

September 13, 2016

Hon. Tom Wheeler
Chairman
Federal Communications Commission
445 12th St SW
Washington, DC 20554

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

Dear Chairman Wheeler:

On behalf of the millions of families that rely upon Common Sense Media for advice and information on how to navigate the rapidly growing media and technology landscape for their children, I am writing to reiterate our strong support for the Federal Communications Commission (FCC) efforts to protect the privacy of all Americans using broadband.

Common Sense is the nation's leading nonprofit organization dedicated to improving the lives of kids and their families by providing the trustworthy information, education, and independent voice they need to thrive in our 24/7 digital world.

The broadband privacy protections under consideration are especially important for children and teens. Young people are constantly online. With the explosive growth of digital devices and smart phones, education technology in the classroom, and social and mobile media, today's youth are living out their days almost entirely online at home, at school, and in between. New connectivity offers a wonderful potential for our kids to learn, communicate, and create—as well as the potential for online actors to amass personally identifiable information about young people that can be tracked, mined, and exploited.

Children's special susceptibility to privacy harms is widely acknowledged and accepted, even by opponents to the FCC's broadband privacy proposal. Congress recognized the unique vulnerability of children, and sought to protect them, with the Children's Online Privacy Protection Act (COPPA) in 1998. Since then, the Federal Trade Commission (FTC) has done excellent work in enforcing COPPA against websites, apps, and others that fall within COPPA's ambit.

However, as noted in our comments,¹ COPPA does not govern the entire online ecosystem.² COPPA has limited application in the broadband context: in part because it only applies to websites and services that are directed to children under 13 or who have

¹ See *Comments of Common Sense Kids Action*, In the Matter of Protecting the Privacy of Customers of Broadband and Other Telecommunications Services, filed May 27, 2016.

² COPPA also does not protect teens, whose information is increasingly recognized as sensitive.

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actual knowledge of their under 13 users, and in part because common carriers were understood to be largely exempt from the FTC's enforcement capabilities, at least to the extent they were operating as common carriers. Now, with the Ninth Circuit's recent decision in *Federal Trade Commission v. AT&T Mobility LLC*, common carriers are excluded from FTC jurisdiction in their entirety—even with respect to non-common carrier activities. Children's privacy is left exposed and unprotected.

Children, teens, and families needed greater broadband privacy protections when this proceeding began, and the FCC was well-positioned to provide them. Now, in light of the Ninth Circuit's decision, which is a blow to consumers and which we hope will be overturned, it is even more important that the FCC move forward with its broadband privacy proposal and enact strong baseline privacy rules to protect all consumers, especially young people.

We fully recognize that the online ecosystem is complex. Young people and the rest of us need stronger protections from all players, including non-common carrier companies. We fully understand that companies like Google and Facebook, for example, have a huge impact on kids' privacy and should be regulated in a similar manner. That seems eminently fair. That said, we also understand the FCC's jurisdictional constraints. In addition to supporting these broadband privacy rules, we clearly support stronger privacy rules and enforcement capabilities for the FTC as well. There cannot be too many cops on the beat protecting kids' privacy from common carriers and edge providers alike.

The FCC has a mandate and an opportunity to be a strong cop here. Given the Ninth Circuit's recent decision, its presence is needed more than ever. We encourage you to move forward with this proceeding, and protect the privacy of all Americans, including families and kids.

Sincerely,

A handwritten signature in black ink that reads "Jim Steyer". The signature is written in a cursive, slightly slanted style.

James P. Steyer
Founder and CEO
Common Sense