

§ 64.5105

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shall refer to a call placed via a point-to-point service.

(n) *Readily available biographical information.* The term “readily available biographical information” means information drawn from the customer’s life history and includes such things as the customer’s social security number, or the last four digits of that number; mother’s maiden name; home address; or date of birth.

(o) *Sign language.* The term “sign language” shall have the same meaning given to the term in § 64.601(a) of this part.

(p) *Telecommunications relay services (TRS).* The term “telecommunications relay services” or “TRS” shall have the same meaning given to such term in § 64.601(a) of this part.

(q) *Telephone number of record.* The term “telephone number of record” means the telephone number associated with the provision of TRS, which may or may not be the telephone number supplied as part of a customer’s “contact information.”

(r) *TRS Fund.* The term “TRS Fund” shall have the same meaning given to the term in § 64.604(c)(5)(iii) of this part.

(s) *TRS provider.* The term “TRS provider” means an entity that provides TRS and shall include an entity that provides point-to-point service.

(t) *TRS-related services.* The term “TRS-related services” means, in the case of traditional TRS, services related to the provision or maintenance of customer premises equipment, and in the case of iTRS, services related to the provision or maintenance of iTRS access technology, including features and functions typically provided by TRS providers in association with iTRS access technology.

(u) *Valid photo ID.* The term “valid photo ID” means a government-issued means of personal identification with a photograph such as a driver’s license, passport, or comparable ID that has not expired.

(v) *Video relay service.* The term “video relay service” or VRS shall have the same meaning given to the term in § 64.601(a) of this part.

(w) *VRS access technology.* The term “VRS access technology” shall have

the same meaning given to the term in § 64.601(a) of this part.

EFFECTIVE DATE NOTE: At 78 FR 40613, July 5, 2013, § 64.5104 was added. Paragraphs (c)(4) and (c)(5) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 64.5105 Use of customer proprietary network information without customer approval.

(a) A TRS provider may use, disclose, or permit access to CPNI for the purpose of providing or lawfully marketing service offerings among the categories of service (*i.e.*, type of TRS) for which the TRS provider is currently the default provider for that customer, without customer approval.

(1) If a TRS provider provides different categories of TRS, and the TRS provider is currently the default provider for that customer for more than one category of TRS offered by the TRS provider, the TRS provider may share CPNI among the TRS provider’s affiliated entities that provide a TRS offering to the customer.

(2) If a TRS provider provides different categories of TRS, but the TRS provider is currently not the default provider for that customer for more than one offering by the TRS provider, the TRS provider shall not share CPNI with its affiliates, except as provided in § 64.5107(b) of this subpart.

(b) A TRS provider shall not use, disclose, or permit access to CPNI as described in this paragraph (b).

(1) A TRS provider shall not use, disclose, or permit access to CPNI to market to a customer TRS offerings that are within a category of TRS for which the TRS provider is not currently the default provider for that customer, unless that TRS provider has customer approval to do so.

(2) A TRS provider shall not identify or track CPNI of customers that call competing TRS providers and, notwithstanding any other provision of this subpart, a TRS provider shall not use, disclose or permit access to CPNI related to a customer call to a competing TRS provider.

(c) A TRS provider may use, disclose, or permit access to CPNI, without customer approval, as described in this paragraph (c).

(1) A TRS provider may use, disclose or permit access to CPNI derived from its provision of TRS without customer approval, for the provision of CPE or iTRS access technology, and call answering, voice or video mail or messaging, voice or video storage and retrieval services.

(2) A TRS provider may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(3) A TRS provider may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, call waiting, caller I.D., and call forwarding, only to those customers that are currently registered with that TRS provider as their default provider.

(4) A TRS provider shall use, disclose, or permit access to CPNI to the extent necessary to:

- (i) Accept and handle 911/E911 calls;
- (ii) Access, either directly or via a third party, a commercially available database that will allow the TRS provider to determine an appropriate Public Safety Answering Point, designated statewide default answering point, or appropriate local emergency authority that corresponds to the caller's location;
- (iii) Relay the 911/E911 call to that entity; and
- (iv) Facilitate the dispatch and response of emergency service or law enforcement personnel to the caller's location, in the event that the 911/E911 call is disconnected or the caller becomes incapacitated.

(5) A TRS provider shall use, disclose, or permit access to CPNI upon request by the administrator of the TRS Fund, as that term is defined in §64.604(c)(5)(iii) of this part, or by the Commission for the purpose of administration and oversight of the TRS Fund, including the investigation and prevention of fraud, abuse, and misuse of TRS and seeking repayment to the TRS Fund for non-compensable minutes.

(6) A TRS provider may use, disclose, or permit access to CPNI to protect the rights or property of the TRS provider, or to protect users of those services, other TRS providers, and the TRS Fund from fraudulent, abusive, or unlawful use of such services.

[79 FR 40613, July 5, 2013]

§ 64.5107 Approval required for use of customer proprietary network information.

(a) A TRS provider may obtain approval through written, oral, electronic, or sign language methods.

(1) A TRS provider relying on oral or sign language approval shall bear the burden of demonstrating that such approval has been given in compliance with the Commission's rules in this part.

(2) Approval or disapproval to use, disclose, or permit access to a customer's CPNI obtained by a TRS provider must remain in effect until the customer revokes or limits such approval or disapproval. A TRS provider shall accept any such customer revocation, whether in written, oral, electronic, or sign language methods.

(3) A TRS provider must maintain records of approval, whether oral, written, electronic, or sign language, during the time period that the approval or disapproval is in effect and for at least one year thereafter.

(b) *Use of opt-in and opt-out approval processes.* (1) Opt-in approval requires that the TRS provider obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the TRS provider's request consistent with the requirements set forth in this subpart.

(2) With opt-out approval, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in §64.5108(d)(1) of this subpart after the TRS provider has provided to the customer appropriate notification of the TRS provider's request for consent consistent with the rules in this subpart.