



Comcast Cable Communications, Inc.
1500 Market Street
Philadelphia, PA 19102

July 25, 2003

Mr. David C. Olson, Director
Office of Cable and Franchise Management
1120 SW Fifth Avenue#1305
Portland, OR 97204

Re: 2003 Comcast Cable Privacy Policy (the "Privacy Policy")

Dear Mr. Olson:

I am writing in response to your letter dated June 25, 2003 to Debbie Luppold regarding the Comcast Privacy Policy. We take the Commission's concerns seriously and appreciate this opportunity to clarify our Privacy Policy and practices. Following up on our May 30th conference call, I would like to reiterate that Comcast respects the privacy of our subscribers and is fully committed to protecting it. As the company's Chief Privacy Officer overseeing Comcast's privacy policies and practices, I believe that our Privacy Policy reflects Comcast's longstanding commitment to being a responsible and conscientious company concerning our subscribers' privacy. Nevertheless, in light of your letter, we have reviewed our Privacy Policy and practices again. Our conclusion continues to be that our Privacy Policy complies fully with 47 U.S.C. § 551 ("Section 551") and the Mount Hood Cable Regulatory Commission's ("MHCRC") franchise agreements for the reasons discussed below.

Before responding to the Commission's specific questions, we would like to point out that the Privacy Policy, which is a national policy that applies to all of our customers, replaces the prior AT&T Broadband privacy policy. However, the Privacy Policy does not reflect new or more permissive privacy practices or policies as compared to the prior policy. The wording of the current Privacy Policy is different, but our privacy practices and policies are not. This result flows from two basic facts. First, as a matter of sound business practices we value our customers and the trust that they place in us. Respecting and protecting customer privacy is a significant part of that trust. Second, as a cable company Comcast is subject to Section 551, which is one of the strictest federal privacy laws that applies to any industry in the United States – a law that, by the way, doesn't apply to our competitors such as satellite companies. We take our obligations under Section 551 very seriously and we comply fully with that law.

We also think it is important for the Commission to know that Comcast interprets Section 551 and the Privacy Policy reasonably, and that our privacy practices fall squarely within both the letter and spirit of the law and our policy. Comcast has created

its Privacy Policy both to be fully compliant with Section 551 and to clearly communicate our privacy policies and practices to our customers. We read Section 551 and the Privacy Policy consistent with the core purpose and policy underlying the statute, which, to quote the legislative history for Section 551, “creates a nationwide standard for the privacy protection of cable subscribers by regulating the collection, use and disclosure by cable operators of personally identifiable information ... while at the same time not unduly restricting appropriate use and disclosure by the cable operator.”

With this background, please note our responses to the specific questions in your letter:

1. Applicable MHCRC franchise requirements oblige Comcast to “*maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any Subscriber, Programmer or any other Person resulting from any device or Signal associated with the Cable System.*” Comcast’s [AT&T Broadband’s] previous privacy policy recited that “*Comcast [AT&T] considers the information contained in the business records we keep to be confidential. Unless prior written or electronic consent is obtained, personal information which we maintain related to our subscribers may be disclosed to a third party only if (1) it is necessary to render or conduct a legitimate business activity related to the cable and other services we provide; (2) such disclosure is required by court order and you are notified of such order; or (3) to a government entity as described below.*” Comcast’s revised policy has eliminated the latter language, and now only refers to a “reasonable effort” to “preserve” subscriber privacy.

Initially, we would like to note that all of the points addressed in the sentence beginning “Unless prior written or electronic consent is obtained...” from the former AT&T Broadband policy are directly addressed in the Privacy Policy. The sections “Collection of Subscriber Information” and “Disclosure of Information” in the Privacy Policy provide clear notice to subscribers regarding the use and disclosure of personally identifiable information (“PII”) as necessary in order to render the service and for legitimate business activities related to the service. The third full paragraph in the “Disclosure of Information” section of the Privacy Policy provides clear notice regarding disclosures of PII in the legal and law enforcement contexts. These provisions from the Privacy Policy closely track Section 551 regarding the use and disclosure of PII.

