



September 29, 2006

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

Hearings yesterday and today held in the House Energy and Commerce Committee's Oversight and Investigations subcommittee reinforce the urgent need for the full House to take up and pass H.R. 4943, the Prevention of Fraudulent Access to Phone Records. We strongly support this legislation, applaud its sponsors for their meaningful approach to prevent and deter pretexting and urge the House to pass this legislation prior to adjournment.

Importantly, the legislation includes provisions both to deter pretexting and other fraud used to access phone records, and to prevent telecommunications carriers from releasing records to those who ignore federal fraud prohibitions. Specifically, the legislation explicitly prohibits fraudulent and deceptive practices to obtain consumers' private phone records. It also requires the Federal Communications Commission to implement tougher regulations requiring phone companies to put in place new safeguards to prevent pretexting *before* consumers' private information is released, and prevents phone companies from sharing consumer records with joint venture partners, contractors and other third parties without consumers' express consent. Each of these components is necessary to address this growing problem.

Phone records include some of consumers' most private information: who they call, when they called, how long they talked and more. The serious problem of phone record breaches will not be solved merely by prohibiting pretexting. To fully protect the privacy of consumers' phone records, telecommunications providers must be required to carefully guard consumers' records. Though more explicit prohibitions may deter some fraud, such prohibitions as a means of deterring pretexting ultimately depend upon strong federal law enforcement, which, to date, has been lacking. In addition, consumers must be given greater control over whether and with whom their records may be shared. Carriers' have a first obligation to their customers, not their joint venture partners, contractors or others with whom they now freely share consumers' private records.

We note the following important provisions of the legislation:

Prohibitions on Pretexting and the Sale of Consumer Proprietary Network Information and Detailed Phone Records

First, the legislation explicitly prohibits pretexting and other fraudulent means of obtaining customer proprietary network information, which includes detailed calling records. It also treats as a violation requesting that another party secure phone records when the requesting party knew or should have known that fraud would be used to obtain those records. These provisions will help stifle the commercial market for consumers' calling records and ensure that both those seeking to use illegally obtained records as well as those obtaining them illegally are held accountable. Moreover, it explicitly prohibits phone companies, their affiliates, joint venture partners and contractors from selling Consumer Proprietary Network Information (CPNI) -- information that should never be available to the highest bidder.

Requirements for Stronger Privacy Safeguards by Phone Companies

Second, the legislation requires the FCC to promulgate stringent regulations to help ensure that phone companies diligently protect the security of their customers' phone records. That the safeguards phone companies currently have in place are inadequate to protect consumers' privacy is demonstrated by the explosion in the unscrupulous businesses that offer to sell phone records. Today's subcommittee hearing exposed weaknesses in existing phone companies' practices and reinforced the importance of new, mandatory safeguards. Consumers should not have to rely on promises by telecommunications providers that they will implement voluntary improvements.

Under this legislation, consumers will have greater assurances that companies are taking steps to prevent release of records *before* a subscriber's privacy has been violated. In particular, the bill ensures that FCC regulations will require carriers to establish security policies that address administrative, technical and physical safeguards; maintain records of requests for CPNI and how the identity of the requesting party was verified; and submit to periodic compliance audits by FCC. It also requires FCC to consider whether to prescribe regulations regarding customer specific identifiers, encryption and records deletion -- provisions that the legislation leaves to FCC's discretion.

Greater Consumer Control Over Detailed Calling Records

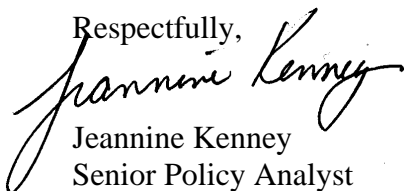
Third, the legislation provides consumers with greater control over who has access to their phone records than currently exists. Currently, FCC requires only that telecommunications carriers offer consumers the ability to opt-out of carrier sharing of their records with other companies. Inadequate consumer opt-out notices are frequently buried in contracts and shrouded in language that fails to accurately convey to consumers the degree to which their private information can be shared with others. Furthermore, some subscribers have complained that even after calling the carrier to opt-out, they have encountered customer service representatives who did not know how to stop the CPNI release.

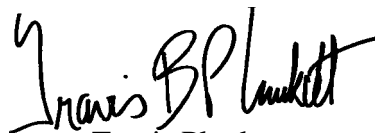
By contrast, requiring that consumers affirmatively consent -- or opt-in -- to the sharing of their records before they are released provides stronger assurances that consumers know what they are consenting to and the implications of their consent.

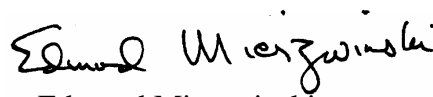
Although consumers should have the ability to opt-in before their CPNI records are shared with any party, including affiliates, H.R. 4943 takes an important step in that direction. The legislation requires carriers to secure opt-in consent before sharing detailed customer telephone records with joint venture partners, independent contractors, and any other third party except affiliates, the legislation reduces opportunities for telecommunications carriers to release consumers' most detailed, private information without their knowing and express consent. Though we strongly favor opt-in consent before CPNI is released to anyone, this legislation begins to close the gaps that may have fostered phone record privacy breaches by giving consumers greater opt-in rights.

H.R. 4943, by including both prevention and enforcement provisions, provides consumers with greater assurances that their most personal information cannot be easily shared with others. We urge its passage by the House of Representatives prior to adjournment.

Respectfully,


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