

ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-104 struck out subsec. (a) relating to notification of State Governor and State commission, public hearing, and certification.

1990—Subsec. (b). Pub. L. 101-336 substituted “sections 225 and 301” for “section 301”.

1956—Subsec. (a). Act Aug. 2, 1956, inserted provisions relating to submission of comments by parties and required a public hearing upon request, in lieu of former provisions requiring hearing upon application.

1954—Subsec. (b). Act Apr. 27, 1954, included mobile or point-to-point radio telephone exchange service within exclusions provided for in such subsection, where it is subject to regulation by a State commission or by local governmental authority, and made it clear that the Commission retains its licensing authority over the radio stations that might be involved in such service.

### § 222. Privacy of customer information

#### (a) In general

Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunications carriers, equipment manufacturers, and customers, including telecommunications carriers reselling telecommunications services provided by a telecommunications carrier.

#### (b) Confidentiality of carrier information

A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

#### (c) Confidentiality of customer proprietary network information

##### (1) Privacy requirements for telecommunications carriers

Except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

##### (2) Disclosure on request by customers

A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

##### (3) Aggregate customer information

A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in

paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

#### (d) Exceptions

Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) to initiate, render, bill, and collect for telecommunications services;

(2) to protect the rights or property of the carrier, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services;

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service; and

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d) of this title) or the user of an IP-enabled voice service (as such term is defined in section 615b of this title)—

(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user's call for emergency services;

(B) to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm; or

(C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.

#### (e) Subscriber list information

Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person upon request for the purpose of publishing directories in any format.

#### (f) Authority to use location information

For purposes of subsection (c)(1), without the express prior authorization of the customer, a customer shall not be considered to have approved the use or disclosure of or access to—

(1) call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d) of this title) or the user of an IP-enabled voice service (as

such term is defined in section 615b of this title), other than in accordance with subsection (d)(4); or

(2) automatic crash notification information to any person other than for use in the operation of an automatic crash notification system.

**(g) Subscriber listed and unlisted information for emergency services**

Notwithstanding subsections (b), (c), and (d), a telecommunications carrier that provides telephone exchange service or a provider of IP-enabled voice service (as such term is defined in section 615b of this title) shall provide information described in subsection (i)(3)(A)<sup>1</sup> (including information pertaining to subscribers whose information is unlisted or unpublished) that is in its possession or control (including information pertaining to subscribers of other carriers) on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions to providers of emergency services, and providers of emergency support services, solely for purposes of delivering or assisting in the delivery of emergency services.

**(h) Definitions**

As used in this section:

**(1) Customer proprietary network information**

The term “customer proprietary network information” means—

(A) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the carrier-customer relationship; and

(B) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier;

except that such term does not include subscriber list information.

**(2) Aggregate information**

The term “aggregate customer information” means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed.

**(3) Subscriber list information**

The term “subscriber list information” means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers’ telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned at the time of the establishment of such service), or any combination of such listed names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

**(4) Public safety answering point**

The term “public safety answering point” means a facility that has been designated to

receive emergency calls and route them to emergency service personnel.

**(5) Emergency services**

The term “emergency services” means 9–1–1 emergency services and emergency notification services.

**(6) Emergency notification services**

The term “emergency notification services” means services that notify the public of an emergency.

**(7) Emergency support services**

The term “emergency support services” means information or data base management services used in support of emergency services.

(June 19, 1934, ch. 652, title II, § 222, as added Pub. L. 104–104, title VII, § 702, Feb. 8, 1996, 110 Stat. 148; amended Pub. L. 106–81, § 5, Oct. 26, 1999, 113 Stat. 1288; Pub. L. 110–283, title III, § 301, July 23, 2008, 122 Stat. 2625.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 222, act June 19, 1934, ch. 652, title II, § 222, as added Mar. 6, 1943, ch. 10, § 1, 57 Stat. 5; amended July 12, 1960, Pub. L. 86–624, § 36, 74 Stat. 421; Nov. 30, 1974, Pub. L. 93–506, § 2, 88 Stat. 1577; Dec. 24, 1980, Pub. L. 96–590, 94 Stat. 3414; Dec. 29, 1981, Pub. L. 97–130, § 2, 95 Stat. 1687, related to competition among record carriers, prior to repeal by Pub. L. 103–414, title III, § 304(a)(6), Oct. 25, 1994, 108 Stat. 4297.

**AMENDMENTS**

2008—Subsec. (d)(4). Pub. L. 110–283, § 301(1), inserted “or the user of an IP-enabled voice service (as such term is defined in section 615b of this title)” after “section 332(d) of this title” in introductory provisions.

Subsec. (f). Pub. L. 110–283, § 301(2), struck out “wireless” before “location” in heading.

Subsec. (f)(1). Pub. L. 110–283, § 301(1), inserted “or the user of an IP-enabled voice service (as such term is defined in section 615b of this title)” after “section 332(d) of this title”.

Subsec. (g). Pub. L. 110–283, § 301(3), inserted “or a provider of IP-enabled voice service (as such term is defined in section 615b of this title)” after “telephone exchange service”.

1999—Subsec. (d)(4). Pub. L. 106–81, § 5(1), added par. (4).

Subsecs. (f), (g). Pub. L. 106–81, § 5(2), added subsecs. (f) and (g). Former subsec. (f) redesignated (h).

Subsec. (h). Pub. L. 106–81, § 5(2)–(4), redesignated subsec. (f) as (h), inserted “location,” after “destination,” in par. (1)(A), and added pars. (4) to (7).

**§ 223. Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications**

**(a) Prohibited acts generally**

Whoever—

(1) in interstate or foreign communications—

(A) by means of a telecommunications device knowingly—

(i) makes, creates, or solicits, and

(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene or child pornography, with intent to abuse, threaten, or harass another person;

(B) by means of a telecommunications device knowingly—

<sup>1</sup> So in original. Probably should be subsection “(h)(3)(A)”.