

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL

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ATTORNEY GENERAL

January 15, 2002

Ms. Gail Torreano  
President, Ameritech - Michigan  
444 Michigan Ave.  
Detroit, MI 48226

Dear Ms. Torreano:

I am writing with regard to the privacy notice that accompanied recent telephone bills sent to residential SBC/Ameritech customers. (A copy of this notice is attached.) This "opt-out" notice raises more questions than it answers about how and under what circumstances Ameritech is planning to use consumers' personal information for marketing purposes. The personal information in question consists of information SBC/Ameritech and its affiliates have collected in the course of providing various telecommunications services to their customers.

One of my highest priorities as Attorney General has been to protect consumers' privacy by ensuring that they are able to control the use of their personal information. In the federal Telecommunications Act, Congress recognized that certain types of information collected by telecommunications providers, including calling information about when, where, and to whom a customer places telephone calls, is particularly sensitive information; and Congress limited the ability of telecommunications carriers to use, disclose, or permit access to this "customer proprietary network information" unless required by law or with the *approval* of the customer.

The notice, by contrast, appears to take the position that the affirmative consent of the customer is not necessary before SBC/Ameritech will share customers' information with affiliates and other authorized agents to generate marketing contacts.

I recently joined 38 other Attorneys General in urging the Federal Communications Commission to adopt an "opt-in" requirement for sharing customer information to ensure that consumers retain the ability to control the use of sensitive information collected by telephone carriers. The Attorneys General were mindful of the problems consumers have encountered with the "opt-out" notices sent by financial institutions under the Financial Services Modernization Act of 1999 (the Gramm-Leach-Bliley Act). While this law (unlike the federal Telecommunications Act) permits companies to issue "opt-out" notices to consumers, many of the notices actually sent to consumers by financial institutions were unclear and confusing, and many were not sufficiently conspicuous. As a result, countless numbers of consumers ignored these notices or did not take affirmative steps to protect their financial privacy. But many consumers of financial services became very distressed when they later discovered that their

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personal information could be, and would be, shared with other companies without their consent or even their knowledge.

I am concerned that the SBC/Ameritech notice is unclear and confusing and, because it was not titled (for example, as "Important Information and Options for Protecting The Privacy of Your Personal Information"), the notice may have been ignored or disregarded by consumers who will not realize that by failing to act SBC/Ameritech and its affiliates may share consumers' personal information.

The bill insert states that SBC/Ameritech may share consumers' information, gathered by SBC/Ameritech and its "other affiliates," with companies in the SBC family and "authorized agents" for marketing "other products and services." On the reverse side, the notice tells consumers they should call the company within 30 days if they wish to request that their information not be shared. According to the bill insert, the information at issue includes the types of service ordered, billing information, and "usage information" about consumers' use of services provided by Ameritech and its affiliates.

The notice also contains a confusing disclaimer suggesting that restricting the use of customer information may have no effect. The notice advises: "Restricting your information ... may not eliminate all marketing contacts. Even if you restrict use of your information, it may be used to market services to you."

According to information posted at SBC's website, [www.sbc.com](http://www.sbc.com), the SBC family of companies to which the notice refers "provides comprehensive telecommunications products and services through a global network of leading brands and operations in the U.S. and 28 other countries around the world."

SBC's companies provide millions of American consumers with Internet access and website hosting, cable and satellite service, and wireless communications service, in addition to directory and telephone service through 61.3 million access lines by its subsidiaries, including Pacific Bell, Southwestern Bell, Nevada Bell, and Ameritech.

With regard to Internet service customers, SBC's privacy policy posted on its website at [http://www.sbc.com/privacy\\_policy/0,2951,3,00.html](http://www.sbc.com/privacy_policy/0,2951,3,00.html), applicable to Ameritech Internet Services and certain other providers with the SBC family of companies (not including Prodigy), states that information collected includes: "E-mail address; domain name; subscriber account information; usage; registration, ordering or survey information; temporary storage of e-mail; ISP customer profile, e.g. 'cookie' information; session logs." This information may be used "within the SBC family of companies or its authorized agent to serve the customer better by offering products and services of interest."

The nature of the information collected by Ameritech and its affiliates through this vast network of telecommunications companies in the United States and abroad – and the sheer volume of this information – raise the possibility that "usage records," "usage information," and "information about services you have already purchased from the SBC family of companies" as mentioned in Ameritech's notice to Michigan consumers could consist of extensive, highly sensitive personal information, including telephone calls made and Internet usage information.

In addition, in light of the significant global reach of Ameritech's affiliates, the possibility is raised that this information will be provided to Ameritech's many domestic and foreign affiliates, including, for example, telecommunications companies in Hungary, France, Canada, South Africa, Denmark, Belgium, and Mexico.

