
Telecommunications Update

by Glenn S. Richards and Emily J. H. Daniels

Upcoming Deadlines

FCC Form 499-Q is Due by February 1, 2009

All providers of interstate telecommunications within the United States, with limited exceptions, must file a FCC Form 499-Q Telecommunications Reporting Worksheet by February 1, 2009 containing revenue information for October 1 through December 31 and projections for April 1 through June 30. The completed FCC Form 499-Q should be mailed to:

Form 499 Data Collection Agent
Attn: USAC Customer Service
2000 L St NW
Suite 200
Washington, DC 20036

Providers who have obtained a USAC Filer ID number may file the form electronically at: <https://forms.universalservice.org/usaclogin/login.asp>. A late fee may be imposed for failing to file or filing the worksheet after the due date.

The 499-Q form and instructions can be found on USAC's website at: <http://www.universalservice.org/fund-administration/forms/>. The Universal Service Fund ("USF") contribution factor for the first quarter 2009 is 9.5%.

Customer Proprietary Network Information Certification is Due by March 1, 2009

Each carrier providing telecommunications service and each provider of interconnected VoIP service is required to file a Customer Proprietary Network Information ("CPNI") certification on or before March 1, 2009.

The carrier must include a summary of all actions taken last year against data brokers and all customer complaints received in the past year pertaining to the unauthorized release of CPNI. Carriers may also report information they have concerning processes that pretexters are using to attempt to access CPNI, and steps they are taking to protect CPNI. The certification must be signed by an officer of the filing entity.

All filings must reference EB Docket No. 06-36 and may be filed electronically via the FCC's Electronic Comment Filing System ("ECFS") or by paper copy. ECFS may be accessed at: <http://www.fcc.gov/cgb/ecfs/>. The FCC has released a Public Notice which includes a sample certification and further information regarding the filing process. This Public Notice may be accessed at: http://www.fcc.gov/Daily_Releases/Daily_Business/2009/db0107/DA-09-9A1.pdf.

Enforcement Matters

Telecommunications Carrier Enters Into \$10,080,600 Consent Decree for CPNI and Universal Service Fund Violations

A telecommunications carrier recently entered into a consent decree for CPNI and USF violations.

Section 222 of the Communications Act imposes the general duty on all telecommunications carriers to protect the confidentiality of their subscribers' proprietary information. Approval is required before a telecommunications carrier may use, disclose, or permit access to its customers' individually identifiable CPNI. Prior to soliciting such approval, carriers must provide customers with a notice informing them of their right to restrict the use of, disclosure of, and access to their CPNI. If a carrier is using e-mail to provide "opt-out" notices, it must allow customers the ability to reply directly to those e-mails in order to opt-out. Here, the carrier reported various failures to this opt-out mechanism—CPNI information was used in marketing campaigns without authorization, e-mail confirmations were circulated without the ability to reply in order to opt-out, and a toll-free number provided to opt-out rang busy for a portion of time.

With respect to USF, Section 54.712 of the FCC's rules provides that contribution costs passed through to end-user customers as federal universal service line-item charges may not exceed the interstate telecommunications portion of the customers' bills multiplied by the relevant contribution factor. The carrier voluntarily disclosed that it had apparently recovered USF contribution costs from end-user customers in excess of the amounts permitted and that refunds were provided to customers, where practical.

As a result of these violations, the carrier agreed to enter into a \$10,080,600 consent decree and to implement a stringent compliance plan to prevent further rule violations.

Telecommunications Carrier Found Apparently Liable for More than \$650,000 for Failure to Register and Obtain 214 Approval and Failure to Comply with USF Requirements

A telecommunications carrier was recently found apparently liable for violation of the FCC's rules pertaining to registration, payment of required fees, and other related requirements. In response to a Letter of Inquiry issued by the FCC, the carrier admitted that it failed to register by not filing a 499-A with the Commission before providing telecommunications services and failed to obtain an international 214 authorization before providing international service. The carrier further admitted that neither timely FCC Form 499-Q filings nor USF payments were made. In addition, the carrier admitted that it had failed to remit payments to either the Telecommunications Relay Service Fund or for North American Numbering Plan Administration. The carrier attempted to enter into a consent decree regarding these violations. While the carrier believed that only a small contribution was necessary based on the violations, the FCC found these violations to be egregious, declined to enter into a consent decree, and issued a Notice of Apparent Liability for Forfeiture for \$672,541.

Live Links

E-File Sign In; Universal Service Administrative Company (USAC)

USAC Forms and Instructions, Universal Service Administrative Company

Electronic Comment Filing System, Federal Communications Commission

EB Provides Guidance on Filing of 2008 Annual Customer Proprietary Network Information (CPNI) Certifications Under 47 C.F.R. §64.2009(e), EB Dock, No. 06-36; Federal Communications Commission Public Notice; January 7, 2009 (PDF, 3 pages)

For further information, please contact:

Glenn S. Richards **(bio)**
Washington, DC
+1.202.663.8215
glenn.richards@pillsburylaw.com

Emily J. H. Daniels **(bio)**
Washington, DC
+1.202.663.9378
emily.daniels@pillsburylaw.com

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