- a. Why was the original, more general statement regarding confidentiality deleted? The Privacy Policy is based on Comcast’s prior version of that policy, which did not include this general statement. Comcast’s policy and practice has been, and remains, to treat subscriber PII as confidential.
- b. In light of this change, in what manner is Comcast maintaining the “constant vigilance” required by its MHCRC franchises? There has been no change to Comcast’s policy and practice of treating subscriber PII as confidential. Comcast takes a variety of industry standard steps to protect PII including, for example, technical measures to securely store that information on our computer systems and contractual measures obligating our vendors who receive PII to handle it under strict

obligations of confidentiality and non-disclosure. Comcast also periodically reviews and updates its policies and practices regarding PII as necessary to reflect changes in technology and our business.

- c. What is the effective date of the revised privacy policy? The effective date of the Privacy Policy in the MHCRC franchise areas is the date it was mailed to subscribers. Mailings began on May 17th of this year to subscribers who receive printed bills from Comcast.
- d. When was the policy last revised? The Privacy Policy was revised in late 2002 in order to make it available for nationwide distribution in 2003.
- e. Are there any Comcast franchise areas where the policy is not being distributed and/or is deemed by Comcast to not apply? No.
- f. Are there any variants (i.e. alternative versions) of the policy prepared or in use in any Comcast franchise areas? To date, there are not. However, Comcast is currently considering adding a brief additional privacy statement or notice to the Privacy Policy, possibly as an insert, for two franchises to accommodate either a specific requirement under applicable franchise agreements or a local ordinance.
- g. What type of security procedures and systems are utilized by Comcast in keeping subscriber PII and related data confidential within the company? Comcast has established policies and procedures governing the secure storage of PII as well as limiting the number of Comcast employees and authorized contractors who have access to PII. As a general rule, PII consists of account and billing related information that is securely stored on our computer systems or those of our authorized vendors under obligations of confidentiality and non-disclosure. Access to those systems is highly limited both physically and technically. The company conducts periodic audits of the systems and policies and procedures it uses to confirm compliance with them and identify improvements.
- h. How is PII data stored and backed up? PII primarily consists of account and billing-related information. That information is securely stored in electronic form on our computer systems or those of our authorized vendors (under obligations of confidentiality and non-disclosure). Comcast and its vendors periodically back up stored PII to media which is then safely and securely stored offsite from where the main computer systems are located and/or stored safely and securely in on-site vaults or devices.
- i. Where is PII subscriber data from MHCRC franchise areas physically stored? Billing records, including PII, for MHCRC area franchise subscribers are stored by our billing service provider in its secure facilities in Nebraska. The local Comcast system offices serving MHCRC jurisdictions may store copies of certain information including PII such as work orders, electronic funds transfer ("EFT") authorizations, and credit card receipts. This information is stored securely subject to our internal procedures and policies for record keeping.
- j. Is there a single or multiple locations where such data is stored? As noted above in our response to question 1.i, PII pertaining to subscribers residing in MHCRC

- jurisdictions is stored at our billing service provider's offices and some PII is stored in local Comcast system offices.
- k. Who is authorized to access MHCRC franchise area subscriber PII, and under what procedures? As a general rule, only Comcast employees, authorized contractors, and authorized vendors (all under obligations of confidentiality and non-disclosure) with a need-to-know have authorized access to subscriber PII. Our procedures for accessing PII establish that only authorized persons may have access to PII and that non-standard requests for access to PII are subject to individual review and approval by an authorized Comcast employee.
2. Applicable MHCRC franchise requirements provide that Comcast shall not *"sell, or otherwise make available, lists of the names and addresses of its Subscribers, or any list which identifies the viewing habits by the name of any Subscriber, or any Personalized Data pertaining to a Subscriber's use of any of Grantee's Cable Services by the name of any Subscriber, without the written, expressed consent of the Subscriber to which the Personalized Data pertains, except as otherwise expressly authorized by federal law."* Comcast's revised privacy policy provides that Comcast may *"disclose personally identifiable information"* to Comcast's *"affiliates or to others (such as our employees, contractors and agents for our internal business purposes) as well as outside auditors, professional advisors, service providers, potential business transition partners, regulators and franchise authorities **with or without your written consent** if necessary to render the service or to conduct a legitimate business activity related to the service."* (emphasis supplied) How does Comcast reconcile the statements in its revised privacy policy with the requirements of the MHCRC franchises?

