

110TH CONGRESS  
1ST SESSION

# S. 92

To amend the Communications Act of 1934 to prohibit the unlawful acquisition and use of confidential customer proprietary network information, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. STEVENS (for himself, Mr. COLEMAN, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To amend the Communications Act of 1934 to prohibit the unlawful acquisition and use of confidential customer proprietary network information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Protecting Consumer Phone Records Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Unauthorized acquisition, use, or sale of confidential customer proprietary network telephone information.

- Sec. 3. Enhanced confidentiality procedures.  
 Sec. 4. Penalties; extension of confidentiality requirements to other entities.  
 Sec. 5. Enforcement by Federal Trade Commission.  
 Sec. 6. Concurrent enforcement by Federal Communications Commission.  
 Sec. 7. Enforcement by States.  
 Sec. 8. Preemption of State law.  
 Sec. 9. Consumer outreach and education.

1 **SEC. 2. UNAUTHORIZED ACQUISITION, USE, OR SALE OF**  
 2 **CONFIDENTIAL CUSTOMER PROPRIETARY**  
 3 **NETWORK TELEPHONE INFORMATION.**

4 (a) IN GENERAL.—It is unlawful for any person—

5 (1) to acquire or use the customer proprietary  
 6 network information of another person without that  
 7 person’s affirmative written consent, which shall in-  
 8 clude electronic consent that meets the requirements  
 9 of the Electronic Signatures in Global and National  
 10 Commerce Act (15 U.S.C. 7001 et seq.);

11 (2) to misrepresent that another person has  
 12 consented to the acquisition or use of such other  
 13 person’s customer proprietary network information  
 14 in order to acquire such information;

15 (3) to obtain unauthorized access to the data  
 16 processing system or records of a telecommuni-  
 17 cations carrier or an IP-enabled voice service pro-  
 18 vider in order to acquire the customer proprietary  
 19 network information of 1 or more other persons;

20 (4) to sell, or offer for sale, customer propri-  
 21 etary network information; or

1           (5) to request that another person obtain cus-  
2           tomer proprietary network information from a tele-  
3           communications carrier or IP-enabled voice service  
4           provider, knowing that the other person will obtain  
5           the information from such carrier or provider in any  
6           manner that is unlawful under this subsection.

7           (b) EXCEPTIONS.—

8           (1) APPLICATION WITH SECTION 222 OF COM-  
9           MUNICATIONS ACT OF 1934.—Subsection (a) does  
10          not prohibit a telecommunications carrier or an IP-  
11          enabled voice service provider or any third party  
12          that lawfully obtains customer proprietary network  
13          information from a carrier or provider from engag-  
14          ing in any act or practice that was not prohibited by  
15          section 222 of the Communications Act of 1934 (47  
16          U.S.C. 222) or regulations that are consistent with  
17          the provisions of section 222, as that section and  
18          those regulations were in effect on the day before  
19          the date of enactment of this Act.

20          (2) APPLICATION OF OTHER LAWS.—This Act  
21          does not prohibit any act or practice otherwise au-  
22          thorized by law, including any lawfully authorized  
23          investigative, protective, or intelligence activity of a  
24          law enforcement agency or the United States, a

1 State, or a political subdivision of a State, or an in-  
2 telligence agency of the United States.

3 (3) TREATMENT OF IP-ENABLED VOICE SERV-  
4 ICE PROVIDERS.—Notwithstanding any other provi-  
5 sion of this section, an IP-enabled voice service pro-  
6 vider may engage in any act or practice with respect  
7 to customer proprietary network information in  
8 which a telecommunications carrier may engage  
9 under paragraph (1) of this subsection.

10 (4) CALLER ID.—Nothing in this Act prohibits  
11 the use of caller identification services by any person  
12 to identify the originator of telephone calls received  
13 by that person.

