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Good Faith Compliance Expected

Telecom Companies Face FTC Red Flags Rules Deadline

By Yu-Ting Wang

The Red Flags data protection rule was based on good faith compliance, but telecom companies should prepare for the Nov. 1 compliance deadline, said a Federal Trade Commission attorney. The rule, issued by the FTC and federal banking regulators, gives financial institutions and creditors until Nov. 1 to implement prevention programs. It applies to most phone operators providing service in advance of payment, said lawyers. Data quality and governance is key, security experts said. But further interpretation and attention are needed, analysts said.

Many companies are scrambling to get programs into place by Nov. 1, Pavneet Singh, attorney in the Division of Privacy and Identity Protection at the FTC Bureau of Consumer Protection, told us. The rule, a product of the Fair and Accurate Credit Transactions Act of 2003, requires creditors holding consumer accounts to develop a program for red-flagging possible instances of identity theft and systems for thwarting that crime in connection with new and existing accounts, she said. The rule specifies penalties, but the FTC wants to see good faith compliance, she said. For creditors that aren't federally regulated financial institutions, penalties for convictions may not exceed \$2,500 per infraction, said Craig Bertschi, an attorney at Kilpatrick Stockton.

Telecom companies first should check their information protection policies and procedures, Singh said. Chris Cherry, director of communications industry strategy at information management firm **Pitney Bowes**, agreed, citing the rule's particular significance to the telecom industry, where most wireless providers are creditors. These companies must set up prevention programs and train workers to implement it, he said.

Key prevention program tenets include means of detecting, preventing and mitigating identity theft, said Navin Sharma, director of product management at Pitney Bowes. A program must enable a creditor to identify relevant patterns, practices and forms of data breach activities, respond to any warnings integrated into the program and ensure periodic updates of the program to reflect changes in risks from identity theft, he said.

Some telecom companies will treat Red Flags compliance as a “documentation exercise by connecting the dots between existing programs,” but others will move more proactively, said Avivah Litan, vice president at research firm Gartner. The right approach is to use the Nov. 1 deadline to improve fraud prevention processes, she said.

The rules also may apply to non-telecom-related affiliate operations, said telecom consulting firm John Staurulakis Inc. Telecom companies should look beyond telecom-related operations to consider the extent to which the term "creditor" applies to all affiliated entities, it said. The rule is open to interpretation, said Deb Geister, director of fraud prevention and compliance solutions at Lexis Nexis. More public attention and an information campaign are also needed, said Litan.