



June 14, 2016

The Honorable Greg Walden
Chairman
Subcommittee on Communications and
Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
Subcommittee on Communications and
Technology
Committee on Energy and Commerce
U.S. House of Representatives
2322A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden and Ranking Member Eshoo:

Competitive Carriers Association (CCA) thanks the Subcommittee on Communications and Technology for its timely attention to the Federal Communications Commission's (FCC) proposed rules governing the privacy practices of Broadband Internet Access Service providers ("BIAS"). CCA members take their customers' privacy seriously and value the trust they've engendered. In crafting new privacy rules for BIAS providers, the FCC should build upon successful models that establish clear privacy rules to protect consumers and foster continued innovation from BIAS providers and others in the Internet ecosystem while appropriately considering impacts on smaller, rural and regional companies.

CCA is the nation's leading association for competitive wireless providers and stakeholders across the United States. CCA's membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain. CCA is uniquely positioned to provide guidance on both large and smaller wireless providers' privacy practices.

CCA, along with a coalition of ISPs and other industry stakeholders, submitted a privacy proposal to the FCC recommending a flexible privacy framework consistent with the Federal Trade Commission's (FTC) longstanding approach to broadband privacy. This proposal's four core tenets – transparency, respect for context and consumer choice, data security, and data breach notification – protect consumers by prohibiting unfair and deceptive practices, without unnecessarily compromising the everyday business needs of BIAS providers of all sizes. Additionally, and consistent with Administration policy, the Industry Proposal is harmonized with existing FTC rules that protect consumers as they engage with Internet companies other than BIAS providers, including edge providers, to reach new content, products, technologies and services to provide businesses and consumers alike with a common set of rules.

The FCC rules as currently proposed, however, take a different approach that could lead to bifurcated consumer protections and experiences across different entities in the Internet ecosystem creating uncertainty and consumer confusion.

The record clearly reflects broad concern that the FCC's proposed rules could be overly-burdensome, particularly for smaller rural and regional BIAS providers, when other approaches have been proposed that the FCC could take to more appropriately protect consumers. For example, new contractual and oversight liabilities for consumer information lawfully shared with third parties could confuse consumers and disrupt the now-unified privacy regime controlling the rest of the Internet ecosystem.

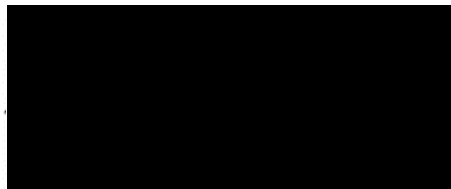
Further, smaller carriers may struggle to implement the FCC's proposed rules. The scope of information covered, "customer proprietary information" (customer PI), a category of information seemingly without limit that captures all information "linkable" to a subscriber, may be so broad as to render proposed rules untenable for smaller carriers seeking to comply. For example, the "consumer-facing dashboard" envisioned by the FCC would require a carrier to create a persistently-available interface allowing a subscriber to review a list of all customer PI that an ISP may possess (in effect, *all* information remotely related to that subscriber), and the choice that consumer has made regarding how that information might be used. This burden alone could needlessly stress limited programming resources and impose costs where small carriers already transparently disclose their privacy practices through direct relationships with their customers as a part of the communities they serve. The FCC's proposal contains other proposals involving similarly taxing notice, retention, and disposal requirements that do not offer meaningful consumer benefits. Instead, the Commission should limit protections to the most sensitive data collected by an ISP.

Also burdensome is the Commission's proposed data security regime, which would require all carriers to "ensure the security...of all [customer PI]." Even the largest companies, employing cutting-edge protections and using every tool reasonably available to protect consumers, experience hacks and data security breaches. It is, therefore, especially unreasonable for the Commission to place such a burden on a small BIAS provider, who likely retains as little subscriber data as possible. A principles-based regime centered on "reasonable" data security protections that considers the size and resources available to an ISP, as well as how an ISP utilizes personal information, would protect consumers without making compliance impossible, and would remain applicable as data security technology evolves.

CCA commends and appreciates your leadership in convening this important hearing, and urges policymakers to explore alternative privacy protections like the Industry Proposal. Any adopted rules should blend seamlessly with privacy regimes controlling the rest of the Internet ecosystem, which would promote consumer welfare by making it easier for consumer to predict how their choices would impact the way their information is shared, used, or stored by a BIAS provider, while appropriately considering treatment of smaller carriers.

Please do not hesitate to contact me with any questions.

Sincerely,



Steven K. Berry
President & CEO
Competitive Carriers Association

Cc:

The Honorable Fred Upton, Chairman House Energy and Commerce Committee
The Honorable Frank Pallone, Jr. Ranking Member, House Energy and Commerce Committee
The Honorable Bob Latta, Vice Chairman, Communications and Technology Subcommittee
The Honorable Joe Barton
The Honorable John Shimkus
The Honorable Marsha Blackburn
The Honorable Steve Scalise
The Honorable Leonard Lance
The Honorable Brett Guthrie
The Honorable Pete Olson
The Honorable Mike Pompeo
The Honorable Adam Kinzinger
The Honorable Gus Bilirakis
The Honorable Bill Johnson
The Honorable Billy Long
The Honorable Renee Ellmers
The Honorable Chris Collins
The Honorable Kevin Cramer
The Honorable Michael Doyle
The Honorable Peter Welch
The Honorable John Yarmuth
The Honorable Yvette Clarke
The Honorable David Loebsack
The Honorable Bobby Rush
The Honorable Diana DeGette
The Honorable G. K. Butterfield
The Honorable Doris Matsui
The Honorable Jerry McNerney
The Honorable Ben Ray Lujan