

October 17, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street NW
Washington, DC 20554

Re: Broadband Privacy NPRM, WC Docket No. 16-106

Dear Ms. Dortch:

On October 13, 2016, Dick O'Brien of the 4A's, Dan Jaffe of the ANA, Emmett O'Keefe of the DMA, Dave Grimaldi of the IAB, as well as Stu Ingis, Emilio Civitanes, and Rob Hartwell of the law firm Venable LLP, met with Phil Verveer, Senior Counselor to Chairman Wheeler, and Matthew DelNero and Lisa Hone of the Wireline Competition Bureau.¹

During this meeting, the participants discussed the Federal Communications Commission's ("FCC") Notice of Proposed Rulemaking ("NPRM") regarding broadband privacy, as well as the recently released Fact Sheet from Chairman Wheeler's office. Consistent with a letter previously submitted by the aforementioned trade associations, they discussed the Fact Sheet's proposal to include web browsing and application use history within the category of Sensitive Data subject to opt-in consent. The participants noted that the Fact Sheet, while professing to follow the Federal Trade Commission's ("FTC") privacy framework, in reality expands that framework to place heightened restrictions around data that the FTC has never considered sensitive. The participants also noted that restricting the ability of entities to engage in the collection and use of web browsing and application use data for advertising purposes would limit consumer choice, and ultimately harm consumers by interrupting the well-functioning Internet economy that provides consumers with free and low cost products and services.

In closing, the participants stated that the FCC should amend the final rule to remove web browsing and application use data from the definition of Sensitive Data, and to more closely align to the FTC's framework. Alternately, given the large scale impact the FCC's proposed changes to the original NPRM would have, the participants asked that the FCC remove the Sensitive Data and opt-in provisions from the final order and issue a Further Notice of Proposed Rulemaking in order to develop the appropriate record required to fully analyze the best path forward regarding these issues.

Sincerely,

/s/ Rob Hartwell

Cc: Phil Verveer
Lisa Hone
Matthew DelNero

¹ This disclosure is made in compliance with 47 C.F.R. § 1.1206.