



February 11, 2016

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Dear Chairman Wheeler,

As associations representing a large cross-section of the technology companies that make up today's vibrant Internet economy, our collective members are committed to providing consumers with innovative products and services and are equally committed to earning consumer trust and respecting privacy. If the courts determine that the FCC has authority to regulate broadband privacy, we encourage you to develop a framework that offers consumers robust privacy protection, while at the same time allowing broadband providers to continue to innovate and compete. We recommend that any FCC framework be consistent with the successful FTC approach, which is grounded on prohibiting unfairness and deception. The FTC's time-tested framework has accomplished two important goals—it provides consumers with meaningful privacy protection and helps to enable a dynamic marketplace that supports the emergence of innovative new business models. By developing a consistent framework, the FCC will further these important goals.

Our member companies recognize that ensuring robust privacy protection is important and have devoted substantial capital, resources and personnel to develop, maintain, and enhance meaningful data privacy and security programs. Indeed, our companies have strong incentives to earn and maintain their customers' loyalty by protecting their data. In the rapidly evolving online marketplace, our companies want to ensure that they can continue to provide such protections while meeting consumers' expectation of continued access to new innovations that enhance their experience.

All companies in the Internet ecosystem, including Internet service providers, have long operated under the FTC regulatory regime for protecting consumer privacy. The aim of this well-tested approach is to combine strong protections for consumers with flexibility that allows for rapid innovation. Under the FTC regime, all companies in the Internet ecosystem must ensure that

their privacy and data security practices are neither deceptive nor unfair. As a result, consumers are protected and all companies that collect consumer data should be able to innovate and adapt to the inevitable changes in technology and the market for online services.

We understand the FCC is considering initiating a proceeding to consider how Section 222 of the Communications Act, which governs Customer Proprietary Network Information (“CPNI”), should apply to broadband Internet access service. The applicability of Section 222 in this context is currently subject to judicial review. If the Commission nonetheless moves forward in this space, consumers would be best served by an approach to privacy and data security for CPNI that is harmonized with the FTC’s established privacy protection framework based on enforcement against unfair and deceptive acts or practices.

You have recognized that the FTC has a longstanding, thoughtful, and rational approach to privacy, and you have committed to working closely with the FTC and to developing a consistent privacy framework for Internet service providers. Ensuring consistency with this effective consumer protection approach would be in accordance with statements supporting the FTC’s privacy regime and endorsing the benefits of a consistent privacy framework for the Internet in the 2010 National Broadband Plan, the FTC’s and White House’s 2012 Privacy Reports, and the White House’s 2015 Consumer Privacy Bill of Rights.

We believe it is important to maintain a consistent privacy framework for the Internet. Such an approach will protect consumers and avoid entity-based regulation that would create consumer confusion and stifle innovation. Consumers expect their data will be subject to consistent privacy standards based upon the sensitivity of the information and how it is used regardless of which entity in the Internet ecosystem uses that data. To achieve parity across the Internet ecosystem, any FCC framework for Internet service providers should be reflective of the deception and unfairness standard, consistent with the existing protections consumers receive when they engage with other companies in the Internet ecosystem.

A consistent privacy framework for the Internet also will continue to provide Internet service providers with the flexibility to update their practices in ways that meet the evolving privacy and data security needs of their customers and ensure they can provide their customers new products and customized services. Such a framework would identify privacy or security goals, and afford providers, including smaller providers with limited resources, flexibility in achieving those goals. Rules dictating specific methods quickly become out of date and out of step with constantly changing technology, and will only hamper innovation and harm consumers.

In short, if you seek to initiate a proceeding under Section 222, we respectfully urge you to ensure that the FCC acts in a manner consistent with the strong current national privacy framework applied by the FTC to other companies in the Internet ecosystem. This flexible approach would meet consumers’ privacy needs while allowing them to take advantage of innovative products and services, and would avoid inconsistent oversight. We look forward to continuing a conversation with the FCC about the best way to provide privacy and innovation benefits to consumers.



Matthew M. Polka
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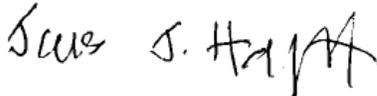
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cc: The Honorable Mignon Clyburn
The Honorable Jessica Rosenworcel
The Honorable Ajit Pai
The Honorable Michael O'Rielly