Comcast's Privacy Policy complies with both Section 551 and the MHCRC franchise on this point. The franchise language quoted above requires the cable operator to secure written, express subscriber consent for certain disclosures of the types listed in the franchise language. However, this requirement is expressly qualified by the phrase "except as otherwise expressly authorized by federal law." In this case, Section 551 is that federal law. Section 551(c)(2) expressly authorizes cable operators to disclose PII with or without subscriber consent in these limited circumstances: (i) where the disclosure is necessary to render, or conduct a legitimate business activity related to, our cable service; (ii) a disclosure of the names and addresses of subscribers to our cable service where the subscribers have an opportunity to limit or prohibit the disclosure and the disclosure doesn't directly or indirectly reveal subscriber viewing or other use of the service or any transaction made by a subscriber; and (iii) disclosure under a court order or to a government entity.

The language quoted above in Question #2 from our Privacy Policy provides a representative list of the types of persons to whom we might disclose PII, but that language is explicitly qualified by "if necessary to render the service or to conduct a legitimate business activity related to the service." We would not make a disclosure of PII to a third party without the prior written or electronic consent of the subscriber except as expressly authorized by Section 551(c)(2). We also point out that the substance of the

language quoted above from our Privacy Policy has direct counterparts in the AT&T Broadband privacy policy in the “Disclosure” section and does not represent any change in policy.

As a general matter, the PII collected and used by Comcast is account and billing-related information. For example, if a customer orders a pay-per-view movie the cable system collects that information so the subscriber can be properly billed for it. If we outsourced a billing function to a third party vendor, we would disclose limited PII to that vendor under a strict obligation of confidentiality and non-disclosure for them to use the PII for a specific, limited purpose, in this example sending out subscriber bills. In general, our privacy practices are more restrictive than the terms of our Privacy Policy. For example, we reserve the right under our policy to disclose customer names and addresses for mailing lists. This is expressly authorized by Section 551(c)(2)(C). However, as a general matter we do not sell or disclose subscriber names to third party mailing lists. Nevertheless, we provide information in the Privacy Policy for subscribers to remove themselves from any mailing lists.

3. In what manner might disclosure without a subscriber’s consent of highly sensitive PII (such as a subscriber’s email address, telephone number, social security number, driver’s license number, bank account number, credit card numbers, credit history and other similar information) be “necessary to render the service” or to “conduct a legitimate business activity related to the service” in connection with:
 - a. “others” (apparently unspecified, non-affiliated third parties). As used in the “Disclosure” section of the Privacy Policy, “others” is explicitly defined to include “our employees, contractors and agents for our internal business purposes.” Obviously, Comcast employees and authorized contractors, for example, who have a need to access subscriber PII for business related purposes will be granted that access subject to our internal policies and procedures. In addition, contractors will be bound by confidentiality and non-disclosure obligations regarding subscriber PII. It is also our policy to disclose only that PII which is necessary to accomplish a specific purpose.
 - b. outside auditors. From time to time, Comcast may use outside auditors to verify information in our records, for example. In these cases, Comcast would engage auditors under obligations of confidentiality and non-disclosure with respect to any PII.
 - c. professional advisors. From time to time, Comcast may use outside security, privacy, and technology advisors to assist us, for example. In these cases, Comcast would engage these advisors under obligations of confidentiality and non-disclosure with respect to any PII.
 - d. service providers. Comcast occasionally uses third party service providers to process and send subscriber bills and provide customer support, for example. In

- these cases, Comcast engages service providers under obligations of confidentiality and non-disclosure with respect to any PII.
- e. potential business transition partners. If Comcast were to sell or swap a cable system, for example, we may be required to provide a list of customers to the acquiring party to verify subscriber counts. If any disclosures of this nature were required, they would be made under obligations of confidentiality and non-disclosure with respect to any PII.
 - f. regulators and franchise authorities. Comcast would only disclose PII to a governmental authority (such as a franchise authority) under the very circumscribed circumstances as provided for in Section 551 and applicable rules and regulations.

