox at the numbers and addresses listed above. To give us your consent, you do not need to initiate any action. Your consent will enable Cox to use your CPNI and your decision will remain in effect until you notify Cox that you wish to either revoke or change existing consent. Your decision on whether to provide consent to Cox will in no way effect the services you currently receive.

EXHIBIT E



2000
CUSTOMER
INFORMATION

- Notification of Customer Rights Under the Cable Communications Policy Act of 1984
- Notification of Privacy Rights of Telephone Customers
- Television Equipment Compatibility Notice
- Television Picture Quality Resolution Notification

Cox Communications
Address
City, State, Zip Code
Telephone Number
Business Hours

EXHIBIT F

NOTIFICATION OF CUSTOMER RIGHTS UNDER THE CABLE COMMUNICATIONS POLICY ACT OF 1984

Dear Cable and/or Internet Customer:

As a customer of Cox Communications ("Cox" or "we") subscribing to cable television services, you are entitled under the Cable Communications Policy Act of 1984 (the "Cable Act") to know the limitations imposed upon cable operators in the collection and disclosure of personally identifiable customer information, the type of personally identifiable information collected, how such information is used, under what conditions it is disclosed, the period during which it is maintained and the rights of customers concerning access to such information and its disclosure. Cox also applies the information policies of this law to Internet access services to which you subscribe.

The law and its policies relate only to personally identifiable information. It also applies only to information that you have furnished to us or certain information that is transmitted over our cable facilities. Some of our services permit you to direct communications outside of our system and this law does not apply to these communications. For example, this law does not apply to information that you have directed to third parties over the facilities of on-line providers or over the Internet.

1. Collection and Use. To better provide you with reliable, high-caliber service, Cox keeps regular business records that contain the following types of personally identifiable information: name, service address, billing address, home and/or other telephone number(s), social security number or driver's license number, premium service subscription information (including the movies that you have ordered on pay-per-view channels), and customer correspondence and communications records. We also maintain information concerning billing, payment, security deposits and maintenance and repairs, as well as other service-related information. For Internet access service, the cable system may automatically collect or facilitate the collection of information on customer use of the service, including information on the choices that a customer makes along the range of services offered, when a customer visits a site, and how long he or she visits the site.

We collect, maintain and use this information, generally to conduct business activities related to providing you with cable television, Internet access service, and other services, and to help us detect theft of service. Our detailed business records are used, and personal information contained in them disclosed, generally to help ensure you are being properly billed for the services you receive, to send you pertinent information regarding your cable services, to improve the quality of the services we provide to you, and for other service-related activities. More specifically, this information is used for financial, legal, tax and accounting purposes, to sell, install, maintain and disconnect services, to bill and collect charges for the services to which you subscribe, to gauge customer satisfaction and improve programming and marketing

EXHIBIT F

plans, for customer mailings related to the services we offer, and to answer questions from you concerning your bill and services provided to you. We take all reasonable precautions to identify you or your authorized representative as the inquirer on your account and to otherwise prevent unauthorized access to your account information.

Cox will not use any electronic device attached to the cable television wires for the purpose of recording, transmitting, or observing any events or listening, recording, or monitoring any conversations which take place within your residence, work place, or place of business without obtaining your express written or electronic consent.

2. Disclosure. Cox considers the personally identifiable information contained in our business records to be confidential and will not disclose it without your prior written or electronic consent except as provided in this notice. We may disclose this information, however, if the disclosure is necessary for rendering or conducting a legitimate business activity related to a cable service, Internet access service or other service Cox provides to you. Consequently, we may, for example, from time to time disclose information to our employees, attorneys, outside auditors and accountants as required, program guide distributors, collection agencies, construction and installation contractors, consumer and market research companies, software vendors, and affiliated providers of Internet access services or Internet content services.

Cox will not make personally identifiable information about you available to government entities unless we are required to do so by court order, and we will notify you of the court's order before disclosing the information. Before the court will order us to disclose any personally identifiable information, the government entity seeking the information must offer clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case. If a government entity is seeking personally identifiable information about you under these circumstances, the court must afford you the opportunity to appear and contest the government entity's claim.

In the event you are a customer of Cox's High Speed Internet Access Service, you have expressly granted permission to Cox to disclose, without prior notice to you, information relating to your account such as the name and address associated with a given IP address or e-mail account in response to:

- (a) a subpoena issued in a civil or criminal investigation or litigation;
- (b) a civil investigative demand issued by a government entity;
- (c) a court order;
- (d) a law enforcement agency request based on emergency conditions such as an imminent threat to life and limb or substantial damage or destruction of property. Examples of such emergency situations would include bomb threats, kidnappings,

EXHIBIT F

extortion threats, identifying the service address of a suicidal party, and threats to critical governmental or private sector computer systems and databases.

