

NY CLS Gen Bus § 349-b-1

Current through 2024 released Chapters 1-59, 61-117

New York Consolidated Laws Service > General Business Law (§§ 1 — 1601) > Article 22-A Consumer Protection from Deceptive Acts and Practices (§§ 349 — 350-f-1)

§ 349-b-1. Voice over internet protocol 911 disclosure

1. For the purpose of this section:

- (a)** “Consumer” or “purchaser” means a retail customer who purchases voice over internet protocol services for personal use in a place of residence or elsewhere in New York state;
- (b)** “Seller” or “reseller” means any retailer, distributor, manufacturer, or third-party who sells or offers for sale voice over internet protocol equipment or service therefor or both directly to a consumer or purchaser or places in the chain of distribution such equipment to be ultimately sold to a consumer or purchaser;
- (c)** “Voice over internet protocol” or “VoIP” shall have the same meaning as the term “interconnected VoIP service” as set forth in 47 C.F.R., Section 9.3, or any successor regulation adopted by the Federal Communications Commission, and which defines the term as a service that:
 - (i)** enables real-time, two-way voice communications,
 - (ii)** requires a broadband connection to the user’s location,
 - (iii)** requires internet protocol-compatible customer premises equipment (CPE), and
 - (iv)** permits users generally to receive calls that originate on the public switched telephone network (PSTN) and to terminate calls to the PSTN. For purposes of this section, three different types of VoIP service offered to consumers are addressed as defined in this paragraph: fixed, nomadic and foreign exchange;
- (d)** “E911 system” or “enhanced 911” has the meaning provided for by subdivision three of section three hundred one of the county law;
- (e)** “Basic 911” or “911” means a service that connects the caller to a public service answering point (PSAP);
- (f)** “Public service answering point” or “PSAP” has the meaning provided for in subdivision six of section three hundred one of the county law;
- (g)** “Fixed VoIP consumer” means a consumer whose VoIP service permits the placement of a telephone call from only the location where such service is being provided;

(h) “Nomadic VoIP consumer” means a consumer whose VoIP service provider and service allows such consumer to make calls from any location where such consumer can obtain access to internet service;

(i) “Foreign exchange VoIP consumer” means a consumer whose VoIP service provider and service allow such consumer in one telephone exchange to receive telephone calls placed as local calls in another exchange that such consumer has selected (e.g. a consumer located in the city of Amsterdam or the city of Utica with a New York city local telephone number).

2.

(a) All VoIP sellers and resellers shall provide consumers with notification, before service commencement and during service provision, regarding any material limitations associated with their basic or enhanced 911 service, and whether such service is basic 911 service or enhanced 911 service.

(b) Such notice shall be provided to consumers in the marketing material used for television, radio, and printed media; in the terms and conditions of service; in on-line material; through VoIP sellers’ and resellers’ customer service representatives; in consumer service contracts; and in VoIP services starter and installation kits.

(c) Such sellers and resellers shall also secure consumers’ express acknowledgement that they are aware of any limitations upon basic or enhanced 911 services from the VoIP services offered by such sellers and resellers prior to providing consumers with VoIP service.

(d) Where service limitations exist, or both basic and enhanced 911 service are unavailable to the consumer, VoIP sellers and resellers shall provide consumer notification during service provision, and by issuing warning stickers to be affixed to telephone sets through any subsequent advertising, and annually in the customer’s billing insert.

(e) All VoIP sellers and resellers shall provide nomadic VoIP consumers with notification, both before service commencement and during service provision, regarding the necessity (if applicable) of re-initializing or resetting or reactivating such consumers’ basic or enhanced 911 services at each new location from which such consumers access VoIP services.

(f) All VoIP sellers and resellers shall use all reasonable efforts to prevent basic or enhanced 911 calls from foreign exchange VoIP consumers from being routed to the wrong PSAP.

3. Nothing in this section shall in any way limit the rights or remedies that are otherwise available to a consumer or purchaser under any other law.

4. Nothing in this section shall in any way limit the rights or remedies that are otherwise available to any seller or reseller against any other seller or reseller of VoIP services or equipment or both.

5. The attorney general may bring a civil action against any seller or reseller who violates any provision of this section to enforce the violation and may recover any or all of the following:

(a) up to one hundred thousand dollars for a knowing pattern or practice of such violations;

(b) costs and reasonable attorney’s fees; and

(c) whenever the attorney general believes from evidence satisfactory to him or her that a knowing violation of this section or a pattern or practice of violating this section has occurred or is about to occur, an order to enjoin such violation.

6. Nothing in this section is intended to extend, limit or conflict with the notice and related obligations of providers subject to 47 C.F.R. part 9 or any successor regulation or law.

History

Add, L 2007, ch 329, § 1, eff Nov 15, 2007 (see 2007 note below).

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