14 (c) PRIVATE RIGHT OF ACTION FOR PROVIDERS.—

15 (1) IN GENERAL.—A telecommunications car-  
16 rier or IP-enabled voice service provider may bring  
17 a civil action in an appropriate State court, or in  
18 any United States district court that meets applica-  
19 ble requirements relating to venue under section  
20 1391 of title 28, United States Code, or for any ju-  
21 dicial district in which the carrier or service provider  
22 resides or conducts business—

23 (A) based on a violation of this section or  
24 the regulations prescribed under this section to  
25 enjoin such violation;

1 (B) to recover for actual monetary loss  
2 from such a violation, or to receive \$11,000 in  
3 damages for each such violation, whichever is  
4 greater; or

5 (C) both.

6 (2) TREBLE DAMAGES.—If the court finds that  
7 the defendant willfully or knowingly violated this  
8 section or the regulations prescribed under this sec-  
9 tion, the court may, in its discretion, increase the  
10 amount of the award to an amount equal to not  
11 more than 3 times the amount available under para-  
12 graph (1) of this subsection.

13 (3) INFLATION ADJUSTMENT.—The \$11,000  
14 amount in paragraph (1)(B) shall be adjusted for in-  
15 flation as if it were a civil monetary penalty, as de-  
16 fined in section 3(2) of the Federal Civil Penalties  
17 Inflation Adjustment Act of 1996 (28 U.S.C. 2461  
18 note).

19 (d) PRIVATE RIGHT OF ACTION FOR CONSUMERS.—

20 (1) IN GENERAL.—An individual who has been  
21 injured as a direct result of his or her confidential  
22 proprietary network information being obtained,  
23 used, or sold in violation of this section may file a  
24 civil action in any court of competent jurisdiction

1 against the person who caused the injury by vio-  
2 lating this section.

3 (2) REMEDIES.—A court in which such civil ac-  
4 tion has been brought may award damages of not  
5 more than \$11,000 for each violation of this section  
6 with respect to the plaintiff's customer proprietary  
7 network information.

8 (3) TREBLE DAMAGES.—If the court finds that  
9 the defendant willfully or knowingly violated this  
10 section or the regulations prescribed under this sec-  
11 tion, the court may, in its discretion, increase the  
12 amount of the award to not more than 3 times the  
13 damages determined by the court under paragraph  
14 (2).

15 (4) INFLATION ADJUSTMENT.—The \$11,000  
16 amount in paragraph (2) shall be adjusted for infla-  
17 tion as if it were a civil monetary penalty, as defined  
18 in section 3(2) of the Federal Civil Penalties Infla-  
19 tion Adjustment Act of 1996 (28 U.S.C. 2461 note).

20 (e) CIVIL PENALTY.—

21 (1) IN GENERAL.—Any person who violates this  
22 section shall be subject to a civil penalty of not more  
23 than \$11,000 for each violation or each day of a  
24 continuing violation, except that the amount as-  
25 sessed for any continuing violation shall not exceed

1 a total of \$11,000,000 for any single act or failure  
2 to act.

3 (2) SEPARATE VIOLATIONS.—A violation of this  
4 section with respect to the customer proprietary net-  
5 work information of 1 person shall be treated as a  
6 separate violation from a violation with respect to  
7 the customer proprietary network information of any  
8 other person.

9 (f) LIMITATION.—Nothing in this Act or section 222  
10 of the Communications Act of 1934 (47 U.S.C. 222) au-  
11 thorizes a customer to bring a civil action against a tele-  
12 communications carrier or an IP-enabled voice service pro-  
13 vider.

14 (g) DEFINITIONS.—In this section:

15 (1) CUSTOMER PROPRIETARY NETWORK INFOR-  
16 MATION.—The term “customer proprietary network  
17 information” has the meaning given that term by—

18 (A) section 222(i)(1) of the Communica-  
19 tions Act of 1934 (47 U.S.C. 222(i)(1)) with  
20 respect to telecommunications carriers; and

21 (B) section 715(b)(1) of such Act with re-  
22 spect to IP-enabled voice service providers.