While we do not currently sell lists containing the names and addresses of our customers or otherwise release customer lists to third parties not facilitating our services to you, the law permits Cox to disclose names and addresses only of its customers to charities, marketing organizations or other businesses for use in mailing lists, telephone or mail solicitation, market research or other uses. You have the right to limit or prevent your name and address from being included on such a list. If you wish to be excluded from any such list, you must notify us in writing at the address listed on the front cover of this notice.

3. Retention. Cox maintains the information in our regular business records as long as you are a customer and for a longer time if necessary for our business purposes. Unless a court has asked us for access to this information, we will destroy it once it is no longer necessary for our business purposes.

4. Subscriber Rights. Cox will make available for your examination any personally identifiable information about you contained in our business records within a reasonable period of time, and in no event later than ten (10) days after we receive your written request to examine the information. You shall be responsible for the cost of copying any documents you request. We will make this information available during normal business hours at the Cox office listed on the front cover of this notice, and will give you an opportunity to correct any error in the information we maintain. Section 631 of the Cable Act gives you specific rights if these provisions are violated. If you believe that a violation of these provisions of the Cable Act has caused you harm, you may bring a civil action for damages in United States District Court.

NOTIFICATION OF PRIVACY RIGHTS OF TELEPHONE CUSTOMERS

Dear Telephone Customer:

Cox also has a policy to protect our telephone customer's network information as well as their identity if they request to be unlisted, unpublished or request to have their identity not disclosed. Cox does not provide the identity of any customer who requests a non-published number and does not sell any of its telephone customer information. Cox also adheres to the Federal Communications Commissions rules and provisions as set forth in the 1996 Telecommunications Act which pertains to the protection of customer proprietary information, information such as our customer's call patterns, service features, price plans, spending profiles, call destinations; i.e. information on how our customer's use our telephone service. Cox also applies the information policies described above in the notice to cable and Internet customers, where consistent with the telephone policy described in this notice.

Cox prides itself on its ability to provide its customers a high-level advanced telecommunication service, including local calling, long distance, high-speed data and video service. As such, Cox will access your telephone service information to identify and notify you of new service offerings when they become available or when we determine new pricing plans, which may save you money. These existing or new services maybe offered by affiliated companies of Cox yet this information will not be disclosed to third parties outside of Cox, except as otherwise required by law. If you prefer that Cox not access such information you may either call or write Cox at the number and address listed above. Otherwise, your consent will enable Cox to use your information and your decision will remain in effect until you notify Cox that you wish to either revoke or change your existing consent. Your decision on whether to provide consent to Cox will in no way affect the services you currently receive.

TELEVISION EQUIPMENT COMPATIBILITY NOTICE

Q: Do I need a cable converter and where can I get one?

A: Some models of TVs and VCRs – especially older TV sets that are not "cable ready" - may not be able to receive all of the channels offered by the cable system when connected directly to the cable system. If your TV or VCR is not able to receive all of the channels offered by the cable system when connected directly to the cable system, you can obtain a set-top channel converter or other equipment from Cox or a retail store at a nominal charge to enable your TV and VCR to receive all cable channels. Please note that some Cox premium or Pay-Per-View channels may not be available with a retail receiver. Also, you should know that receivers with descrambling units are illegal to sell or use unless authorized by Cox.

Q: Will I need additional equipment?

A: Where service is received through a set-top channel converter, you may not be able to use special features and functions of your TV and VCR, including, but not limited to, features that allow you to: view a program on one channel while simultaneously recording a program on another channel; record two or more consecutive programs that appear on different channels; and, use advanced picture generation and display features such as "Picture-in-Picture" and channel review. Cox may be able to resolve these issues through the use of an additional converter or other equipment which is available for lease upon request.

Q: Where can I get a remote control?

A: Remote control units that are compatible with set-top channel converters or other terminal equipment may be obtained from Cox or from sources other than Cox Communications, such as retail outlets. A list of compatible remote control models is enclosed. You are encouraged to contact Cox Communications to inquire about whether a particular remote control unit would be compatible with your equipment.

EXHIBIT F

Please note that customer owned remote control units may not be functional if Cox Communications changes the set-top channel converter or other terminal devices.

