

*Annual CPNI
Certification
and Statement
Filings Due
March 1, 2008 /
FCC
Enforcement
Bureau Releases
Certification
Template*

On April 2, 2007, the Federal Communications Commission released a *Report and Order* modifying its customer proprietary network information (“CPNI”) rules.¹ These modified rules are now in effect.² One of the rule modifications requires telecommunications carriers and interconnected VoIP providers to file with the Commission on or before March 1 of each year a CPNI certification in which an officer of the filing entity must certify that the entity’s operating procedures ensure compliance with the Commission’s CPNI rules. The certification must be accompanied by a statement explaining how the company’s procedures ensure compliance with the Commission’s CPNI rules.

On January 29, 2008, the FCC’s Enforcement Bureau released a public notice providing a suggested template and filing procedures for CPNI certifications.³ The filings, which can

1 *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-22 (rel. Apr. 2, 2007); 47 C.F.R. § 64.2001 *et seq.*

2 Some of these rule modifications became effective in June 2007 and the rest became effective in December 2007.

3 *EB Provides Guidance on Filing of Annual Customer Proprietary Network Information (CPNI) Certifications Under 47*

be made electronically or by paper copy, must be made in EB Docket No. 06-36.

Consistent with the Commission’s CPNI regulations and the Bureau’s suggested template, a CPNI certification must contain the following information:

- Form 499 Filer ID;
- Name and title of Signatory;
- A certification by an officer of the company, acting as an agent of the company, that he or she has personal knowledge that the company has put into place operating procedures that are adequate to ensure compliance with the Commission’s CPNI rules;
- An accompanying statement explaining how the company’s procedures ensure compliance with the Commission’s CPNI rules;
- Whether the company has taken any actions against data brokers in the past year along with any information that the company has regarding the processes pretexters are using to attempt to access CPNI and the steps the company is taking to protect CPNI;
- Whether the company has received any complaints concerning the unauthorized release of CPNI, C.F.R. § 64.2009(e), Public Notice, EB Docket No. 06-36, DA 08-171 (rel. Jan. 29, 2008). The Bureau’s suggested template is attached to the Public Notice.

including the number of complaints divided into categories of complaints (e.g., instances of improper access by employees, instances of improper disclosure, or instances of improper access to online information by individuals).

It is important to note that use of the Bureau's suggested template is not mandatory. Moreover, neither the Bureau nor the Commission has provided a recommended template for the explanatory statement that must accompany the certifications. Thus, filing entities are on their own to draft statements sufficient to demonstrate compliance with the Commission's CPNI rules.

FOR MORE INFORMATION

We would be pleased to provide further guidance on and assistance with drafting and filing annual CPNI certifications and accompanying statements. For more information on the March 1, 2008 CPNI certification and statement filing requirement or on CPNI/privacy compliance matters, please contact:

John J. Heitmann
(202) 342-8544
jheitmann@kelleydrye.com

Steven A. Augustino
(202) 342-8612
saugustino@kelleydrye.com

Devin L. Crock
(202) 342-8640
dcrock@kelleydrye.com