23 (2) IP-ENABLED VOICE SERVICE.—The term  
24 “IP-enabled voice service” means the provision of  
25 real-time 2-way voice communications offered to the

1 public, or such classes of users as to be effectively  
2 available to the public, transmitted through cus-  
3 tomer premises equipment using TCP/IP protocol,  
4 or a successor protocol, for a fee (whether part of  
5 a bundle of services or separately) with intercon-  
6 nection capability such that the service can originate  
7 traffic to, or terminate traffic from, the public  
8 switched telephone network.

9 (3) TELECOMMUNICATIONS CARRIER.—The  
10 term “telecommunications carrier” has the meaning  
11 given it by section 3(44) of the Communications Act  
12 of 1934 (47 U.S.C. 3(44)).

13 **SEC. 3. ENHANCED CONFIDENTIALITY PROCEDURES.**

14 (a) IN GENERAL.—Within 180 days after the date  
15 of enactment of this Act, the Federal Communications  
16 Commission shall—

17 (1) revise or supplement its regulations, to the  
18 extent the Commission determines it is necessary, to  
19 require a telecommunications carrier or IP-enabled  
20 voice service provider to protect—

21 (A) the security and confidentiality of cus-  
22 tomer proprietary network information (as de-  
23 fined in section 222(i)(1) of the Communica-  
24 tions Act of 1934 (47 U.S.C. 222(i)(1)) or as

1 defined in section 715(b)(1) of such Act with  
2 respect to IP-enabled voice service providers);

3 (B) customer proprietary network informa-  
4 tion against any anticipated threats or hazards  
5 to its security or confidentiality; and

6 (C) customer proprietary network informa-  
7 tion from unauthorized access or use that could  
8 result in substantial harm or inconvenience to  
9 its customers; and

10 (2) ensure that any revised or supplemental  
11 regulations are similar in scope and structure to the  
12 Federal Trade Commission's regulations in part 314  
13 of title 16, Code of Federal Regulations, as such  
14 regulations are in effect on the date of enactment of  
15 this Act, taking into consideration the differences  
16 between financial information and customer propri-  
17 etary network information.

18 (b) COMPLIANCE CERTIFICATION.—Each tele-  
19 communications carrier and IP-enabled voice service pro-  
20 vider to which the regulations under subsection (a) and  
21 section 222 or 715 of the Communications Act of 1934  
22 apply shall file with the Commission annually a certifi-  
23 cation that, for the period covered by the filing, it has been  
24 in compliance with those requirements.

1 **SEC. 4. PENALTIES; EXTENSION OF CONFIDENTIALITY RE-**  
2 **QUIREMENTS TO OTHER ENTITIES.**

3 (a) PENALTIES.—Title V of the Communications Act  
4 of 1934 (47 U.S.C. 501 et seq.) is amended by inserting  
5 after section 508 the following:

6 **“SEC. 509. PENALTIES FOR CONFIDENTIAL CUSTOMER PRO-**  
7 **PRIETARY NETWORK INFORMATION VIOLA-**  
8 **TIONS.**

9 “(a) CIVIL FORFEITURE.—

10 “(1) IN GENERAL.—Any person determined by  
11 the Commission, in accordance with paragraphs (3)  
12 and (4) of section 503(b), to have violated section 2  
13 of the Protecting Consumer Phone Records Act shall  
14 be liable to the United States for a forfeiture pen-  
15 alty. A forfeiture penalty under this subsection shall  
16 be in addition to any other penalty provided for by  
17 this Act. The amount of the forfeiture penalty deter-  
18 mined under this subsection shall not exceed  
19 \$30,000 for each violation, or 3 times that amount  
20 for each day of a continuing violation, except that  
21 the amount assessed for any continuing violation  
22 shall not exceed a total of \$3,000,000 for any single  
23 act or failure to act.

24 “(2) RECOVERY.—Any forfeiture penalty deter-  
25 mined under paragraph (1) shall be recoverable pur-  
26 suant to section 504(a) of this Act.