Please provide specific examples of the entities which Comcast views as occupying the categories listed in a-f, above. Also, in each instance please be specific about why each entity listed above would require, or what specific use each entity would make of a subscriber's:

In each situation where we may disclose PII to a third party we carefully review the business purpose for the disclosure. We also seek to identify the smallest subset of PII that is necessary for that purpose and tailor the disclosure accordingly. Each situation is different and therefore it is not practical to establish blanket rules saying, for example, that we would never disclose an e-mail address to a particular recipient. There may be a situation where the business purpose supports that kind of disclosure. Please consider our responses below in light of this background.

- (1) email address. In general, we would only provide e-mail addresses to a third party where it is necessary for the party receiving PII to contact our subscribers, such as for notifications of new Comcast product offerings, for example, if the subscribers haven't otherwise opted out of receiving these kinds of e-mails.
- (2) telephone number. In general, we would only provide telephone numbers to a third party where it is necessary for the party receiving the PII to contact our subscribers, such as for customer service functions, for example.
- (3) social security number. In general, only Comcast employees and authorized contractors and vendors (all under obligations of confidentiality and non-disclosure) involved in the establishment, support, and billing of subscriber accounts would have access to social security numbers. Comcast may request a social security number when a new customer establishes an account with us in order for us to establish and bill the account and for verification purposes, for example. Our policy is to accept an alternative, unique identifier such as a driver's license number when a subscriber does not wish to provide us with his or her social security number.
- (4) driver's license number. As noted above in our response to question (3), Comcast will accept a driver's license number as an alternative to a social security

number. We follow the same policies for handling driver's license numbers as we do for social security numbers.

- (5) bank account numbers. In general, only Comcast employees and authorized contractors and vendors (all under obligations of confidentiality and non-disclosure) involved in the billing of subscriber accounts would have access to a subscriber's bank account number, and then usually only in connection with an EFT authorization from the subscriber.
 - (6) credit card numbers. In general, only Comcast employees and authorized contractors and vendors (all under obligations of confidentiality and non-disclosure) involved in the billing of subscriber accounts would have access to a subscriber's credit card number, and then usually only in connection with a credit card receipt or authorization to automatically charge a subscriber's credit card for cable service.
 - (7) credit history. As a general rule, Comcast does not receive detailed credit histories (such as consumer credit reports) pertaining to our customers and, as a result, we do not have any credit histories to disclose to third parties. However, we may receive a credit rating based on information provided by authorized vendors (under obligations of confidentiality and non-disclosure) that we use in connection with the establishment of a subscriber's account.
4. The Gramm-Leach-Bliley Act ("GLBA"), Pub. L. No. 106-102, 113 Stat. 1338, governs when and how financial institutions may share personally identifiable financial information with nonaffiliated third parties. Among other things, GLBA directed financial institutions to provide a reasonable means for a customer or consumer to opt out prior to disclosing nonpublic personal information to nonaffiliated third parties.

Comcast is not a "financial institution" under the GLBA and is not subject to GLBA for this, and other, reasons. However, Comcast is subject to an equally strict privacy law in Section 551 that we fully comply with and which is reflected in our Privacy Policy.

- a. Since Comcast's privacy notice reserves to Comcast the unrestricted ability to disclose a subscriber's personal bank account numbers, credit card numbers, credit history, social security number, etc. to unaffiliated third parties without subscriber consent, in what manner would Comcast's policy protect a subscriber who has acted to restrict a financial institution's disclosure of the same information to nonaffiliated third parties and similarly wishes to restrict Comcast's disclosure of the same information?

Comcast's Privacy Policy does not reserve an "unrestricted ability" to disclose a subscriber's financial and related information to unaffiliated third parties without consent. The Privacy Policy provides clear notice in the "Collection of Subscriber Information" section that Comcast may keep regular business records containing information such as, for example, social security number, bank account number, credit card numbers, credit history and other similar information. That section of the Privacy Policy along with the "Disclosure of Information" section clearly informs subscribers that

PII is disclosed to third parties only when necessary to render our cable service, conduct legitimate business activities related to our cable service, and to comply with the law. As already discussed at length in our response to Question #2 above, these kinds of disclosures are expressly authorized by Section 551. Far from being “unrestricted,” we interpret these permitted disclosures narrowly to be related to our cable service.

- b. Please explain Comcast’s views as to the business reasons and rationale for Comcast reserving the right to disclose to outsiders personally identifiable information that a subscriber may strongly object to Comcast disclosing, particularly in a situation where the subscriber’s own financial institution may be prohibited from disclosing the same information.

