Testimony of Walter B. McCormick
President and CEO
United States Telecom Association
Before the House Committee on Energy and Commerce

March 9, 2007

- In today's highly competitive marketplace, no industry should take the privacy of its customers lightly. As our member companies begin offering a variety of new advanced broadband services, we see our reputation for delivering quality service and protecting the privacy of our customers as a competitive advantage.

- There is a strong business incentive to protect customer privacy. There is an existing legal obligation, as well. Section 222 of the Communications Act provides that telecommunications carriers have "a duty" to protect the confidentiality of customer proprietary network information.

- This legal obligation is taken very seriously by our member companies. We educate and train our customer service employees, we observe strict security protocols, and we tightly define our agreements with marketing firms.

- We believe the best way to address the problem of fraudulent access to phone records is through the enforcement of existing laws and the strengthening of penalties on bad actors.

- We are deeply concerned, however, by the broad approach taken in Title II of the bill. We believe that it will neither increase customer security nor reduce the amount of marketing materials customers receive.

- Consumers benefit when their communications carriers offer them new discount packages and innovative services. The information we typically rely upon in pursuing marketing opportunities focuses on purchasing patterns and the types of services a customer is receiving, information that is of little or no use to the pretexters this bill seeks to target.

- The provisions proposed in Section 202 could significantly impede this pro-consumer outreach — all without addressing any identifiable problem of fraudulent access to phone records. We are aware of no evidence to suggest that marketing of services, either directly, or through joint venture partners, contractors, or other third parties has resulted in any abuse of customer proprietary information. Indeed, FCC regulation §64.2007 requires that in order to share CPNI with joint venture partners or contractors, telecommunications carriers must first enter into confidentiality agreements with these third parties.

- Our industry also has significant concerns with Sec. 203, which would prescribe burdensome audit trail requirements.

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Mr. Chairman, Ranking Member Barton, and members of the Committee, on behalf of the member companies of the United States Telecom Association, I want to thank you for this opportunity to testify on the important issue of safeguarding consumer's phone records from fraudulent use by pretexters.

This Committee has a long history of working to protect consumers. Our industry shares your concern for protecting customer information. Protecting privacy is a critical component of our customer care.

In today's highly competitive marketplace, no industry should take the privacy of its customers lightly. As our member companies begin offering a variety of new advanced broadband services, we see our reputation for delivering quality service and protecting the privacy of our customers as a competitive advantage.

There is a strong business incentive to protect customer privacy. There is an existing legal obligation, as well. Section 222 of the Communications Act provides that telecommunications carriers have "a duty" to protect the confidentiality of customer proprietary network information.

This legal obligation is taken very seriously by our member companies. We educate and train our customer service employees, we observe strict security protocols, and we tightly define our agreements with marketing firms.

We believe the best way to address the problem of fraudulent access to phone records is through the enforcement of existing laws and the strengthening of penalties on bad actors. In this regard, we applaud Title I of this legislation, which would explicitly ban the practice of pretexting and give the Federal Trade Commission authority to enforce this prohibition. This provision complements and strengthens the action taken by Congress last year in establishing criminal penalties for pretexting.

We are deeply concerned, however, by the broad approach taken in Title II of the bill. We believe that it will neither increase customer security nor reduce the amount of marketing materials customers receive. In fact, customers would likely see an increase in such materials, as carriers would be forced to take a generic approach to their marketing – a direct result of provisions that would impede the kind of targeted marketing that consumers value most.

Consumers benefit when their communications carriers offer them new discount packages and innovative services. The information we typically rely upon in pursuing marketing opportunities focuses on purchasing patterns and the types of services a customer is receiving, information that is of little or no use to the pretexters this bill seeks to target.

For example, if a customer has caller ID to avoid unwanted calls at dinnertime, CPNI enables our marketers to identify a consumer that might have an interest in receiving a bundled discount that might include call management, a service that forces the caller to give their name before the call rings through, or call blocking features. If a customer has subscribed for both voice service and high-speed internet access, he might have an interest in learning about savings that could be obtained by broadening his bundle to include video. For consumers, this kind of targeted marketing can be highly informative, helpful, and result in real savings.

The provisions proposed in Section 202 could significantly impede this pro-consumer outreach — all without addressing any identifiable problem of fraudulent access to phone records. We are aware of no evidence to suggest that marketing of services, either directly, or through joint venture partners, contractors, or other third parties has resulted in any abuse of customer proprietary information. Indeed, FCC regulation §64.2007 requires that in order to share CPNI with joint venture partners or contractors, telecommunications carriers must first enter into confidentiality agreements with these third parties. The agreement must require that the third party only use the information for marketing or providing communications-related services for which the information was provided; that the third party be prohibited from sharing the data with any other party; and that the third party have appropriate protections in place to ensure the confidentiality of consumers' information.

Businesses succeed by being responsive to their customers. As currently drafted, however, Title II would severely impede the ability of our industry to bring to the attention of its customers the opportunity to take advantage of improved services or increased savings. We have been informed that this is not the Committee's intent – that, instead, the Committee intended to only impose new restrictions on the sharing and disclosure of "Detailed Customer Telephone Records." There is, currently, an FCC proceeding underway that is considering the same thing. If it is, in fact, the Committee's intention to only address this limited call detail information – information related to matters such as the individual locations, duration, time, and date of specific customer communications – then we would suggest that the bill language be clarified so that our industry can continue offering its customers new services and bundled savings, as it does under current rules, while affording new protection to detailed customer telephone records.

Our industry also has significant concerns with Sec. 203, which would prescribe burdensome audit trail requirements. The last time the FCC looked at this issue in the late 1990s, the cost of complying with similar requirements was estimated at up to $270 million per carrier. These mandates get factored into the cost of doing business and eventually affect the prices consumers pay … in this case with very little, if any, benefit. In fact, small, rural carriers estimated that the additional cost of compliance could range from $12-$64 per line — clearly a hardship for many consumers.

Mr. Chairman, again, we thank you for the opportunity to be here today. We look forward to working constructively with you and the members of the committee to develop sound policies that focus on preventing pretexting and illegal invasions of privacy.

I look forward to responding to any questions you may have.

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