1           “(3) PROCEDURE.—No forfeiture liability shall  
 2           be determined under paragraph (1) against any per-  
 3           son unless such person receives the notice required  
 4           by section 503(b)(3) or section 503(b)(4) of this  
 5           Act.

6           “(4) 2-YEAR STATUTE OF LIMITATIONS.—No  
 7           forfeiture penalty shall be determined or imposed  
 8           against any person under paragraph (1) if the viola-  
 9           tion charged occurred more than 2 years prior to the  
 10          date of issuance of the required notice or notice or  
 11          apparent liability.”.

12          (b) EXTENSION OF CONFIDENTIALITY REQUIRE-  
 13          MENTS TO IP-ENABLED VOICE SERVICE PROVIDERS.—

14                 (1) IN GENERAL.—Title VII of the Communica-  
 15                 tions Act of 1934 (47 U.S.C. 601 et seq.) is amend-  
 16                 ed by adding at the end thereof the following:

17          **“SEC. 715. PROTECTION OF CUSTOMER PROPRIETARY NET-**  
 18                         **WORK INFORMATION BY IP-ENABLED VOICE**  
 19                         **SERVICE PROVIDERS.**

20                 “(a) IN GENERAL.—

21                         “(1) GENERAL DUTY OF CONFIDENTIALITY.—  
 22                         An IP-enabled voice service provider has a duty to  
 23                         protect the confidentiality of proprietary information  
 24                         of, and relating to, other IP-enabled voice service  
 25                         providers, telecommunications carriers, equipment

1 manufacturers, and customers, including tele-  
2 communications carriers reselling telecommuni-  
3 cations services provided by another telecommuni-  
4 cations carrier or an IP-enabled voice service pro-  
5 vider.

6 “(2) CARRIER INFORMATION.—An IP-enabled  
7 voice service provider that receives or obtains propri-  
8 etary information from a telecommunications carrier  
9 or another IP-enabled voice service provider for pur-  
10 poses of providing any telecommunications service  
11 shall use such information only for such purpose,  
12 and shall not use such information for its own mar-  
13 keting efforts.

14 “(3) CUSTOMER PROPRIETARY NETWORK IN-  
15 FORMATION.—Within 90 days after the date of en-  
16 actment of the Protecting Consumer Phone Records  
17 Act, the Commission shall initiate a rulemaking pro-  
18 ceeding to apply the requirements of section 222,  
19 and regulations thereunder, to IP-enabled voice serv-  
20 ice providers to the same extent, in the same man-  
21 ner, and subject to the same penalties for failure to  
22 comply with those requirements as are applicable to  
23 telecommunications carriers.

24 “(b) DEFINITIONS.—In this section:

1           “(1) CUSTOMER PROPRIETARY NETWORK IN-  
2           FORMATION.—The term ‘customer proprietary net-  
3           work information’ has the meaning given that term  
4           by section 222(i) of this Act, except that—

5                   “(A) the reference in section 222(i)(1)(B)  
6                   of this Act to telephone exchange service or  
7                   telephone toll service shall be considered to  
8                   refer also to IP-enabled voice service; and

9                   “(B) it does not include information that  
10                  is related to non-voice service features bundled  
11                  with IP-enabled voice service.

12           “(2) IP-ENABLED VOICE SERVICE.—The term  
13           “IP-enabled voice service” means the provision of  
14           real-time 2-way voice communications offered to the  
15           public, or such classes of users as to be effectively  
16           available to the public, transmitted through cus-  
17           tomer premises equipment using IP protocol, or a  
18           successor protocol, for a fee (whether part of a bun-  
19           dle of services or separately) with interconnection ca-  
20           pability such that the service can originate traffic to,  
21           or terminate traffic from, the public switched tele-  
22           phone network.

23           “(3) OTHER TERMS.—Except as provided in  
24           paragraph (1), any term used in subsection (a) that

1 is defined or used in section 222 of this Act has the  
2 same meaning as when used in that section.”.