Comcast’s Privacy Policy applies to our cable television subscribers, each of whom enters into a contractual agreement for us to provide them with cable service. Like any contractual relationship between a business and an individual purchasing the businesses’ products or services, Comcast is within its rights to collect certain information sufficient to establish an account for the customer and to verify his or her payment ability and information. We don’t disclose PII to “outsiders,” which implies persons who have no connection to Comcast or its business. Rather, if we were to disclose PII, including financial PII, we would disclose only that PII necessary for the specific business purpose at hand and then under obligations of confidentiality and non-disclosure to a service provider. Comcast does not disclose PII except as expressly provided for in the Privacy Policy and Section 551.

Finally, Comcast is not in a position to know which financial PII a subscriber may have asked his or her financial institution to restrict or limit disclosure of. Although Comcast is not subject to the GLBA, we are subject to Section 551 and we inform our subscribers through the Privacy Policy of our disclosure practices and protections for PII. Far from being “unprotected” in this regard, our subscribers have significant protections and rights under Section 551 even though the GLBA doesn’t apply to Comcast. In any event, however, any disclosure of financial PII would be made as expressly provided for in the Privacy Policy and Section 551 and solely as related to our cable service, and for no other purpose without express customer consent.

5. Applicable federal privacy provisions, 47 U.S.C. 551(e), require Comcast to destroy all subscriber PII if the information is no longer necessary for the purpose for which it was collected and there are no pending requests from the subscriber or orders (e.g. a court order) in place. Comcast’s policy provides that Comcast will maintain “*most, if not all*” PII during a subscriber’s tenure, and “*generally will destroy the information after a reasonable period of time has elapsed following the termination*” of the subscriber account. Our questions are as follows:
 - a. What is Comcast’s practice in MHCRC franchise areas regarding the chronological length of the “reasonable period of time” referred to in the statute? The vast majority of PII retained by Comcast is account and billing-related information. The former AT&T

- Broadband privacy policy that applied to the MHCRC franchise areas communicated several guidelines in the “Retention” section with respect to the storage of customer information in various circumstances. Although the AT&T privacy policy reserved the right to retain accounting and billing records for ten years or more in certain cases, the billing system used for MHCRC franchise areas currently deletes billing information on a rolling basis of less than ten years for both current and former subscribers. And, as we clearly disclose to subscribers in our Privacy Policy, there is the potential that we will retain PII longer if the purpose for which the information was collected has not been accomplished or we need to retain the information for compliance with law, tax or other legitimate business activities.
- b. What limitation on the destruction of such information is intended by Comcast’s use of the term “generally”? The term “generally” indicates that the amount of time after which a subscriber terminates an account with us and when the destruction of any corresponding PII occurs varies depending on whether the purpose for which the information was collected has been accomplished and we no longer need to retain the information for compliance with law, tax or other legitimate business activities.
 - c. What specific PII falls outside the scope of Comcast’s destruction of PII following account termination? The vast majority of PII retained by Comcast is account and billing-related information. When Comcast or its authorized vendor destroys PII on the billing system, it destroys all PII on that billing system for each affected subscriber according to our records destruction policies.
 - d. What about PII Comcast may already have disclosed to third parties, i.e. does Comcast have arrangements with its affiliates, or unaffiliated third parties, to destroy the information in turn? Comcast’s general policy and practice is to require third parties to whom it has disclosed PII either to return the PII to Comcast or destroy the PII and certify its destruction to Comcast when the purpose for which it was disclosed has been satisfied.
6. As mentioned, we continue to receive complaints from subscribers who have contacted Comcast’s 1-800-COMCAST number to ‘opt out’ of Comcast sharing their name and address with third parties and have received contradictory or inconsistent information about Comcast’s implementation of this procedure. We have also received questions about whether the revised Comcast subscriber privacy notice has been prepared in appropriate translation for distribution to non-English speaking subscriber households.

As we discussed during our May 30th conference call, Comcast was aware that some local subscribers in your area were having difficulties “opting out” of certain disclosures of PII when calling 1-800-COMCAST. We have taken several steps to try to ensure that our customer support representatives are fully informed on this topic and provide accurate, consistent advice. If the Commission is still aware of problems in this regard, please send the details to me or to Debbie Luppold and we will have them

investigated promptly. Comcast wants to make sure its subscribers receive accurate information and that if they wish to “opt out” of certain disclosures as provided for in our Privacy Policy, then can do so easily.

