

May 19, 2016

Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

We write to request that you extend the comment period for the FCC's proposed privacy rules.

This issue came up during a May 11th hearing of the Senate Judiciary Committee's Subcommittee on Privacy, Technology and the Law. At the hearing, you were asked about the requests the FCC has received from various stakeholders to extend the comment period for the proposed privacy rule, which was ultimately denied on April 29th. In the denial, the Chief of the FCC's Wireline Bureau explained that "an extension was not warranted in this instance" in large part because it is "not the norm" to grant extensions at the FCC. Asked about the fairness of this position at the May 11th hearing, you responded "we've been discussing this for half a dozen years." Commissioner Pai testified otherwise, arguing, "I don't think it's too much to ask for a couple extra weeks to allow the numerous stakeholders, some of which are trade associations with hundreds of members who need to be canvassed, to weigh in on these many many questions."

Since then, two other FCC Commissioners have expressed the need for extending the comment period. On May 17th, at the National Cable & Telecommunications Association's annual "intx" event in Boston, Commissioner Rosenworcel said "this is the kind of subject that is complicated and would benefit from a longer rulemaking." Commissioner O'Reilly responded by asking "so then why is the Chairman saying absolutely not, we won't have any more time? Why won't he listen to three of us that agree that we should have more time on such a complicated subject matter?"

A bipartisan majority of the FCC has now publicly supported extending the comment period for the privacy rule. We agree. Given that it took the FCC over a year to notice the proposed rule, the total Notice of Proposed Rulemaking is nearly 150 pages long, and it asks more than 500 questions, extending the notice and comment period is reasonable. Therefore, we ask that you extend the comment period for this rulemaking by a reasonable period of time, but not less than

45 days, or provide us with an explanation why not before May 27th, the day the comment period ends.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Flake", written over a horizontal line.

Senator Jeff Flake
Chairman
Judiciary Committee
Subcommittee on Privacy, Technology
and the Law

A handwritten signature in blue ink, appearing to read "John Boozman", written over a horizontal line.

Senator John Boozman
Chairman
Appropriations Committee
Subcommittee on Financial Services
and General Government



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 26, 2016

The Honorable Jeff Flake
United States Senate
413 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Flake:

Thank you for your letter requesting that the Commission extend the comment period in the Broadband Privacy proceeding. I appreciate you reaching out to me with your concerns.

One very important factor in this matter is that the Commission's record does not close when the comment deadlines hit. The filing deadline is not a "speak now or forever after hold your peace" deadline, but rather a scheduling mechanism to allow interested parties to know how to focus their efforts.

As you know, the Commission released the *Broadband Privacy Notice of Proposed Rulemaking (NPRM)* proposing and seeking comment on a framework for applying the privacy requirements of the Communications Act to broadband Internet access services (BIAS) on April 1, 2016. The *Broadband Privacy NPRM* provided stakeholders eight weeks to file initial comments and another 30 days to file reply comments. To date, over 50,000 comments have been filed in the docket.

The *Broadband Privacy NPRM* sets forth a path forward towards final rules that will provide clear guidance to ISPs and their customers about how the privacy requirements of Section 222 apply to BIAS providers. The NPRM was not an unexpected action by the Commission as the Commission put interested parties on notice more than a year ago that it would address broadband privacy issues through a rulemaking proceeding. Since then there has been a great deal of public discussion about how the Commission should approach a broadband privacy rulemaking. That public discussion will continue over the months to come, as interested parties file comments, reply comments and other written submissions. So while I appreciate your concerns, I do not believe a comment extension deadline is warranted at this time.

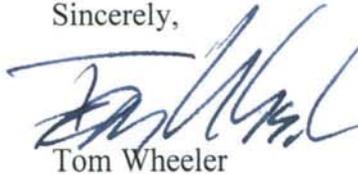
The Commission received several requests to extend the comment filing deadlines for the *Broadband Privacy NPRM* and we considered these requests seriously. The Wireline Competition Bureau (Bureau) explained in its Order denying various of those requests that it is the policy of the Commission that extensions of time shall not be routinely granted.¹ Commission proceedings often involve novel and important issues, yet granting an extension is

¹ http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0429/DA-16-473A1.pdf

not favored, in order to keep timely resolutions of proceedings. Moreover, the Commission has set similar comment deadlines in comparable proceedings, including, for example, its E-Rate, Inmate Calling, and Consumer Video Navigation Choices proceedings. A timely resolution of this proceeding will be beneficial for consumers and industry alike, providing clarity and certainty going forward, and as such, an extension of the comment deadline is not in the public interest. As the Commission evaluates the record after the close of the comment period, we will, of course, continue to monitor developments, and will ensure that stakeholders have a fulsome opportunity to weigh in.

Thank you again for your input on this important matter. I have asked my staff to place your letter in the record of this proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", is written over a horizontal line.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

May 26, 2016

The Honorable John Boozman
Chairman
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate
184 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Boozman:

Thank you for your letter requesting that the Commission extend the comment period in the Broadband Privacy proceeding. I appreciate you reaching out to me with your concerns.

One very important factor in this matter is that the Commission's record does not close when the comment deadlines hit. The filing deadline is not a "speak now or forever after hold your peace" deadline, but rather a scheduling mechanism to allow interested parties to know how to focus their efforts.

As you know, the Commission released the *Broadband Privacy Notice of Proposed Rulemaking (NPRM)* proposing and seeking comment on a framework for applying the privacy requirements of the Communications Act to broadband Internet access services (BIAS) on April 1, 2016. The *Broadband Privacy NPRM* provided stakeholders eight weeks to file initial comments and another 30 days to file reply comments. To date, over 50,000 comments have been filed in the docket.

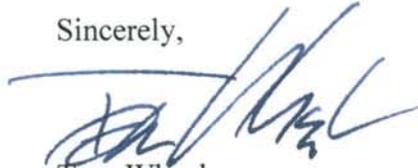
The *Broadband Privacy NPRM* sets forth a path forward towards final rules that will provide clear guidance to ISPs and their customers about how the privacy requirements of Section 222 apply to BIAS providers. The NPRM was not an unexpected action by the Commission as the Commission put interested parties on notice more than a year ago that it would address broadband privacy issues through a rulemaking proceeding. Since then there has been a great deal of public discussion about how the Commission should approach a broadband privacy rulemaking. That public discussion will continue over the months to come, as interested parties file comments, reply comments and other written submissions. So while I appreciate your concerns, I do not believe a comment extension deadline is warranted at this time.

The Commission received several requests to extend the comment filing deadlines for the *Broadband Privacy NPRM* and we considered these requests seriously. The Wireline Competition Bureau (Bureau) explained in its Order denying various of those requests that it is

the policy of the Commission that extensions of time shall not be routinely granted.¹ Commission proceedings often involve novel and important issues, yet granting an extension is not favored, in order to keep timely resolutions of proceedings. Moreover, the Commission has set similar comment deadlines in comparable proceedings, including, for example, its E-Rate, Inmate Calling, and Consumer Video Navigation Choices proceedings. A timely resolution of this proceeding will be beneficial for consumers and industry alike, providing clarity and certainty going forward, and as such, an extension of the comment deadline is not in the public interest. As the Commission evaluates the record after the close of the comment period, we will, of course, continue to monitor developments, and will ensure that stakeholders have a fulsome opportunity to weigh in.

Thank you again for your input on this important matter. I have asked my staff to place your letter in the record of this proceeding.

Sincerely,



Tom Wheeler

¹ http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0429/DA-16-473A1.pdf