COMPATIBLE TELEVISION REMOTE CONTROL MODELS *[insert manufacturer(s) and model number(s)]*

TELEVISION PICTURE QUALITY RESOLUTION NOTIFICATION

Q: What do I do if I have a poor quality picture on my TV?

A: Upon experiencing problems with the quality of television signals that you receive, you should call the cable company at the telephone number listed on the front cover of this notice. A fully-trained Customer Service Representative will do all possible to resolve your problem over the telephone. If this cannot be done, an appointment will be established to have a skilled technician come to your home in order to resolve your reception problem. If, in your opinion, the service technician fails to correct the reception problem, you should call us again and we will review the actions taken. Should we continue to be unable to resolve the problem to your satisfaction, we will inform you of our determination, and the reasons we cannot solve the problem.

Q: What if Cox cannot resolve my problem?

A: Cox Communications serves multiple franchised areas. If you believe Cox has not properly resolved your issue, please contact the applicable franchise authority at the address and telephone number listed on your monthly cable bill.



Dear Valued Sprint Customer,

Sprint is committed to keeping its customers informed. Because of changes in the industry, Sprint is changing some of its existing rates, terms and conditions. Please read the enclosed booklet, *Sprint Terms and Conditions of Service and Rate Changes*, which reflects the updates.

Sprint would like to call your attention to the following:

- Effective July 8, 2002, Sprint is raising its Carrier Universal Service Charge ("CUSC") from 9.9% to 11.3%. See Section 4.1 of the enclosed booklet. Sprint uses the CUSC to fund its required contributions to the Universal Service Fund ("USF"). Federal law requires Sprint to make these contributions to support telecommunication services to rural customers, schools and other entities that the Federal Communications Commission ("FCC") designates. The FCC determines the amount that Sprint and other carriers must pay into the USF and recently increased the percentage factor for Second Quarter 2002 USF payments. The FCC is expected to increase the factor again for Third Quarter 2002.

For various reasons, Sprint's CUSC is higher than the FCC's contribution rate. In an environment of increased competition and declining revenues, Sprint must ensure that it collects enough revenue from current services to make the required USF payments. Sprint's CUSC is primarily designed to account for the facts that USF payments are based on Sprint's billed revenues from six months earlier, that Sprint will not collect all of its invoiced revenues (for example, due to bad debt), and that Sprint incurs administrative costs in collecting CUSC.

Further information about the CUSC has been available in Sprint's tariffs and through Sprint Customer Service. This information can now also be found in the service schedules on Sprint's website. The FCC provides information about USF charges at:
www.fcc.gov/cgb/phonebills/samplePhonebill.html

- Sprint respects your privacy. Please be sure to review our privacy policy in Section 12 of the enclosed booklet.

We would also like to take this opportunity to introduce you to some new services:

- **Sprint Solutions™** includes all your local service, our most popular calling features like Caller ID and Call Waiting ID, plus 120 anytime domestic long-distance minutes.
- **Sprint 7¢ Anytime™** long-distance plan for state-to-state calls any time of day for a low monthly fee.

EXHIBIT G

Additionally, Sprint would like to make you aware of a service that allows you to protect your telecommunications choice and your current long-distance service. By applying "line protection" to your Sprint long-distance account, you prevent another carrier from switching your long-distance carrier without your permission (otherwise known as slamming). You may apply line protection to your local long distance or your state-to-state long distance, or both, and it's a free service. If at any time you wish to make a carrier change, you may easily remove line protection by contacting your local phone company. To protect your Sprint account and your rates, call Sprint today.

If you require additional information regarding Sprint's rates, terms or conditions, please visit our web site www.sprint.com/ratesandconditions/ or call 1-888-723-8010. For information about the above services and other Sprint products and services visit: www.sprint.com/local

As always, we thank you for your business and remain committed to providing you with the same high standard of service -- for all your communications needs.

Sincerely,



Daniel Alcazar

Assistant Vice President, Mass Markets Organization

EXHIBIT G

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SPRINT
TERMS AND CONDITIONS
OF SERVICE AND
RATE CHANGES



MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SPRINT ALSO MAKES NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. YOU MAY NOT RELY ON STATEMENTS OF WARRANTY ABOUT SPRINT'S SERVICES; SUCH STATEMENTS ARE NOT AUTHORIZED BY SPRINT AND ARE NOT A WARRANTY BY SPRINT.

