November 8, 2023

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C., 20554

RE: *Protecting Consumers from SIM Swap and Port-Out Fraud*, WC Docket No. 21-341

Dear Ms. Dortch:

On Wednesday, November 8, the undersigned and Michael Romano, Executive Vice President of NTCA–The Rural Broadband Association ("NTCA"), met with Elizabeth Cuttner, Wireline and Enforcement Legal Advisor to FCC Chairwoman Rosenworcel to propose a limited modification to the draft Report and Order and accompanying rules released October 25, 2023, in the above referenced docket.[1] NTCA's members support the Commission's efforts to prevent unauthorized access to customer proprietary network information ("CPNI"). However, as currently written, the proposed revisions to section 64.2010(a) threaten to hamper small providers' abilities to perform essential and legitimate business functions in serving consumers.

Unlike their larger counterparts, small providers may not have employees who only perform the functions of a customer service representative ("CSR") to handle inbound consumer communications. Those acting as CSRs may also perform billing functions, post payments to customer accounts, dispatch technicians to the field, etc. and they must access customer information to perform these essential business functions. Further, technical support and other support personnel may require access to customer account information to provide technical support solutions. While the CPNI rules should logically protect customer information by requiring authentication first in the context of a direct communication with the customer, the same need for authentication does not apply when a provider's employee accesses information to perform other essential functions and services outside of such direct customer interaction.

The discussion in the order and the text of the rule should therefore be modified to achieve the clear goal of ensuring that CPNI is not accessed by an employee without proper authentication of the customer *specifically in the course of communicating with a customer*. To help ensure that legitimate business functions are uninterrupted while simultaneously protecting CPNI, NTCA recommends that the Commission modify the proposed language in section 64.2010(a):

> (a) Safeguarding CPNI. Telecommunications carriers must take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI. Telecommunications carriers must properly authenticate a customer prior to disclosing

[1] Draft Report and Order and Further Notice of Proposed Rulemaking, *In the Matter of Protecting Consumers from SIM Swap and Port-Out Fraud* (SIM SWAP R&O), WC Docket No. 21-341, FCC-CIR2311-04 (Oct. 25, 2023).

> CPNI based on customer-initiated telephone contact, online account access, or an in-store visit. Telecommunications carriers shall establish safeguards and processes so that employees who ~~interact directly with~~ receive inbound customer communications are unable to access CPNI until after a customer has been properly authenticated in the specific context of addressing such direct inbound customer communications.

Similarly, NTCA offers the following suggestion to paragraph 50 of the draft order:

> 50. We require all telecommunications carriers to establish safeguards and process so that employees who interact directly with customers are unable to access CPNI until after a customer has been properly authenticated when the employees are performing functions in response to and in the context of direct inbound customer communication, such as the functions of first-tier customer service agents. We find, based on the record before us, that requiring telecommunications carriers to limit employee access to CPNI until after a customer has been properly authenticated in such circumstances will help to minimize the incidences of SIM swap fraud by preventing customer service representatives from inadvertently or intentionally assisting bad actors in fraudulent schemes. We are persuaded that, even with the customer service representative training requirements we adopt today, allowing employees who interact directly with customers to access CPNI prior to proper authentication of a customer is unnecessary and possibly "invites adversaries to exploit sympathetic, inattentive, or malicious customer service representatives for account access." While we anticipate that employees will comply with training requirements in good faith, "[t]here should be no opportunity for a representative to give a hint or a free pass" that will help bad actors commit fraud. We therefore conclude that requiring telecommunications carriers to establish safeguards and processes so that employees who interact directly with customers are unable to access CPNI until after a customer has been properly authenticated "a straightforward fix" and standard data security best practice will provide meaningful protection in helping to combat SIM swap fraud. We find that the benefits of this requirement outweigh any potential costs, and that any such costs will be mitigated by allowing telecommunications carriers flexibility to determine the particular safeguards and processes that will prevent employees from accessing CPNI until after a customer has been properly authenticated.

These suggestions would be consistent with the Commission's efforts to ensure that its new requirements are not "overly prescriptive" or have "costs [that] outweigh the benefits.[2] NTCA also supports a longer implementation period for rule compliance, particularly as it pertains to smaller providers with limited personnel and financial resources.[3]

[2] SIM Swap R&O at ¶ 51.

[3] *See, e.g., ex parte* of NCTA- The Internet & Television Association and USTelecom – The Broadband Association in WC Docket No. 21-341 (Nov. 7, 2023).

Please direct any questions regarding this matter to the undersigned,

Respectfully submitted,

By: /s/ Jill Canfield
Jill Canfield
General Counsel, VP of Policy

cc: Elizabeth Cuttner
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