Because the notice does not describe what information will – or will *not* – be shared for marketing purposes among affiliates, consumers may fear that information collected about them from the various companies within the SBC/Ameritech family of companies – including internet, telephone, and/or cable and satellite television usage – could be compiled into detailed profiles containing highly sensitive information. While I have no reason to believe that such profiles are being created, let alone shared, the notice's references to "usage records" and "usage information" obtained by SBC/Ameritech and its affiliates raise the specter that *all* information collected by SBC/Ameritech and its affiliates may be used and shared for marketing purposes.

In light of the foregoing, I am concerned that the notice fails to adequately inform consumers of several important points, including:

- The types of personal information that may be shared;
- The time period during which information to be shared has been collected;
- The identity of the affiliates and authorized agents with whom Ameritech and its affiliates propose to share consumers' information;
- How information is shared outside of the SBC/Ameritech companies;
- Whether personal information is already being shared among Ameritech affiliates and, if so, what type of information is involved;
- Whether consumers may request access to their information or to a summary of their information kept by Ameritech and its affiliates;
- Whether calling the toll-free number provided and asking to opt out will suffice to limit the transfer of personal information to companies outside the SBC family;
- Whether asking to opt out of information sharing will also remove customers' names from marketing lists, or whether consumers must take additional, affirmative action;
- How a customer's decision to restrict information sharing will actually affect Ameritech's use of customer information, including a description of what marketing contacts will not be eliminated;
- The consequences and remaining options for consumers if they fail to call Ameritech within the 30-day period, and whether Ameritech intends to confirm to consumers that their opt-out choice has been received;

- Whether Ameritech has made provisions for consumers who have elected to pay their telephone bills by direct deposit from their bank accounts – perhaps including significant numbers of military personnel on assignment away from home – who may not timely receive mail or promptly open their monthly billing envelopes.

While my preference would be that Ameritech put its “opt-out” plan on hold until after the FCC concludes its current rulemaking proceeding and issues its rule on telephone carriers’ use of customer proprietary network information, at a minimum, I believe Ameritech should:

- Prepare new material for consumers that is conspicuously titled as an important notification of privacy options, that clearly, accurately, and completely describes the information-sharing practices of SBC/Ameritech and its affiliates, and that also sets forth all options available to consumers to limit various types of information sharing and marketing contacts;
- Extend the opt-out period to at least 90 days after the new material is sent to consumers;
- Provide a method for consumers to review Ameritech’s information-sharing practices and available options for restricting the use of information sharing and limiting marketing contacts, and provide consumers an opportunity to exercise their choices at the website;
- Provide a confirmation to consumers that Ameritech has received their request to restrict use of their personal information;
- Provide that a consumer’s act of opting out will not be used for any other purposes;
- Staff the toll-free number 24 hours a day, 7 days a week, in order to accommodate consumers who are not able to call during normal business hours;
- Monitor calling volume to ensure that consumers who wish to communicate their preferences to Ameritech can do so without delay.

Please provide my office with an indication whether SBC/Ameritech will implement the above-referenced steps, and also provide an explanation of how SBC/Ameritech and its affiliates are using, and propose to use, the personal information of Michigan consumers.

Finally, along with Attorneys General and law enforcement agencies across the country, I am gravely concerned about the dramatic rise in reported cases of identity theft (the criminal or fraudulent use of someone else’s personal information). The recent upsurge in ID theft parallels the rise of the Internet as a communications medium. As the cost of transmitting and storing information has decreased, the traffic in personal information has increased. Many criminals and con artists now have easy access to personal information and have taken

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out loans, set up phony accounts, and committed crimes in someone else's name. ID thieves create nightmares for innocent consumers, who sometimes must invest years and thousands of dollars in attorney fees undoing the damage – including restoring their creditworthiness and eliminating wrongful criminal convictions. In my judgment, it is extremely important that companies and governmental entities that come into possession of large amounts of personal information take steps to ensure that consumers' information is kept secure and that access to this information by anyone other than the consumers themselves – even by employees – is limited to the extent practicable. Since telecommunications providers encounter attempts to set up fraudulent accounts, I am sure this problem has plagued Ameritech as well. I would appreciate a description of the steps SBC/Ameritech and its affiliates take to protect the security of the personal information of Michigan consumers. The information in question would include personally identifiable information, such as name, address, telephone number, e-mail address, social security number, and credit card information.

Thank you very much for your consideration of this important matter. Having brought these concerns to your attention, I am confident that SBC/Ameritech will take satisfactory and responsible measures to help consumers control the use of their personal information.

Sincerely,

JENNIFER M. GRANHOLM  
Attorney General

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