

STATE OF MARYLAND



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February 11, 2002

Ms. Felecia L. Greer
Executive Secretary
Public Service Commission
of Maryland
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

Re: Verizon Notice Regarding Customer Proprietary Network Information (CPNI)

Dear Ms. Greer:

Recently, Verizon began including with its bills a "Special Notice" regarding its use of Customer Proprietary Network Information (CPNI). In the Notice, Verizon informed customers that it may use information regarding the type, technical arrangement, quantity, destination, and amount of use of telecommunication services and related billing for those services to offer customers other services provided by Verizon and/or its affiliates. The notice goes on to inform customers that if the customer wishes to restrict Verizon or Verizon affiliate use of this information, then the customer can register the restriction by dialing an 800 number within 30 days of receipt of the Notice. For the Commission's convenience, I have attached a copy of Verizon's "Special Notice" to this letter as Exhibit A. We request that the Commission order Verizon to halt this practice immediately and not release any CPNI at this time until the Commission has instituted a proceeding to determine whether the Verizon process violates the privacy rights of their consumers.

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The Office of People's Counsel is bringing this notice regarding CPNI to your attention for two reasons. First, similar notices provided to customers in other RBOC states have caused significant customer complaints. Second, the opt-out process provided by Verizon is cumbersome and confusing to customers.

As the Commission may be aware, a similar notice to its customers by Qwest resulted in such customer outcry that Qwest withdrew its plans to share CPNI among its different divisions. On January 28, 2002, Qwest, citing customer concerns, said it would decide on when and how to share CPNI within Qwest after the Federal Communications Commission (FCC) finished reviewing rules on the use of CPNI. Qwest's press release on the subject noted that the FCC was expected issue new rules later this year. A copy of the Qwest press release is attached to this letter as Exhibit B. Before Qwest changed its plans, the Arizona Corporation Commission had stated that it was willing to sue Qwest to stop it from sharing its customers' personal information. Additionally, the Washington State Attorney General had urged Qwest to suspend its opt-out plan because it was not written in clear and conspicuous terms.

Citing the same concerns, the Washington Utilities and Transportation Commission (WUTC) recently opened a docket (Docket No. UT-990146) to accept written comments on telecommunications carriers' use of information. Additionally, the Commission scheduled two public meetings on privacy of telephone customer information. Those notices are attached as Exhibit C.

Furthermore, the Attorneys General of 38 states, including Maryland, filed comments with the FCC on December 26, 2001, urging the Commission "to protect the privacy rights of consumers by implementing an opt-in approach toward telecommunications carriers' use of Customer Proprietary Network Information."¹

Based upon the foregoing, it appears that there are legitimate concerns raised by groups related to the use of an opt-out procedure to authorize the use of CPNI. Therefore, People's Counsel respectfully requests that this Commission likewise institute a proceeding to determine whether Verizon's current opt-out process is sufficient to protect consumers in Maryland. As Commissioners Ligon and Curran noted in their dissent in Case No. 8738, "we are not satisfied that "negative consent" notices provide customers with adequate protection against unwanted release of this information as these notices are easily overlooked. Additionally, the burden should not be on the customers to

¹ See Comments of the Attorneys General of Alaska, *et al.*, in *Re Telecommunications Carriers Use of Customers Proprietary Network Information*, CC Docket No. 96-115, 96-149 (December 26, 2001).

protect their privileged information.”² While the Commission did authorize the disclosure of limited customer information (name, address and telephone number) in Case No. 8738, the Commission did not address privacy and disclosure issues related to the release of more personal information equivalent to a person’s calling times, dates and destination number, and all bill information. OPC believes that the release of this type of personal information raises heightened privacy concerns for residential consumers.

Furthermore, there is the potential that consumers may miss the import of Verizon’s “Notice” altogether. The “Notice” to consumers is on the back of the monthly bill and there is no separate alert to consumers that this is new information on something that may affect their rights.

There is an additional reason that warrants an investigation into Verizon’s current opt-out program. People’s Counsel has received complaints from consumers that the current opt-out process is unwieldy and time consuming and does not clearly convey to the consumer the impact of the consumer’s decision to opt-out or not. These consumers have also expressed concerns that at the end of the opt-out process, they were not convinced that their desire to restrict the use of their CPNI has been duly recorded by Verizon.

In fact, the undersigned counsel has used the Verizon 800 number to opt out and concurs with the sentiments expressed by those consumers who have called to inquire about the process. In counsel’s experience, the automated voice response program was confusing, repetitive, and time consuming. People’s Counsel believes that the automated voice response program used by Verizon provides a particular dis-incentive to customers who wish to avail themselves of the ability to restrict Verizon from using their Customer Proprietary Network Information. Additionally, the system provides no automatic confirmation to the consumer so that the consumer can show that she opted-out if the consumer learns that her wishes were ignored.

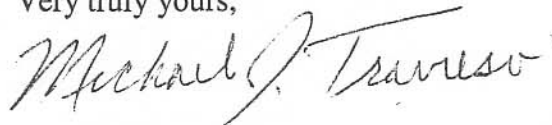
Therefore, based upon the foregoing, the Office of People’s Counsel respectfully requests that the Commission immediately institute a proceeding to review what, if any, changes should be made to Verizon’s use of Customer Proprietary Network Information. Additionally, People’s Counsel requests that the Commission investigate whether the current automated voice response program used by Verizon for customers who wished to opt-out is sufficient to protect the privacy rights of Maryland consumers.

² *Re The Commission’s Inquiry Into The Provision And Regulation Of Electric Service “Consumer Protection”* Order No. 76931 (May 9, 2001) (Statement of Commissioner Claude M. Ligon and Commissioner J. Joseph Curran, III concurring in part and dissenting in part).

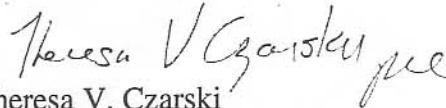
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Should you have any questions regarding this matter, please do not hesitate to contact me.

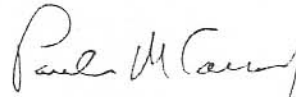
Very truly yours,



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TVC:sd
Enclosures

cc: Attorney General J. Joseph Curran, Jr.
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