9.3. Exclusions. Sprint is not liable for claims or damages from:

- A. your or your Authorized Users' fault, negligence or failure to perform your responsibilities;
- B. third party claims against you that arise out of your or your Authorized Users' use of the Services;
- C. claims for third party acts or omissions;
- D. your or your Authorized Users' acts or omissions;
- E. the acts or omissions of any non-Sprint entity furnishing equipment, services or facilities for use with Services;
- F. claims from a breach in the privacy or security of communications transmitted over Sprint's network, unless caused by some act or omission of Sprint;
- G. claims due to fraudulent or unauthorized use of the Services provided to you, or unauthorized use of your telephone facilities to place calls on the Sprint network; or
- H. a problem with the interconnection of Sprint's Services with the services or equipment of some other party.

10. YOUR LIABILITY

You will indemnify, defend and hold Sprint harmless from all claims and demands by third parties for loss or damages arising out of the use of Services by you or your Authorized User, including but not limited to: claims of libel, slander, or the infringement of copyright; claims for the unauthorized use of any trademark, trade name, or service mark arising from the material transmitted over the Services; claims of infringement of patents arising from, combining with, or using in connection with the Services, any apparatus and or systems furnished by you or your Authorized User, and all other claims arising out of any act or omission of you or your Authorized User in connection with the Services.

11. INTERNATIONAL SERVICES

11.1. Foreign Carrier Restrictions. Foreign carriers or regulatory agencies may impose, upon the portion of the end-to-end international service or facilities they provide, certain limitations or restrictions that may limit your ability or that of your Authorized Users to use the Sprint Services. You or your Authorized User must conform to any limitations or restrictions imposed by the foreign carriers or agencies.

11.2. Foreign Carrier Acts or Omissions.

- A. When other U.S. or foreign carriers and Foreign Telecommunications Administrations use facilities to establish connections to points not reached by Sprint's facilities, Sprint is not liable for acts or omissions of other carriers or Foreign Telecommunications Administrations.
- B. International calls are priced on the basis of the country and city codes dialed by you. When the facilities of other U.S. or foreign carriers are used in establishing connections to points not reached by Sprint's facilities, Sprint is not liable for refunds or damages if those calls do not terminate in the country, city, or area codes normally associated with the called number.

12. PRIVACY

12.1. Information Obtained Online. Sprint's privacy policy governing information about you that Sprint obtains over the Internet is at www.sprint.com

12.2. Customer Proprietary Network Information. As Sprint provides Services to you, we develop information about the quantity, technical configuration, type, destination, amount of Services you use and other information found on your bill ("Customer Information"). Under federal law, you have a right, and Sprint has a duty, to protect the confidentiality of your Customer Information. In order to serve you in the most effective and efficient manner, Sprint may use or share your Customer Information with others in the Sprint family of companies for purposes of determining and offering other Sprint products and services that may interest you. However, if at any time you so desire, we will not use your Customer Information to offer you products and services that are unrelated to the Services you currently receive from Sprint. If you would prefer that Sprint not use your Customer Information for this purpose, please call 1-888-212-2145. (For TTY users who are deaf or hard of hearing, dial 1-800-877-8973 to contact a TTY operator. Request the TTY operator to dial 1-888-212-2145 and notify Sprint that you do not want Sprint to use your Customer Information.) Rest assured that your decision will have no impact on your current Sprint services and that we will never provide your Customer Information to companies outside the Sprint family unless you authorize us in writing to do so.

12.3. Use of Recording Devices

- A. Sprint's Services are not adapted to the use of recording devices. If you use such devices to record your conversations, or for other purposes, you do so at your own risk.
- B. You may use a recording device to record your conversations only if you comply with all applicable laws and regulations, including the following requirements prescribed by the Federal Communications Commission:
 1. prior to the conversation taking place, you obtain the written or verbal consent of all parties to the conversation that the conversation is being recorded, or you notify each person on the call at the beginning of the call that you are recording the call (you must record this notification); or
 2. you use a distinctive recorder tone, repeated at intervals of approximately 15 seconds, to alert all parties to the conversation that a recording device is being used.
- C. These FCC requirements do not apply to recording incoming calls made to emergency telephone number (such as 911) and responsive outgoing calls; to calls made to or from relevant government agencies in emergencies; to calls made for illegal purposes such as bomb threats, kidnap ransom requests and calls made in response; to calls made by the United States Secret Service of the Department of the Treasury concerning the safety and security of the person of the President of the United States, members of the President's immediate family, or the White House and White House grounds; or to calls allowed to be recorded pursuant to court order.

12.4. Caller ID. Sprint's provision of Caller ID Service, including