



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 11, 2016

The Honorable Michael Burgess
U.S. House of Representatives
2336 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Burgess:

Thank you for your letter sharing your views about the Commission's work to adopt privacy and data breach notification rules protecting the privacy of broadband customers' personal information.

I share your concern about consumer privacy protections. As you accurately write, "consumers deserve to be protected." This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks). However, this connectivity flows both ways. A broadband provider handles all network traffic, which means it has an unobstructed view of all unencrypted online activity. Even when data is encrypted, a broadband provider can still see the websites that a customer visits, how often they visit them, and the amount of time they spend on each website. Using this information, they can piece together enormous amounts of information about an individual—including private information such as a chronic medical condition or financial problems.

A consumer, once connected to broadband service, cannot simply avoid the network in the same manner as a consumer can instantaneously (and without penalty) switch search engines, surf among competing websites, and select among diverse applications. Among the costs that consumers may experience when changing BIAS providers are: (1) early termination fees; (2) installation fees; (3) activation fees; and (4) the cost of new or replacement equipment (if owned equipment is not compatible with the new service). Even if a consumer can afford these costs, many still lack the option to switch providers—more often than not, a comparable alternative simply isn't available.¹

As you noted, the FTC has demonstrated great leadership developing consumer privacy protections. And, while the FTC retains an important role in protecting consumer privacy, Congress has enacted sector-specific privacy protections in a variety of areas in which especially

¹ According to the Commission's latest Internet Access Service Report, only 23 percent of census blocks had access to more than one BIAS provider offering broadband service with download speeds of 25 Mbps or higher. Federal Communications Commission, Internet Access Services: Status as of December 31, 2014 at 10 (2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-338630A1.pdf.

sensitive information is collected and stored. Because of the sensitivity of the information collected, Congress has tasked various agencies with implementing and overseeing regulations for areas such as financial institutions, schools and other educational institutions, healthcare providers, and credit reporting agencies. For example, the Department of Health and Human Services regulates the privacy practices of “covered entities” under HIPAA. Under these regulations, doctors, hospitals, and health insurance providers are held to different standards than those required by the FTC. The FCC’s proposed broadband privacy rules fit right alongside such rules, which are tailored to each industry and environment. Our goal is to protect customers’ privacy in our particular jurisdiction—the telecommunications market—which is why we are proposing rules applicable to broadband internet access service providers, not edge providers.

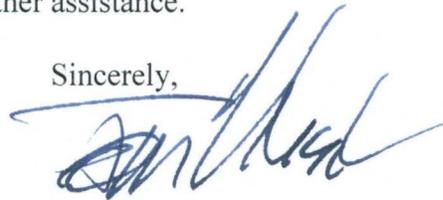
The Commission has a long history of protecting consumer privacy of information carried by communications service providers.¹ Throughout the 1980s and the 1990s, the Commission imposed limits on incumbent telephone companies’ use and sharing of customer information. And in 1996, Congress enacted Section 222 of the Communications Act, which provided statutory privacy protections to data that telecommunications providers collect from their customers. Consumers using modern telecommunications technologies are no less deserving of such protection.

The Commission’s NPRM proposes a path forward toward final rules for BIAS that will provide clear guidance to both BIAS providers and their customers. The FTC’s core principles—transparency, choice, and security—are at the heart of the NPRM. With continued input from concerned stakeholders, we will be able to both provide consumers with protections that consistently safeguard their personal data and provide companies with regulatory certainty that spurs their investment.

Thank you again for reaching out to me with your perspectives. I have asked that your letter be added to the record of the rulemaking proceeding so that it can be considered as part of the public record that informs the next steps in the Commission’s broadband privacy rulemaking.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", written over a horizontal line.

Tom Wheeler

¹ 47 U.S.C. §605.



FEDERAL COMMUNICATIONS COMMISSION
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July 11, 2016

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for your letter sharing your views about the Commission's work to adopt privacy and data breach notification rules protecting the privacy of broadband customers' personal information.

I share your concern about consumer privacy protections. As you accurately write, "consumers deserve to be protected." This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks). However, this connectivity flows both ways. A broadband provider handles all network traffic, which means it has an unobstructed view of all unencrypted online activity. Even when data is encrypted, a broadband provider can still see the websites that a customer visits, how often they visit them, and the amount of time they spend on each website. Using this information, they can piece together enormous amounts of information about an individual—including private information such as a chronic medical condition or financial problems.

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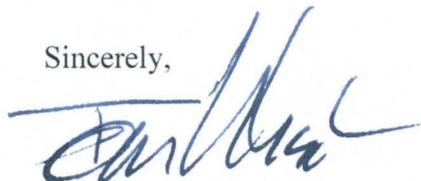
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July 11, 2016

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, D.C. 20515

Dear Chairman Walden:

Thank you for your letter sharing your views about the Commission's work to adopt privacy and data breach notification rules protecting the privacy of broadband customers' personal information.

I share your concern about consumer privacy protections. As you accurately write, "consumers deserve to be protected." This is especially true as consumers increasingly rely on today's most significant communications technology, broadband internet access service. Broadband networks allow consumers to reach the whole world instantaneously from their homes (or cars or sidewalks). However, this connectivity flows both ways. A broadband provider handles all network traffic, which means it has an unobstructed view of all unencrypted online activity. Even when data is encrypted, a broadband provider can still see the websites that a customer visits, how often they visit them, and the amount of time they spend on each website. Using this information, they can piece together enormous amounts of information about an individual—including private information such as a chronic medical condition or financial problems.

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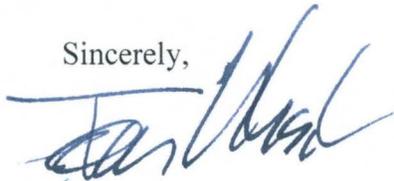
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