



Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O’Rielly  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

May 27, 2016

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

Purpose of this document:

When I submitted my letter/comment regarding the proposed rules, I did not realize that the links, which were ‘live’ when I transmitted them, would be unusable (no longer clickable) upon receipt. Because I feel it is irresponsible to cite work that the reader will not be able to find, I am thus submitting this brief document, containing citations as they appear in my letter, along with the URL’s to which they should have been linked. They follow:

- <sup>1</sup> Executive Order (2015) *Using Behavioral Science Insights to Better Serve the American People* |whitehouse.gov  
<https://www.whitehouse.gov/the-press-office/2015/09/15/executive-order-using-behavioral-science-insights-better-serve-american>
- <sup>2</sup> Think: [Prohibition](http://www.cedro-uva.org/lib/levine.alcohol.html), Nixon’s “Madman” theory.  
<http://www.cedro-uva.org/lib/levine.alcohol.html>
- <sup>3</sup> The field gained full recognition when Kahneman and Tversky, two Princeton psychologists, won the 2002 Nobel Prize in Economics for their work on decision-making under uncertainty.  
<http://www.apa.org/monitor/dec02/nobel.aspx>  
[http://www.forbes.com/2002/11/06/cx\\_da\\_1106nobel1.html](http://www.forbes.com/2002/11/06/cx_da_1106nobel1.html)
- <sup>4</sup> On the Limits of Rational Choice Theory (2012) *Economic Thought* 1:94-108, 2012  
<http://www.geoffrey-hodgson.info/user/image/limits-rational-choice.pdf>
- <sup>5</sup> Do Defaults Save Lives?  
[https://www0.gsb.columbia.edu/mygsb/faculty/research/pubfiles/1275/Johnson\\_Defaults.pdf](https://www0.gsb.columbia.edu/mygsb/faculty/research/pubfiles/1275/Johnson_Defaults.pdf)
- <sup>6</sup> Defaults, Framing and Privacy: Why Opting In-Opting Out<sup>1</sup>  
[https://www.researchgate.net/profile/Eric\\_Johnson12/publication/227079453\\_Defaults\\_Framing\\_and\\_Privacy\\_Why\\_Opting\\_In-Opting\\_Out1/links/00b7d53a093625786d000000.pdf](https://www.researchgate.net/profile/Eric_Johnson12/publication/227079453_Defaults_Framing_and_Privacy_Why_Opting_In-Opting_Out1/links/00b7d53a093625786d000000.pdf)
- <sup>7</sup> *Other people's money and how the bankers use it*  
[https://openlibrary.org/books/OL6565865M/Other\\_people's\\_money](https://openlibrary.org/books/OL6565865M/Other_people's_money)
- <sup>8</sup> Enhanced active choice: A new method to motivate behavior change  
<http://www.sciencedirect.com/science/article/pii/S1057740811000775>

<sup>9</sup> Privacy as a Behavioral Concept  
<http://www.jstor.org/stable/41963409>

Finally, I want to provide the full text of the section in Defaults, Framing and Privacy: Why Opting In-Opting Out<sup>1</sup>, which deals explicitly with Internet privacy and delineates why opt-in and opt-out are not equivalent choices. See below.

**Theory: Frames and Defaults**

To better understand why opt-in choices differ from opt-out choices, we need to consider the mechanisms that might contribute to these differences. Table 1 shows how opt-in(Question 1) and opt-out options (Question 2) are typically presented on Web sites. Upon closer examination, it becomes clear that opting-in vs. opting-out combines two different effects, each of which affects the construction of preferences. The first concerns framing: are alternatives expressed as a positive option (as in Question 1) or a negative option (as in Question 2). The second effect is the nature of the default option that occurs if no action is taken. This is illustrated by comparing Question 1 with Question 3 and comparing Question 2 with Question 4. While each pair has an identical frame, each question has the opposite default option.

*Table 1. Formats and Participation Rates, Experiment 1*

Question	Percent Participating
(1) <input type="checkbox"/> Notify me about more health surveys.	48.2
(1) <input type="checkbox"/> Do NOT notify me about more health surveys.	96.3
(3) <input checked="" type="checkbox"/> Notify me about more health surveys.	73.8
(4) <input checked="" type="checkbox"/> Do NOT notify me about more health surveys.	69.2

Question 2 with Question 4. While each pair has an identical frame, each question has the opposite default option. Framing has a long history in decision research and has been shown to have sizable effects (Kahneman and Tversky 1984; Tversky and Kahneman 1987). The major cause of framing differences is (1) the fact that one frame emphasizes the loss of an option, while the other emphasizes what is gained, and (2) that the cost of the loss looms larger than the pleasure of the equivalent gain. Although both options describe exactly the same transaction, these differences cause marked reversals in revealed preferences. In Experiment 1, we wanted to emulate the language most often used in current privacy policies, our manipulation is much more subtle than that used in most framing studies. The phrasing is minimal in the sense it does not explicitly mention both alternatives—the opportunity for compensation is implicit in the choice—and the questions do not explicitly mention any tradeoff between taking action and the outcome. It simply presents a single outcome using positive and negative phrasing. For this reason, while we might expect the framing effect to be more modest than commonly observed, we still expect framing effects may contribute to any observed differences. any observed differences. Default options have been less extensively explored.

An important paper by Samuelson and Zeckhauser (1988) documents cases, many of real consequence, where the presence of one option as the status quo seems to inflate its attractiveness, even when that default option was randomly assigned. Subsequent research went on to draw a distinction between the status quo, the current state of affairs, and default options, that which would happen if no action were taken (Baron and Ritov 1994). To illustrate this distinction, consider Questions 1 and 3 in Table 1. While they offer subjects the option of receiving additional emails, a change in the status quo, they have different default options. Subsequent research has shown that both status quo and default effects occur (Schweitzer 1994; Schweitzer 1995), and both can influence choice. The reasons for this inflated popularity of the default option are many, and our research is not intended to tease them apart. One source of effects may be that the decision-maker assumes that the questioner is implicitly recommending the default as best, and the defaults are legitimate sources of information. Another possibility includes cognitive and physical laziness on the part of decision-maker. Other possibilities, which do not rely on effort, are anchoring upon the default option (Chapman and Johnson 1999), or that the default option is considered the subject of the comparison, which increases choice probability (Houston et al. 1989). For a more complete examination of the distinction between status quo and default biases, and an examination of their possible causes, see Baron and Ritov (1994) and Schweitzer (1995).

Both framing and default effects are part of an emerging literature that suggest that preferences are, on occasion, constructed in response to a decision (Payne et al. 1992). The basic idea, which represents a challenge to market-based solutions, is that tradeoffs between many goods are not well articulated and can be affected by various elements of the question and context. We return to this point in the discussion.

The above discussion, based on the empirical evidence, suggests to me that the simply opt-in, opt-out “choice” set is unlikely to meet the FCC’s laudable goal of protecting the public’s privacy.

Thank you again for allowing me to comment on this important proceeding.

Respectfully,

/s/ Sara C. Wedeman, Ph.D.