

Privacy of broadband internet access service customer personal information

1. PRIVACY OF CUSTOMER PERSONAL INFORMATION. A BIAS provider shall not use, disclose, sell, or permit access to customer personal information, except as set forth below.
2. CUSTOMER CONSENT EXCEPTIONS.
 - a. A BIAS provider shall comply with section (1) unless the customer first gives the provider express, affirmative consent, which may be revoked by the customer at any time.
 - b. A BIAS provider shall not
 - i. refuse to serve a customer who does not provide consent under subsection (2)(a); or
 - ii. charge a customer a higher price or offer a customer a discount based on the customer's decision to provide or not provide consent under subsection (2)(a).
 - c. A BIAS provider may by default use, disclose, sell, or permit access to information it collects that is not defined as "customer personal information" and is not otherwise excepted under section 3 below.
 - i. A BIAS customer shall have the option to revoke consent for a BIAS provider to use, disclose, sell, or permit access to information under subsection 2(c).
3. OTHER EXCEPTIONS. Notwithstanding the limitations set forth in sections (1)–(2) above, a BIAS provider may use, disclose, sell, or permit access to customer personal information, without customer approval:
 - a. For the purpose of providing the service from which such information is derived, or services necessary to the provision of such service;
 - b. To advertise or market the BIAS provider's communications-related services to the customer;
 - c. To comply with a lawful court order;
 - d. To initiate, render, bill for, and collect for internet service;
 - e. 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;
 - f. To provide location information concerning the customer—
 - i. 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;
 - ii. 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
 - iii. to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.

- g. To use, disclose, sell, or permit access to an aggregate dataset, from which individual customer identities and characteristics have been removed, with an agreement from all downstream recipients and users that no attempt will be made to link an individual customer to the aggregate dataset.
4. SECURITY OF CUSTOMER PERSONAL INFORMATION. A BIAS provider shall take reasonable measures to protect customer personal information from unauthorized use, disclosure, or access.
 - a. BIAS providers, in implementing security measures required by this section, shall take into account each of the following factors:
 - i. The nature and scope of the provider's activities;
 - ii. The sensitivity of the data it collects;
 - iii. The size of the BIAS provider; and
 - iv. The technical feasibility of the measures.
 - b. A BIAS provider may employ any lawful security measures that allow it to comply with the requirement set forth in this section.
 5. NOTICE REQUIRED. A BIAS provider shall provide a clear, conspicuous, and non-deceptive notice at the point of sale of the requirements of subsections (1)-(4) to each of its customers. A BIAS provider shall post a copy of the notice on its public website.
 6. DEFINITIONS.
 - a. Broadband internet access service or BIAS:
 - i. A mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the Federal Communications Commission finds to be providing a functional equivalent of the service described in this subsection.
 - b. Broadband internet access service provider or BIAS provider:
 - i. A person or entity engaged in the provision of BIAS.
 - c. Customer:
 - i. A current or former subscriber to the broadband internet access service; and
 - ii. An applicant for a broadband internet access service.
 - d. Customer personal information:
 - i. Information about an individual customer, including:
 1. name;
 2. financial or billing information;
 3. social security number;
 4. billing address; and
 5. demographic data.
 - ii. Information about an individual customer's use of the service, including:
 1. web browsing history;
 2. application usage history;
 3. origin and destination Internet Protocol (IP) addresses of all traffic;

4. precise geolocation information;
 5. financial information;
 6. health information;
 7. information pertaining to children;
 8. content of communications; and
 9. device identifier, such as media access control (MAC) address, international mobile equipment identity (IMEI), or IP address.
7. **APPLICABILITY.** The requirements of this statute shall apply to BIAS providers operating within [STATE] when providing BIAS to their customers that are residents of and physically located in [STATE].
8. **AUTHORITY.** [STATE] adopts [this law] pursuant to all relevant authority granted by Title 47 of the United States Code, including the authority to impose requirements necessary to protect public safety and welfare, safeguard the rights of consumers, manage public rights-of-way, and regulate franchises. [IF STATE HAS OTHER AUTHORITY SUCH AS GENERAL CONSUMER PROTECTION LAW, ADD RELEVANT STATUTES HERE.]