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FCC Mail Room

September 9, 2016

Marlene H. Dortch, Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington DC 20554

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Re Docket 16-106: Protecting the Privacy of Customers of Broadband and Other Telecommunications Service

Dear Secretary Dortch:

In the increasingly complex digital age that we all live in, protecting consumer privacy and personal information is more important than ever. And regulatory action should make our respective jobs as consumer advocates and data custodians easier and more effective, not harder. That is why we write to express our concerns regarding the Federal Communications Commission's (FCC) proposed rule, "Protecting the Privacy of Customers of Broadband and Other Telecommunications Services." If this proposed rule moves forward, we are concerned that not only may it be read to preempt important state laws that effectively protect consumers' privacy, but this new approach will also foster a byzantine regulatory environment rather than clear, enforceable requirements that improve data privacy for all consumers.

As an initial matter, we are concerned about the possible preemption of state laws. Although the Notice of Proposed Rule Making recognizes that "states are very active participants in ensuring their citizens have robust privacy and data security protections," the proposed rule may unwittingly preempt important state initiatives. As Attorneys General, we are always concerned with protecting consumers' privacy and defending the protections our consumers have been afforded via our various state laws. It is of paramount importance that any federal regulations not impair states' ability to vigorously protect their citizens as they deem appropriate.

Moreover, the concern for protecting consumer privacy arises in many contexts and across many industries and technologies. The proposed rule, however, ignores that reality and makes artificial distinctions among technology that appears to be based on the FCC's limited jurisdiction. As such, the rule will only serve to make compliance more costly and complicated.

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Consumers value their privacy and the security of their personal information, period. They do not differentiate between who has access to their information in the online environment. Crafting a patchwork of regulations imposes extra burdens on all who seek to protect consumer privacy, forcing them to navigate artificial distinctions before they can determine what rules do or do not apply in a particular circumstance. As such, the proposed rule, especially in the context of an already complex regulatory environment, is not conducive to better outcomes.

We are convinced that the privacy interests of consumers are best protected by harmonized enforcement and regulatory mechanisms that are technologically neutral. We further believe that the law enforcement approach authorized by existing legal authority in each of our states has distinct advantages over new prescriptive regulatory approaches.

Given these concerns, we urge the FCC to withdraw the proposed rule and engage with the Federal Trade Commission and state Attorneys General to determine the most effective path forward to protect consumers and their privacy.

Sincerely,



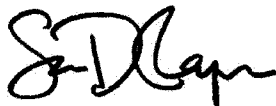
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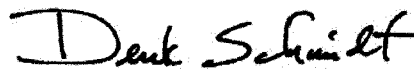
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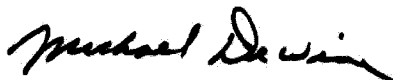
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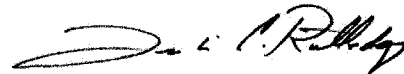
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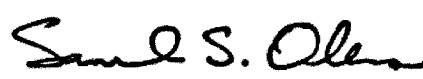
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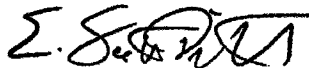
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