

May 11, 2016

The Honorable Jeff Flake
Chairman
Subcommittee on Privacy, Technology, and the Law
Committee on the Judiciary
413 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Al Franken
Ranking Member
Subcommittee on Privacy, Technology, and the Law
Committee on the Judiciary
309 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Flake and Ranking Member Franken:

Broadband is the basic communications network of the 21st Century, and providers of broadband Internet access service (BIAS), including fixed and mobile telephone, cable, and satellite television providers, are gatekeepers to the Internet. With this unique role comes both the ability and the financial incentive to observe and monetize a significant amount of activity and content that consumers engage in online. Consumers can choose to subscribe to a website or online service, but if they are to remain connected to jobs, health care, education, and the global economy, consumers have no choice but to use a BIAS service. If consumers cannot trust their broadband provider to protect their content and personal information, the result could be an erosion of consumer privacy and chilling of online speech. Commonsense protections may lead to a broader adoption and use of the Internet, as individuals gain confidence in conducting everyday business and exploring new services online.

The FCC's current proceeding is a direct result of its clear statutory mandate. As former FTC Commissioner Julie Brill stated, the FCC reclassification of broadband as a Title II service adds "a brawnier cop on the beat" on privacy issues. We are happy that the FTC and FCC have signed a Memorandum of Understanding on consumer privacy highlighting the complimentary, but different roles and powers each agency brings to protecting consumers online. The FCC was directed by Congress to implement a specific framework of proactive, forward-looking privacy protections for telecommunications services. Without this sector-specific framework consumers could not count on the protection of their basic communications that undergirds other key areas of privacy, such as financial and health information.

In January, nearly 60 consumer groups signed a letter urging FCC Chairman Tom Wheeler to open a proceeding implementing section 222 to protect broadband

consumers' privacy. We stand by our earlier letter, and have attached it for your convenience.

Sincerely,

American Civil Liberties Union
Center for Digital Democracy
Center for Democracy and Technology
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumer Watchdog
Demand Progress
Free Press
Open Technology Institute at New America
Privacy Rights Clearinghouse
Public Knowledge