

be subject to subsection (f) of this section in the same manner as if that person were an employee of the Commission.

**(d) Penalty for failure to comply**

In case of failure or refusal on the part of any such carrier to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, memoranda, documents, papers, and correspondence as are kept to the inspection of the Commission or any of its authorized agents, such carrier shall forfeit to the United States the sum of \$6,000 for each day of the continuance of each such offense.

**(e) False entry; destruction; penalty**

Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by any such carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction, to a fine of not less than \$1,000 nor more than \$5,000 or imprisonment for a term of not less than one year nor more than three years, or both such fine and imprisonment; *Provided*, That the Commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, or documents which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved.

**(f) Confidentiality of information**

No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

**(g) Use of other forms; alterations in prescribed forms**

After the Commission has prescribed the forms and manner of keeping of accounts, records, and memoranda to be kept by any person as herein provided, it shall be unlawful for such person to keep any other accounts, records, or memoranda than those so prescribed or such as may be approved by the Commission or to keep the accounts in any other manner than that prescribed or approved by the Commission. Notice of alterations by the Commission in the required manner or form of keeping accounts shall be given to such persons by the Commission at least six months before the same are to take effect.

**(h) Exemption; regulation by State commission**

The Commission may classify carriers subject to this chapter and prescribe different requirements under this section for different classes of carriers, and may, if it deems such action consistent with the public interest, except the carriers of any particular class or classes in any

State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates.

**(i) Consultation with State commissions**

The Commission, before prescribing any requirements as to accounts, records, or memoranda, shall notify each State commission having jurisdiction with respect to any carrier involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

**(j) Report to Congress on need for further legislation**

The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissions with respect to matters to which this section relates.

(June 19, 1934, ch. 652, title II, § 220, 48 Stat. 1078; Pub. L. 101-239, title III, § 3002(f), Dec. 19, 1989, 103 Stat. 2131; Pub. L. 103-414, title III, §§ 303(a)(7), (8), 304(a)(5), Oct. 25, 1994, 108 Stat. 4294, 4296; Pub. L. 104-104, title IV, § 403(d), (e), Feb. 8, 1996, 110 Stat. 130.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-104, § 403(d), substituted “may prescribe, for such carriers as it determines to be appropriate,” for “shall prescribe for such carriers”.

Subsec. (c). Pub. L. 104-104, § 403(e), inserted at end “The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) of this section in the same manner as if that person were an employee of the Commission.”

1994—Subsec. (a). Pub. L. 103-414, § 303(a)(7), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 103-414, § 304(a)(5), struck out “, as soon as practicable,” after “The Commission shall”.

Pub. L. 103-414, § 303(a)(8), substituted “classes” for “classes” after “prescribed the” in third sentence.

1989—Subsec. (d). Pub. L. 101-239 substituted “\$6,000” for “\$500”.

**§ 221. Consolidations and mergers of telephone companies**

**(a) Repealed. Pub. L. 104-104, title VI, § 601(b)(2), Feb. 8, 1996, 110 Stat. 143**

**(b) State jurisdiction over services**

Subject to the provisions of sections 225 and 301 of this title, nothing in this chapter shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local governmental authority.

**(c) Determination of property used in interstate toll service**

For the purpose of administering this chapter as to carriers engaged in wire telephone communication, the Commission may classify the property of any such carrier used for wire telephone communication, and determine what property of said carrier shall be considered as used in interstate or foreign telephone toll service. Such classification shall be made after hearing, upon notice to the carrier, the State commission (or the Governor, if the State has no State commission) of any State in which the property of said carrier is located, and such other persons as the Commission may prescribe.

**(d) Valuation of property**

In making a valuation of the property of any wire telephone carrier the Commission, after making the classification authorized in this section, may in its discretion value only that part of the property of such carrier determined to be used in interstate or foreign telephone toll service.

(June 19, 1934, ch. 652, title II, §221, 48 Stat. 1080; Apr. 27, 1954, ch. 175, §4, 68 Stat. 64; Aug. 2, 1956, ch. 874, §3, 70 Stat. 932; Pub. L. 101-336, title IV, §401(b)(2), July 26, 1990, 104 Stat. 369; Pub. L. 104-104, title VI, §601(b)(2), Feb. 8, 1996, 110 Stat. 143.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-104 struck out subsec. (a) relating to notification of State Governor and State commission, public hearing, and certification.

1990—Subsec. (b). Pub. L. 101-336 substituted “sections 225 and 301” for “section 301”.

1956—Subsec. (a). Act Aug. 2, 1956, inserted provisions relating to submission of comments by parties and required a public hearing upon request, in lieu of former provisions requiring hearing upon application.

1954—Subsec. (b). Act Apr. 27, 1954, included mobile or point-to-point radio telephone exchange service within exclusions provided for in such subsection, where it is subject to regulation by a State commission or by local governmental authority, and made it clear that the Commission retains its licensing authority over the radio stations that might be involved in such service.

**§ 222. Privacy of customer information**

**(a) In general**

Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.

**(b) Confidentiality of carrier information**

A telecommunications carrier that receives or obtains proprietary information from another carrier for purposes of providing any telecommunications service shall use such information only for such purpose, and shall not use such information for its own marketing efforts.

**(c) Confidentiality of customer proprietary network information**

**(1) Privacy requirements for telecommunications carriers**

Except as required by law or with the approval of the customer, a telecommunications

carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.

**(2) Disclosure on request by customers**

A telecommunications carrier shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer.

**(3) Aggregate customer information**

A telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service may use, disclose, or permit access to aggregate customer information other than for the purposes described in paragraph (1). A local exchange carrier may use, disclose, or permit access to aggregate customer information other than for purposes described in paragraph (1) only if it provides such aggregate information to other carriers or persons on reasonable and nondiscriminatory terms and conditions upon reasonable request therefor.

**(d) Exceptions**

Nothing in this section prohibits a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers, either directly or indirectly through its agents—

(1) to initiate, render, bill, and collect for telecommunications services;

(2) 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;

(3) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call, if such call was initiated by the customer and the customer approves of the use of such information to provide such service; and

(4) to provide call location information concerning the user of a commercial mobile service (as such term is defined in section 332(d) of this title) or the user of an IP-enabled voice service (as such term is defined in section 615b of this title)—

(A) 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;

(B) 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