



Official Position Statement: July 10th, 2008

Subject: Carrier NDA's and Letter Agreements

SUMMARY

TEM Vendors should not sign NDA's directly with carriers. TEM Vendors should ONLY have NDA's or confidentiality provisions directly with their clients. In their own best interests, clients should vigorously resist carrier's attempts to thwart client cost savings initiatives.

DETAILS

Major telecommunications carriers are leveraging their size and influence to make it difficult for you to get third party help.

1. Major carriers are attempting to get clients to sign agreements that, among other things, restricts the client from using a third party for:
 - Receiving billing information and making billing inquiries
 - Ordering and activating voice and data w-less
 - Ordering equipment
 - Adding or deleting users
 - Requesting rate plan changes, requesting feature changes, account changes
2. In the agreement, it states that they will allow these activities as long as the TEM Vendor signs an NDA, license agreement and operates under their processes. However, the NDA is much more than an NDA – it is an agreement that restricts a client's rights to manage its own information.
3. TEM vendors, consultants and analysts cannot sign this NDA and client's need to PREVENT their TEM vendor from signing it because:
 - Clients and TEM Vendors have confidentiality provisions already in place.
 - The NDA is a blanket NDA that commits the TEM Vendor for all of its clients, not just the single client in question.
 - Carriers are asking clients to forego their rights to their information.
 - Carriers can unilaterally force the TEM vendor to breach its contractual responsibilities to clients.
 - By directly contracting with the carrier, the TEM vendor is put in a potentially compromised position to the carrier, directly impacting the client's ability to get unbiased advocacy from the TEM vendor.

Carriers' account executives are promoting this initiative as a widely accepted practice. TEMIA has surveyed its membership and this assertion cannot be supported.

RECOMMENDED ACTIONS

If a client has signed a "Letter Agreement", onerous or non-standard LOA or other similar agreement that forces its TEM vendor to sign a carrier NDA, it should seek counsel and consider cancelling that agreement as soon as possible. There is usually a termination clause.

TEMIA is recommending that telecommunications customers remind their carriers that telecommunications is a competitive industry that provides consumers with the right to choose and pursue practices and assistance that are in their own best interest.

Sincerely,
TEMIA