

**§ 64.2321**

**§ 64.2321 Nondiscriminatory rates, terms, and conditions.**

For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under nondiscriminatory rates, terms, and conditions only if the carrier provides subscriber list information gathered in its capacity as a provider of telephone exchange service to a requesting directory publisher at the same rates, terms, and conditions that the carrier provides the information to its own directory publishing operation, its directory publishing affiliate, or other directory publishers.

**§ 64.2325 Reasonable rates, terms, and conditions.**

(a) For purposes of § 64.2309, a telecommunications carrier will be presumed to provide subscriber list information under reasonable rates if its rates are no more than \$0.04 a listing for base file subscriber list information and no more than \$0.06 a listing for updated subscriber list information.

(b) For purposes of § 64.2309, a telecommunications carrier provides subscriber list information under reasonable terms and conditions only if the carrier does not restrict a directory publisher's choice of directory format.

**§ 64.2329 Format.**

(a) A carrier shall provide subscriber list information obtained in its capacity as a provider of telephone exchange service to a requesting directory publisher in the format the publisher specifies, if the carrier's internal systems can accommodate that format.

(b) If a carrier's internal systems do not permit the carrier to provide subscriber list information in the format the directory publisher specifies, the carrier shall:

(1) Within thirty days of receiving the publisher's request, inform the directory publisher that the requested format cannot be accommodated and tell the directory publisher which formats can be accommodated; and

(2) Provide the requested subscriber list information in the format the directory publisher chooses from among the available formats.

**§ 64.2333 Burden of proof.**

(a) In any future proceeding arising under section 222(e) of the Communications Act or § 64.2309, the burden of proof will be on the carrier to the extent it claims its internal subscriber list information systems cannot accommodate the delivery time, delivery schedule, unbundling level, or format requested by a directory publisher.

(b) In any future proceeding arising under section 222(e) of the Communications Act or § 64.2309, the burden of proof will be on the carrier to the extent it seeks a rate exceeding \$0.04 per listing for base file subscriber list information or \$0.06 per listing for updated subscriber list information.

**§ 64.2337 Directory publishing purposes.**

(a) Except to the extent the carrier and directory publisher otherwise agree, a directory publisher shall use subscriber list information obtained pursuant to section 222(e) of the Communications Act or § 64.2309 only for the purpose of publishing directories.

(b) A directory publisher uses subscriber list information "for the purpose of publishing directories" if the publisher includes that information in a directory, or uses that information to determine what information should be included in a directory, solicit advertisers for a directory, or deliver directories.

(c) A telecommunications carrier may require any person requesting subscriber list information pursuant to section 222(e) of the Communications Act or § 64.2309 to certify that the publisher will use the information only for purposes of publishing a directory.

(d) A carrier must provide subscriber list information to a requesting directory publisher even if the carrier believes that the directory publisher will use that information for purposes other than or in addition to directory publishing.

**§ 64.2341 Record keeping.**

(a) A telecommunications carrier must retain, for at least one year after its expiration, each written contract that it has executed for the provision of subscriber list information for directory publishing purposes to itself, an