

FCC Revised Proposals for Internet Provider Data Privacy Rules Continue to Draw Fire

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The Federal Communications Commission recently issued a [Fact Sheet](#) outlining a proposed Order Chairman Wheeler circulated to the FCC Commissioners. The FCC Chairman also posted a [blog article](#) about the issue. Of particular concern to the industry and commentators had been the original [proposed privacy and data security rules](#) for broadband Internet access services, and how the requirements for those entities would be more stringent than for others regulated by the FTC. Despite the Commissioner's stated effort to address some of the [backlash](#) triggered by the initial version of the proposals, of which we [reported previously](#), this new proposal continues to draw criticism. Broadband Internet access service providers would need to get opt-in consent for the use of "sensitive" information, which includes children's information, financial information, web browsing history, and app usage history, among other things. While consent can be inferred in some circumstances (for example, providing broadband services and billing), this opt-in regime continues to be more stringent than FTC expectations.

The full FCC Commission is scheduled to vote on the proposed rules its October 27 meeting. Commentators continue to urge the FCC to better align its rules for broadband with the FTC. At the hearing, the FCC will hear additional comments before deciding whether or not to issue a Report and Order (R&O) to implement new or modified rules.

TIP: As the industry awaits the forthcoming FCC's vote, entities potentially impacted by the privacy and data security rules for broadband Internet access services will have to take a "wait and see" approach, and would be well served to ensure that they are familiar with the potential new rules.

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