3 (2) DUTY OF TELECOMMUNICATIONS CARRIERS  
4 WITH RESPECT TO CPNI FROM IP-ENABLED VOICE  
5 SERVICE PROVIDERS.—Section 222(a) of the Com-  
6 munications Act of 1934 (47 U.S.C. 222(a)) is  
7 amended by inserting after “carrier.” the following:  
8 “A telecommunications carrier has the same duties  
9 under this section with respect to the confidentiality  
10 of proprietary information of, or relating to, an IP-  
11 enabled voice service provider, and with respect to  
12 customer proprietary network information received  
13 or obtained from an IP-enabled voice service pro-  
14 vider, as it has under this section with respect to an-  
15 other telecommunications carrier.”.

16 (c) TELECOMMUNICATIONS CARRIER NOTIFICATION  
17 REQUIREMENT.—Section 222 of the Communications Act  
18 of 1934 (47 U.S.C. 222), is amended—

19 (1) by redesignating subsection (h) as sub-  
20 section (i);

21 (2) by inserting after subsection (g) the fol-  
22 lowing new subsection:

23 “(h) NOTICE OF VIOLATIONS.—

24 “(1) IN GENERAL.—The Commission shall by  
25 regulation require each telecommunications carrier

1 to notify a customer within 14 calendar days after  
2 the carrier or provider is notified of, or becomes  
3 aware of, an incident in which customer proprietary  
4 network information relating to such customer was  
5 disclosed to someone other than the customer in vio-  
6 lation of this section or section 2 of the Protecting  
7 Consumer Phone Records Act.

8 “(2) LAW ENFORCEMENT AND HOMELAND SE-  
9 CURITY RELATED DELAYS.—Notwithstanding para-  
10 graph (1), a telecommunications carrier may delay  
11 the required notification for a reasonable period of  
12 time if—

13 “(A) a Federal or State law enforcement  
14 agency determines that giving notice within the  
15 14-day period would materially impede a civil or  
16 criminal investigation; or

17 “(B) a Federal national security agency or  
18 the Department of Homeland Security deter-  
19 mines that giving notice within the 14-day pe-  
20 riod would threaten national or homeland secu-  
21 rity.”.

22 (d) STATUTE OF LIMITATIONS.—Section  
23 503(b)(6)(B) of the Communications Act of 1934 (47  
24 U.S.C. 503(b)(6)(B)) is amended to read as follows:

1           “(B) such person does not hold a broad-  
2           cast station license issued under title III of this  
3           Act and—

4                   “(i) the person is charged with vio-  
5                   lating section 222 or 715 and the violation  
6                   occurred more than 2 years prior to the  
7                   date of issuance of the required notice or  
8                   notice of apparent liability; or

9                   “(ii) the person is charged with vio-  
10                  lating any other provision of this Act and  
11                  the violation occurred more than 1 year  
12                  prior to the date of issuance of the re-  
13                  quired notice or notice of apparent liabil-  
14                  ity.”.

15           (e) APPLICATION OF CABLE SUBSCRIBER PRIVACY  
16           RULES TO IP-ENABLED VOICE SERVICE PROVIDERS.—  
17           Section 631 of the Communications Act of 1934 (47  
18           U.S.C. 551) is amended by adding at the end the fol-  
19           lowing:

20                   “(i) CUSTOMER PROPRIETARY NETWORK INFORMA-  
21                   TION.—This section does not apply to customer propri-  
22                   etary network information (as defined in section 715(b)(1)  
23                   of this Act) as it relates to the provision of IP-enabled  
24                   voice service (as defined in section 715(b)(2) of this Act)  
25                   by a cable operator to the extent that section 715 of this

1 Act and section 2 of the Protecting Consumer Phone  
2 Records Act applies to such information.”.

3 (f) CONSUMER CONTROL OF WIRELESS PHONE NUM-  
4 BERS.—Section 222 of the Communications Act of 1934  
5 (47 U.S.C. 222), as amended by subsection (d), is further  
6 amended by adding at the end the following:

7 “(j) WIRELESS CONSUMER PRIVACY PROTECTION.—

8 “(1) IN GENERAL.—A provider of commercial  
9 mobile services, or any direct or indirect affiliate or  
10 agent of such a provider, may not provide the wire-  
11 less telephone number information of any customer  
12 to any wireless directory assistance service unless  
13 the mobile service provider—

14 “(A) provides a conspicuous, separate no-  
15 tice to the customer informing the customer of  
16 the right not to be listed in any wireless direc-  
17 tory assistance service; and

18 “(B) obtains express prior authorization  
19 for listing from such customer, separate from  
20 any authorization obtained to provide such cus-  
21 tomer with commercial mobile service, or any  
22 calling plan or service associated with such  
23 commercial mobile service, and such authoriza-  
24 tion has not been subsequently withdrawn.

1           “(2) COST-FREE DE-LISTING.—A provider of  
2 commercial mobile services, or any direct or indirect  
3 affiliate or agent of such a provider, may no longer  
4 provide the wireless telephone number information of  
5 any customer to any wireless directory assistance  
6 service if requested by that customer without any  
7 cost to the customer.

8           “(3) PUBLICATION OF DIRECTORIES PROHIB-  
9 ITED.—A provider of commercial mobile services, or  
10 any direct or indirect affiliate or agent of such a  
11 provider, may not publish, in printed, electronic, or  
12 other form, or sell or otherwise disseminate, an indi-  
13 vidual’s wireless telephone information held by any  
14 wireless directory assistance service, or any portion  
15 or segment thereof, unless the mobile service pro-  
16 vider—

17                   “(A) provides a conspicuous, separate no-  
18 tice to the customer informing the customer of  
19 the right not to be listed; and

20                   “(B) obtains express prior authorization  
21 for listing from such customer, separate from  
22 any authorization obtained to provide such cus-  
23 tomer with commercial mobile service, or any  
24 calling plan or service associated with such

1 commercial mobile service, and such authoriza-  
2 tion has not been subsequently withdrawn.

3 “(4) NO CONSUMER FEE FOR RETAINING PRI-  
4 VACY.—A provider of commercial mobile services  
5 may not charge any customer for exercising any of  
6 the rights described under this subsection.

7 “(5) STATE AND LOCAL LAWS PRE-EMPTED.—  
8 To the extent that any State or local government  
9 imposes requirements on providers of commercial  
10 mobile services, or any direct or indirect affiliate or  
11 agent of such providers, that are inconsistent with  
12 the requirements of this subsection, this subsection  
13 preempts such State or local requirements.

14 “(6) DEFINITIONS.—In this subsection:

15 “(A) WIRELESS TELEPHONE NUMBER IN-  
16 FORMATION.—The term ‘wireless telephone  
17 number information’ means the telephone num-  
18 ber, electronic address, and any other identi-  
19 fying information by which a calling party may  
20 reach a commercial mobile services customer,  
21 and which is assigned by a commercial mobile  
22 service provider to such customer, and includes  
23 the name and address of such customer.

24 “(B) WIRELESS DIRECTORY ASSISTANCE  
25 SERVICE.—The term ‘wireless directory assist-

1           ance service’ means any service for connecting  
2           calling parties to a commercial mobile service  
3           customer when such calling parties themselves  
4           do not possess the wireless telephone number  
5           information of such customer.”.

6 **SEC. 5. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

7           (a) **IN GENERAL.**—Except as provided in sections 6  
8           and 7 of this Act, section 2 of this Act shall be enforced  
9           by the Federal Trade Commission with respect to any en-  
10          tity subject to the jurisdiction of the Commission under  
11          section 5(a)(2) of the Federal Trade Commission Act (15  
12          U.S.C. 45(a)(2)).

