

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of  
The Petition of Public Knowledge et al. for )  
Declaratory Ruling Stating that the Sale of )  
Non-Aggregate Call Records by ) WC Docket No. 13-306  
Telecommunications Providers without )  
Customers; Consent Violates Section 222 of )  
the Communications Act )

**OPENING COMMENTS OF THE GREENLINING INSTITUTE**

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## I. Introduction

The Greenlining Institute (“Greenlining”)<sup>1</sup> respectfully submits the following opening comments in support of the petition filed by Public Knowledge *et al.* on December 11, 2013 (“Petition”), requesting that the Commission issue a declaratory ruling that: 1) under Section 222 of the Communications Act of 1934, as amended, non-aggregate call records that have been purged of personal identifiers but that leave customers’ individual characteristics intact are protected as individually identifiable Customer Proprietary Network Information (CPNI), and 2) telecommunications providers, including AT&T, Verizon, Sprint, and T-Mobile, are prohibited from selling or sharing such records with third parties without customers’ consent.

Greenlining wholly supports the Petition. Non-aggregate call records, even when purged of personal identifiers, are protected CPNI. Information that has been masked or “anonymized” may still be used to identify individual customers, which defeats the purpose of Section 222. Phone carriers cannot share or sell non-aggregate records without customers’ consent.

## II. Discussion

Records that do not fall within Section 222(c)(3), titled “Aggregate customer information” are considered protected, individually identifiable CPNI.<sup>2</sup> These records may only be shared or sold upon affirmative written request and designation by the customer.<sup>3</sup>

Greenlining supports the Petition’s position that there are only two categories of records under Section 222: “individually identifiable” and “aggregate.”<sup>4</sup> If the record is not aggregate

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<sup>1</sup> Greenlining is a non-profit organization dedicated to empowering communities of color, low-income communities, and other disadvantaged groups. Started in 1993 by the Greenlining Coalition, Greenlining seeks to protect consumer interests while partnering with some of the largest companies in America to better serve this country’s multi-ethnic and underserved communities. Beyond ethnic diversity, the coalition represents diverse constituents that include faith-based organizations, minority business associations, community development corporations, health advocates, traditional civil rights organizations, and minority media outlets.

<sup>2</sup> 47 U.S.C. § 222

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

customer information, then it is individually identifiable and is thus protected.<sup>5</sup> Additionally, Greenlining supports the Petition's argument that the method of "anonymization" that the carriers are using is not enough to protect the true identities of the customers.<sup>6</sup> Any method that allows re-identification of individual customers violates the law.

AT&T sells the C.I.A. pseudonymous records of its customers, which are left with individual characteristics intact that may lead to re-identification of individuals.<sup>7</sup> Such acts violate Section 222 of the Communications Act because the individually identifiable CPNI was sold without prior consent from the affected customers. For the same reasons, the reservation of the right to sell pseudonymous records to other third parties without customer consent also violates Section 222.<sup>8</sup>

AT&T's sale of identifiable records without consent from the customers amounts to exploitation of consumers and possible violations of Constitutional rights. These are rights that Section 222 is meant to protect. People of color are engaged in our robust economy and are highly reliant on international phone calls to maintain connections with family and communities overseas to keep in touch, make business transactions, or provide and receive financial support. International phone calls are currently subject of counterterrorism investigations by various government agencies and they are lucrative sources of revenue for phone carriers that are ready to sell them, despite any violations of law.<sup>9</sup> Thus, communities of color are disproportionately affected by Constitutional and statutory violations of the sale or sharing of CPNI without consumers' consent.

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<sup>5</sup> *Id.*

<sup>6</sup> Public Knowledge et al., *Petition for Declaratory Ruling Stating that the Sale of Non-Aggregate Call Records by Telecommunications Providers without Customers' Consent Violates Section 222 of the Communications Act*, WC Docket No. 13-306 (Dec. 11, 2013), 6.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.* at 9-10.

<sup>9</sup> Charlie Savage, *C.I.A. is said to pay AT&T for Call Data*, *N.Y. Times* (Nov. 7, 2013), available at [http://www.nytimes.com/2013/11/07/us/cia-is-said-to-pay-att-for-call-data.html?\\_r=0](http://www.nytimes.com/2013/11/07/us/cia-is-said-to-pay-att-for-call-data.html?_r=0).

### III. Conclusion

There are only two categories of records under Section 222: (1) aggregate records; and (2) individually identifiable records. The records that AT&T sold to the C.I.A. are not aggregate records and were thus individually identifiable CPNI, protected under Section 222. Furthermore, the masked records that AT&T sells to the C.I.A. may lead to re-identification of individuals, which violates Section 222. Greenlining urges the Commission to issue a declaratory ruling that non-aggregate call records, purged of personal identifiers but still including customers' individual characteristics, are protected under Section 222 of the Communications Act. The Commission must further declare that phone carriers cannot share or sell such records or reserve the right to share or sell these records without customers' consent.

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Respectfully submitted,

/s/ \_\_\_\_\_

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