

Statement of Julius Genachowski
Chairman
Federal Communications Commission
Before the Committee on Commerce, Science & Transportation
U.S. Senate
July 27, 2010

Mr. Chairman, Ranking Member Hutchison, Members of the Committee, thank you for this opportunity to discuss the important issue of consumer privacy.

The right to privacy is central to our nation's values and way of life, and the Federal Communications Commission has long worked to implement Congress's directive to protect the privacy of consumers who rely on our nation's communications infrastructure.

The Commission also recognizes that privacy has more than intrinsic value: it is critical for promoting investment, innovation, and adoption of cutting edge communications technologies and services that bolster our economy, promote our global competitiveness, and improve our daily lives. When consumers fear that their privacy is at risk, they are less likely to use new means of communication.

As the National Broadband Plan that the FCC sent to Congress in March recognizes, even as consumers learn the benefits of Internet connectivity, they are rightly concerned about their privacy online. Consumers are concerned about third parties having access to, and potentially misusing, sensitive information about their online activities, including website visits and searches, e-mail messages, geographic location, health records, energy usage, and purchasing history.

At the same time, the National Broadband Plan explains that both consumers and companies can benefit from innovative personalized services based on an appropriate use of consumer information. In the digital economy, digital identities can potentially be beneficial, if consumers are empowered and private information is safeguarded.

The Plan thus recognizes that promoting both broadband and privacy are key to harnessing the opportunities of the Internet.

The Commission's overarching goals when it comes to privacy are to ensure that consumers are empowered to control how their information is used; that providers are transparent about their practices; and that personal data is handled in a way that protects consumers, including from malicious third parties. In some respects the Internet presents unique privacy challenges, but these principles remain the starting point for protecting consumer privacy.

The Communications Act includes several key provisions on consumer privacy. Section 222, for example, requires telecommunications carriers to safeguard information

about who consumers communicate with, the length of time they spend using the network, and their location when they use wired or wireless services. Sections 338 and 631 provide corresponding protections for users of services provided over cable and satellite systems. The Commission has formed an internal working group to coordinate the work of its bureaus and offices as they develop policies and take enforcement action under these provisions.

The Commission has adopted strong rules to protect consumers of traditional services, and has extended protections to consumers of interconnected Voice over IP services. In just the last year, the Commission has taken action against nearly 300 companies that failed to file timely certifications of their compliance with these rules, including issuing thirteen notices of apparent liability to repeat offenders who failed to file timely certifications for two consecutive years. The FCC also issued an Enforcement Advisory reminding companies of their obligation to file an annual certification of compliance with the CPNI rules, and settled an investigation into one carrier's privacy rule violations. The settlement includes a fine and a compliance plan designed to prevent future violations.

In addition, implementing the important "Do Not Call" provisions of the Communications Act, the Commission has worked with the FTC to protect consumers from unsolicited calls, and has adopted rules to prohibit junk faxes. Since 2009, the Commission has enforced these provisions against over 400 companies. Among other actions, the FCC has issued 14 forfeiture orders. The Commission has also collaborated with the FTC to prevent pretexting, the practice whereby third parties attempt to gain unauthorized access to telephone subscribers' personal information.

As telephone and cable companies increasingly provide Internet access services, they continue to have access to significant and sensitive consumer information regarding customers' Internet communications. The networks operated by Internet service providers are a conduit for their customers' Internet communications, and providers' failure to properly protect consumers' account information can result in the unintended disclosure of personal data to third parties.

The National Broadband Plan reviewed the current regulatory landscape regarding online privacy, and found that the existing framework in some cases is confusing and would benefit from increased clarity.

The Broadband Plan recommended that the FCC work closely on these issues with the Federal Trade Commission, which has strong expertise on online privacy. I am pleased to report that, as recommended by the Broadband Plan, our agencies have formed a Joint Task Force to develop innovative, effective and coordinated approaches to protecting online privacy.

We are currently working together on education and transparency initiatives to help inform and empower consumers in connection with online privacy. We are also

working on strategies to help educate consumers with wireless home networks about the need to adopt encryption or other security protections to safeguard their information.

In addition, the FCC is a leading member of OnGuard Online, a coalition of public and private organizations spearheaded by the FTC that provides advice to consumers on protecting their personal information, guarding against Internet fraud, and protecting children's privacy online. Several months ago, I was pleased to join Chairman Leibowitz and Secretary of Education Arne Duncan to unveil *Net Cetera*, a guide for parents that covers a variety of issues that children face growing up in an increasingly digital world, including privacy.

And as part of its focus on consumers, the FCC is today launching a new online Consumer Help Center. This website will allow consumers to easily access the many resources that the FCC has developed to help consumers, including a consumer-friendly system for filing complaints; news about our major consumer initiatives; and tips and advisories.

The National Broadband Plan emphasized that the vulnerability of our communications networks to malicious attack—including malware and other attacks that can expose personal information—is a vital issue that is appropriately receiving broader and more focused attention. This October, the Commission will work closely with the FTC and other federal agencies to launch a consumer education campaign for National Cybersecurity Awareness Month.

The FCC recently began an inquiry into whether we should establish a certification program under which service providers could be certified for their compliance with specific cybersecurity standards and best practices.

As we move forward on online privacy, cybersecurity, and other vital issues, it is important that uncertainties in the regulatory framework be resolved. I look forward to working with the Committee on these issues.

And I look forward to your questions.