

GOVERNMENT

FCC votes in favor of unprecedented broadband privacy rules

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Image courtesy of Bloomingdale's for its online shopping

By STAFF REPORTS

In a 3 to 2 decision, the Federal Communications Commission has voted to adopt new privacy rules for broadband Internet service providers.

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The new regulations will give consumers more control over how their personal data is collected as they browse the Internet, based on an update to the definition of "sensitive information" as it applies to today's technology. Despite advertisers' concerns that the regulations will make browsing tedious and undermine the online economy, the FCC voted in favor of the regulation, albeit a less restrictive version than originally proposed earlier this year.

Data dilemma

With the Open Internet Order, broadband providers were classified by the FCC as telecommunications services. This subjects them to the same expectations about protecting customer information as a telephone network, outlined in the Communications Act.

Acting on the idea that consumers have a right to control how their personal information is used, the FCC has created rules that reflect today's technology. While the proposed rules do not limit an ISP's ability to collect or share data, the guidelines call for increased transparency and allow consumers to dictate their preferences on collection of data.

ISPs would be required to notify consumers about their collection and use of users' data at time of signup and when privacy policy changes.

For personal information deemed "sensitive," ISPs have to give consumers the option to opt-in or opt-out of having this data used. While this includes details such as health information, social security numbers and financial information, advertisers argue that the list of sensitive subject matter goes too far ([see story](#)).



The FCC says its goal is to give consumers control

With the vote over, the FCC's new regulation will subject broadband Internet service providers such as AT&T, Verizon and Comcast to stricter requirements than it does with Web sites such as Facebook, Twitter or Google.

Going forward, service providers will need consumers' consent prior to using their personal data for third-party advertising and internal marketing.

Critics of the regulations feel that the new policy favors Web sites and will allow sites to mine more data than Internet service providers. This in turn, will allow Web sites to dominate digital advertising.

The Association of National Advertisers has been vocal about its displeasure with the regulation ahead of the vote. Now that it has passed, the ANA calls the FCC's move "unprecedented, misguided, counterproductive and potentially extremely harmful."

While the ANA acknowledges that consumers' personal information should be protected, it feels the FCC's regulations are too far reaching, and do not properly identify the differences between sensitive and nonsensitive data.

In its statement after the vote, the ANA said the new definition will "encompass and swallow a vast amount of routine consumer data on the Internet and mobile media," as it would apply to all ISP and app use data.

The ANA feels that having such a hard-cutting definition, by essentially treating all data as sensitive, consumers will become desensitized on what should be seen as significant and regulated.

Also, the ANA expressed that the FCC's approach to privacy protection will have a ripple effect that will disrupt the data-driven online economy.



Image courtesy of Neiman Marcus

As an example, the ANA explained consumers will be bombarded with opt-in notices when searching online, no matter how banal the search may be. A search for a local pizza restaurant or favorite sports team may trigger an opt-in notice.

This would result in a disruptive, clunky experience that may drive consumers away from online commerce as it will become an overwhelming task to browse the Internet. It is the ANA's position that this level of consumer information does not need to be protected, but under the FCC's new guidelines it will be safeguarded.

Going forward as these regulations are set into effect, the ANA is committed to see the rules amended. The ANA is prepared to take action in court and on Capitol Hill to reverse the FCC's policy.

For advertisers worried about the implications, Dan Jaffe, executive vice president of government relations for the ANA, said:

"The FCC has not yet published its final rules, and the devil is always in the details, so companies need to examine them closely as ANA will do as well.

"We will then attempt to get input quickly so that the ad community can work together to try to find the least disruptive and effective ways to respond to these rules that make unprecedented and highly restrictive changes to Internet and mobile privacy rules," he said.