

ARTICLE

A Carrier's Failure to Implement Adequate Data Security Measures May Violate the Communications Act

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In a Notice of Apparent Liability for Forfeiture (NAL) released on October 24, 2014, the Federal Communications Commission proposes to assess a \$10 million forfeiture against two carriers—TerraCom, Inc. and YourTel America, Inc.—which stored proprietary information (PI) collected from consumers to verify their eligibility for the Commission's Lifeline program in two publicly accessible folders on the Internet without password protection or encryption. According to the NAL, the carriers violated the Communications Act by: (i) failing to protect the confidentiality of the PI; (ii) failing to employ reasonable data security practices; (iii) employing data security practices that were contrary to representations in their privacy policies; and (iv) failing to notify affected customers that their PI had been compromised by third-party access.

Notably, both Republican Commissioners Ajit Pai and Michael O'Rielly dissented, arguing that the alleged violations were premised upon novel legal theories and interpretations of rules never adopted previously by the FCC.

A complete summary of the NAL is available [here](#).

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