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SPECIAL BULLETIN

Broadband Privacy *Data Security Rules Update*

As we reported previously (see December 21, 2016 *Special Bulletin*), the FCC's Broadband Privacy rules began taking effect on January 3, 2017. The next round of rules to become effective are those relating to data security, which take effect on March 2, 2017. This *Special Bulletin* will provide additional information to aide in compliance with these new rules.

The data security obligation provides a more flexible approach to the more prescriptive CPNI authentication and other safeguards previously adopted by the FCC and contained in Section 64.2009 and 64.2010 of the Commission's rules. However, the protection of customer data now covers additional items and applies to broadband internet access service (BIAS) providers by virtue of the FCC's recent classification of BIAS as a telecommunications service.

What must be secured under the new rules?

- ⇒ **Individually identifiable CPNI.** For non-BIAS telecommunications service, CPNI is defined as it was previously. In a BIAS context, CPNI includes, but is not limited to:
- * Broadband Service Plans
 - * Geo-Location (related to customer or customer's device)
 - * MAC Addresses and Other Device Identifiers
 - * IP Addresses and Domain Name Information
 - * Traffic Statistics
 - * Port Information
 - * Application Header
 - * Applications Usage
 - * Application Payload
 - * CPE and Other Customer Device Information
- ⇒ **Personally Identifiable Information (PII).** According to the FCC's Order, PII is anything linked or reasonably linkable to an individual or device, such as when it can be reasonably used on its own to identify an individual or device, or logically associate with other information about a specific individual or device. Examples include name, social security number, date of birth,



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Questions? Comments?
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mother's maiden name, government-issued identifiers such as driver's license numbers, physical address, email address or other online contact information, phone numbers, and IP addresses.

⇒ **Content of Communications.** Content means any part of the substance, purpose, or meaning of a communication or any other part of a communication that is highly suggestive of the substance, purpose, or meaning of a communication. This applies to both inbound and outbound communications.

Together, individually identifiable CPNI, PII, and content of communications are now called CPI (customer proprietary information).

Who has to comply with these rules?

All telecommunications carriers, including BIAS providers and small RLECs have to comply with the data security rules as of March 2. According to the FCC, this is an appropriate implementation period as “*carriers should already be largely in compliance with these requirements because the reasonableness standard adopted in this Order provides carriers flexibility in how to approach data security and resembles the obligation to which they were previously subject pursuant to Section 5 of the FTC Act.*”

What is required for ensuring data security?

As discussed in the December 21, 2016 *Special Bulletin*, providers are required to take reasonable measures to secure CPI. Here is the rule as contained in the FCC's Order:

64.2005 Data Security.

- (a) A telecommunications carrier must take reasonable measures to protect customer PI from unauthorized use, disclosure, or access.
- (b) The security measures taken by a telecommunications carrier to implement the requirement set forth in this section must appropriately take into account each of the following factors:
 - (1) The nature and scope of the telecommunications carrier's activities;
 - (2) The sensitivity of the data it collects;
 - (3) The size of the telecommunications carrier; and
 - (4) Technical feasibility.
- (c) A telecommunications carrier may employ any lawful security measures that allow it to implement the requirement set forth in this section.

We will issue further *Special Bulletins* as additional Broadband Privacy rules near their effective dates, with the next being data breach notification requirements. Of course, this all could be for naught if Chairman Pai determines to eliminate the rules altogether, or congress takes action that nullify the rules. In the meantime, the rules are in effect until we hear something different.

Please let us know if you have any questions.

