



Protecting the Privacy of Customers of Broadband and Other
Telecommunications Services, Docket No. 16-106

T-Mobile October 2016 Ex Parte Meetings

Privacy Framework Should Preserve Innovation and Competition

- **To preserve competition and consumer-focused innovation in the wireless marketplace, there must be a level playing field among ISPs and edge providers.**
 - Privacy and security is a top priority at T-Mobile, but we are concerned about unnecessarily rigid rules that won't create an added benefit for consumers.
 - Consistency with FTC regime preserves competition and prevents customer confusion.
 - As FTC Chairwoman Ramirez said at the Technology Policy Institute in August, it "isn't optimal" to have a large discrepancy between the two agencies.
 - Same data should be afforded the same protections, no matter who holds it.
 - FTC Framework has fostered some of the most innovative products and services in the world, while providing consumers with strong privacy protection.

- **We appreciate the Commission's move to a more flexible, harm-based approach in the following areas:**
 - Data Security and Breach Notification
 - More flexibility on what to include in notice
 - Sensitivity-based approach to content
 - Inclusion of FTC's de-identified data standard
- **There are additional opportunities to tailor the rules for consistency with the FTC's regime in the following areas:**
 - Definition of Sensitive CPNI
 - Consent Standard for Interest-based Advertising and First Party Marketing
 - Flexibility on timing of notice
- **FCC should include a reasonable period for implementation (12-18 months).**

- **We appreciate the Commission's move to a sensitivity-based approach.**
 - The best way to protect consumers is to focus on harm.
 - FTC's approach has worked well. No evidence of privacy harms under this approach.
 - It is imperative that the FCC carefully define sensitive CPNI. An expansive definition that is not tied to harm will defeat the purpose of the harm-based approach and create a disparity in the Internet ecosystem.
- **Sensitive CPNI definition should be consistent with FTC approach.**
 - FTC included five categories in its definition (health, financial, children's data, SSNs, and precise geolocation)
 - FTC Report does not include web browsing history or app usage data and is limited to *precise* geolocation only.

- **Opt-in consent should be reserved for use and sharing of *truly* sensitive data.**
 - Non-sensitive URLs or app usage data should not require opt-in.
 - Opt-in should be reserved for **precise** geolocation only.
 - Opt-in for financial information should be reserved for financial account numbers or other sensitive financial information.

- **First-party marketing should be subject to implied consent.**
 - Consistent with Consumer Privacy Bill of Rights and FTC framework and comments.
 - Allowing ISPs to infer consent for first-party marketing will benefit consumers.
 - It will encourage innovation and investment and increase competition.
 - Any other regime would favor edge providers at the expense of ISPs—*and consumers*.
 - If ISPs cannot market new products and services on the same terms as edge providers, they will have less incentive to invest in the development of such products and services.
 - Consumers will have less choice in the marketplace and, in the absence of greater competition, will pay more for services. And they will not receive any appreciable privacy benefit in return.

- **Sensitive CPNI should be limited to that which is “individually identifiable” as required under Section 222.**
- **The final proposed rule includes the FTC’s de-identified data standard and three-part test, which is a win for consumers.**
 - Reasonably de-identified
 - Publicly commit not to re-identify
 - Contractually prohibit others from re-identifying
- **This standard is extremely important and will preserve beneficial uses of data in a format that does not raise consumer privacy risks.**
 - Consumer groups have focused on factual scenarios that did not meet FTC’s three-part test.

- **We appreciate the FCC's more flexible approach to notice than originally contemplated in the NPRM.**
- **The CAC multi-stakeholder process can provide great value.**
- **We think it is important, however, to also maintain flexibility with respect to the timing of notice.**



THANK YOU