- a. What specific information is Comcast providing to subscribers in MHCRC franchise areas who contact Comcast via the 1-800-COMCAST number to ‘opt out’? We have attached to this response a copy of the talking points used by our customer service representatives to address subscriber “opt out” requests.
- b. Is there a procedure in place to ensure Comcast customer service representatives (CSRs) provide uniform and consistent information to such subscribers? Yes. CSRs have been given written documentation and it has been reviewed, in person, by Comcast supervisors with all CSRs to confirm their understanding and to stress the importance of this issue.
- c. Are calls to the 1-800-COMCAST number for ‘opt out’ purposes handled by locally-based Comcast CSRs or by CSRs elsewhere? These calls are currently handled by CSRs in Beaverton, Oregon and Toledo, Ohio.
- d. If CSRs outside the Oregon/Washington system respond to such calls, what access do they have to subscriber PII in MHCRC franchise areas, and what specific technical steps are taken to ensure that the subscriber name and address is removed from all data provided by Comcast to third parties? Also, assuming that CSRs outside the system handle such calls, what steps are taken to ensure that subscriber data maintained at the local system level reflects the ‘opt out’ for purposes of any subscriber PII otherwise shared or sold locally (i.e. within the Oregon/Washington system)? Regardless of their physical location, CSRs who are authorized by Comcast to access subscriber PII are able to access that PII which is necessary for them to address and fulfill subscriber requests. As a general rule, only Comcast employees, authorized contractors, and authorized vendors (all under obligations of confidentiality and non-disclosure) with a need-to-know subscriber PII have authorized access to this information. The billing system servicing MHCRC area subscribers is centralized. Thus, all subscriber requests pertaining to their accounts that result in a change or notation on their billing system records are made to the single, centralized billing system database regardless of where the CSR who handled the request is located. Subscribers who call Comcast to “opt out” of being included in any mailing lists disclosures have their preference recorded in the centralized billing system records.
- e. Will Comcast allow, or consider allowing its subscribers in MHCRC franchise areas to ‘opt out’ of any Comcast disclosure to third parties of other highly sensitive PII (such as a subscriber’s email address, telephone number, social security number, driver’s license number, bank account number, credit card numbers, credit history and other similar information)? The Privacy Policy already provides a way for subscribers to “opt out” of disclosures of their names and addresses for mailing lists as well as for subscribers to be placed on Comcast’s own “do not contact” lists. Comcast needs to preserve the flexibility to disclose PII for the purposes of rendering cable service and conducting legitimate business activities related to the

service as expressly authorized by Section 551. Otherwise, subscribers may intentionally or otherwise opt out of the disclosure of PII that's required for us to render their cable service or conduct legitimate business activities related to the service.

- f. Under Comcast procedures, can a subscriber's name and address, or other subscriber PII that has been released by Comcast, be retrieved and deleted on behalf of a subscriber who has opted out after Comcast has released the information to an unaffiliated third party? To a Comcast affiliate or subsidiary? Comcast's general policy and practice is to require third parties to whom it has disclosed PII either to return the PII to Comcast or destroy the PII and certify its destruction to Comcast when the purpose for which it was disclosed has been satisfied. In cases where a third party provides ongoing services, such as billing or marketing, Comcast has a process in place for "opt out" PII to be periodically removed from the third party's records.
- g. What non-English language versions of Comcast's revised subscriber privacy policy are available, and what steps has Comcast taken to ensure distribution of the correct version to non-English-speaking households in MHCRC areas concurrent with English-speaking households? A version of the Privacy Policy is available in Spanish. Comcast will make copies available upon request to the Commission and subscribers.

Please contact me directly at (215) 640-8925 if I can answer any further questions regarding our Privacy Policy and practices or our response in this letter.

Very truly yours,



Gerard J. Lewis, Jr.
Senior Counsel & Chief Privacy Officer
Comcast Cable Communications, Inc.

GJL/dfz

Attachment

cc: Deborah M. Luppold, Comcast Cable Communications, Inc.