13          (b) **VIOLATION TREATED AS AN UNFAIR OR DECEP-**  
14          **TIVE ACT OR PRACTICE.**—Violation of section 2 shall be  
15          treated as an unfair or deceptive act or practice proscribed  
16          under a rule issued under section 18(a)(1)(B) of the Fed-  
17          eral Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

18          (c) **ACTIONS BY THE COMMISSION.**—The Commission  
19          shall prevent any person from violating this Act in the  
20          same manner, by the same means, and with the same ju-  
21          risdiction, powers, and duties as though all applicable  
22          terms and provisions of the Federal Trade Commission  
23          Act (15 U.S.C. 41 et seq.) were incorporated into and  
24          made a part of this Act. Any person that violates section  
25          2 is subject to the penalties and entitled to the privileges

1 and immunities provided in the Federal Trade Commis-  
2 sion Act in the same manner, by the same means, and  
3 with the same jurisdiction, powers, and duties as though  
4 all applicable terms and provisions of the Federal Trade  
5 Commission Act were incorporated into and made a part  
6 of this Act. Nothing in section 2(d) of this Act limits any  
7 penalty under the Federal Trade Commission Act as that  
8 Act is made applicable to violations of section 2 by the  
9 preceding sentence.

10 **SEC. 6. CONCURRENT ENFORCEMENT BY FEDERAL COM-**  
11 **MUNICATIONS COMMISSION.**

12 (a) IN GENERAL.—The Federal Communications  
13 Commission shall have concurrent jurisdiction to enforce  
14 section 2.

15 (b) PENALTY; PROCEDURE.—For purposes of en-  
16 forcement of that section by the Commission—

17 (1) a violation of section 2 of this Act is  
18 deemed to be a violation of a provision of the Com-  
19 munications Act of 1934 (47 U.S.C. 151 et seq.)  
20 rather than a violation of the Federal Trade Com-  
21 mission Act; and

22 (2) the provisions of section 509(a)(2), (3), and  
23 (4) of the Communications Act of 1934 shall apply  
24 to the imposition and collection of the civil penalty  
25 imposed by section 2 of this Act as if it were the

1 civil penalty imposed by section 509(a)(1) of that  
2 Act.

3 **SEC. 7. ENFORCEMENT BY STATES.**

4 (a) IN GENERAL.—The chief legal officer of a State,  
5 or any other State officer authorized by law to bring ac-  
6 tions on behalf of the residents of a State, may bring a  
7 civil action, as *parens patriae*, on behalf of the residents  
8 of that State in an appropriate district court of the United  
9 States to enforce section 2 or to impose the civil penalties  
10 for violation of that section, whenever the chief legal offi-  
11 cer or other State officer has reason to believe that the  
12 interests of the residents of the State have been or are  
13 being threatened or adversely affected by a violation of  
14 this Act or a regulation under this Act.

15 (b) NOTICE.—The chief legal officer or other State  
16 officer shall serve written notice on the Federal Trade  
17 Commission and the Federal Communications Commis-  
18 sion of any civil action under subsection (a) prior to initi-  
19 ating such civil action. The notice shall include a copy of  
20 the complaint to be filed to initiate such civil action, except  
21 that if it is not feasible for the State to provide such prior  
22 notice, the State shall provide such notice immediately  
23 upon instituting such civil action.

1 (c) AUTHORITY TO INTERVENE.—Upon receiving the  
2 notice required by subsection (b), either Commission may  
3 intervene in such civil action and upon intervening—

4 (1) be heard on all matters arising in such civil  
5 action; and

6 (2) file petitions for appeal of a decision in such  
7 civil action.

8 (d) CONSTRUCTION.—For purposes of bringing any  
9 civil action under subsection (a), nothing in this section  
10 shall prevent the chief legal officer or other State officer  
11 from exercising the powers conferred on that officer by  
12 the laws of such State to conduct investigations or to ad-  
13 minister oaths or affirmations or to compel the attendance  
14 of witnesses or the production of documentary and other  
15 evidence.

