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Paperwork Police Tighten Screws On CPNI Compliance \$100G fines for minor mistakes

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A small Texas paging company and a rural Iowa local exchange carrier found themselves the targets of proposed \$100,000 FCC fines. The FCC wants to fine the companies for failing to maintain CPNI paperwork. Although AT&T and Alltel faced similar \$100,000 fines last year, the FCC's decision to target small companies may herald a new era of zero tolerance enforcement.

CPNI (short for Customer Proprietary Network Information) is information related to the quantity, type, destination, location, amount of use and configuration of service. The issue of protecting CPNI has been topical lately with Congress and the media investigating the potential for privacy abuses of CPNI. The recent FCC inquiries are the agency's reaction to the topic.

The FCC requires telecommunications carriers to sign a certificate every year regarding CPNI protections employed by the carriers. On an annual basis, an officer of the company must sign a compliance certificate declaring personal knowledge of the company's adequate operating procedures to protect CPNI. The company must also have a statement which details the company's operating procedures and how it ensures compliance with CPNI protection rules.

In December, 2006, and January, 2007, the FCC sent inquiries to several carriers inquiring about protective measures for CPNI. One of the requests that the FCC made was for each carrier to provide copies of the last five years' of CPNI annual compliance certificates. The Texas paging company sent in certificates from the past five years. The FCC determined that the certificates lacked specific reference to an officer having personal knowledge of the CPNI protection procedures. The FCC wants to fine the carrier \$100,000 for leaving that reference out of the certificate. Although there is no dispute that the carrier was signing certificates annually, five years later the FCC wants to fine the station for missing a phrase in the certificate.

The Iowa telephone company responded to the FCC's inquiry by submitting a certificate for the previous year and a statement that it did not prepare certificates for four years. In turn, the FCC sent the phone company a \$100,000 fine for failing to prepare and sign annual certificates.

Readers are reminded that although there typically are not annual or periodic audits of CPNI protections, the FCC still could – *at any time* – require you to prove that you have been following the rules. This self-audit technique by the FCC places the burden of proper operations upon the carriers. Any further action by the FCC likely would be based upon a carrier's own response. Readers should ensure that their operations comply with FCC requirements both as responsible carriers and in light of the enhanced enforcement actions by the FCC.