16 (e) VENUE; SERVICE OF PROCESS.—

17 (1) VENUE.—An action brought under sub-  
18 section (a) shall be brought in a district court of the  
19 United States that meets applicable requirements re-  
20 lating to venue under section 1391 of title 28,  
21 United States Code.

22 (2) SERVICE OF PROCESS.—In an action  
23 brought under subsection (a)—

1 (A) process may be served without regard  
2 to the territorial limits of the district or of the  
3 State in which the action is instituted; and

4 (B) a person who participated in an al-  
5 leged violation that is being litigated in the civil  
6 action may be joined in the civil action without  
7 regard to the residence of the person.

8 (f) LIMITATION ON STATE ACTION WHILE FEDERAL  
9 ACTION IS PENDING.—If either Commission has insti-  
10 tuted an enforcement action or proceeding for violation of  
11 section 2 of this Act, the chief legal officer or other State  
12 officer of the State in which the violation occurred may  
13 not bring an action under this section during the pendency  
14 of the proceeding against any person with respect to whom  
15 the Commission has instituted the proceeding.

16 **SEC. 8. PREEMPTION OF STATE LAW.**

17 (a) PREEMPTION.—Section 2 and the regulations  
18 prescribed pursuant to section 3 of this Act, and sections  
19 222 and 715 of the Communications Act of 1934 (47  
20 U.S.C. 222) and the regulations prescribed thereunder,  
21 preempt any—

22 (1) statute, regulation, or rule of any State or  
23 political subdivision thereof that requires a tele-  
24 communications carrier or provider of IP-enabled  
25 voice service to develop, implement, or maintain pro-

1 cedures for protecting the confidentiality of customer  
2 proprietary network information (as defined in sec-  
3 tion 222(i)(1) of the Communications Act of 1934  
4 (47 U.S.C. 222(i)(1)) or section 715(b)(1) of that  
5 Act with respect to IP-enabled voice service pro-  
6 viders) held by that telecommunications carrier or  
7 provider of IP-enabled voice service, or that restricts  
8 or regulates a carrier's or provider's ability to use,  
9 disclose, or permit access to such information; and

10 (2) any such statute, regulation, or rule, or ju-  
11 dicial precedent of any State court under which li-  
12 ability is imposed on a telecommunications carrier or  
13 provider of IP-enabled voice service for failure to  
14 comply with any statute, regulation, or rule de-  
15 scribed in paragraph (1) or with the requirements of  
16 section 2 or the regulations prescribed pursuant to  
17 section 3 of this Act, or with section 222 or 715 of  
18 the Communications Act of 1934 or the regulations  
19 prescribed thereunder.

20 (b) LIMITATION ON PREEMPTION.—This Act shall  
21 not be construed to preempt the applicability of—

22 (1) State laws that are not specific to the mat-  
23 ters described in subsection (a), including State con-  
24 tract or tort law; or

1           (2) other State laws to the extent those laws re-  
2           late to acts of fraud or computer crime.

3 **SEC. 9. CONSUMER OUTREACH AND EDUCATION.**

4           (a) IN GENERAL.—Within 180 days after the date  
5 of enactment of this Act, the Federal Trade Commission  
6 and Federal Communications Commission shall jointly es-  
7 tablish and implement a media and distribution campaign  
8 to teach the public about the protection afforded customer  
9 proprietary network information under this Act, the Fed-  
10 eral Trade Commission Act and the Communications Act  
11 of 1934.

12          (b) CAMPAIGN REQUIREMENTS.—The campaign  
13 shall—

14           (1) promote understanding of—

15               (A) the problem concerning the theft and  
16               misuse of customer proprietary network infor-  
17               mation;

18               (B) available methods for consumers to  
19               protect their customer proprietary network in-  
20               formation; and

21               (C) efforts undertaken by the Federal  
22               Trade Commission and the Federal Commu-  
23               nications Commission to prevent the problem;  
24               and

- 1 (2) explore various distribution platforms to ac-
- 2 complish the goal set forth in paragraph (1).

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