

PRIV-ISP Act of 2018

Promoting Responsible ISP Values & Improving Subscriber Privacy Act of 2018

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The Internet: A Series of Tubes?



amazon

okcupid



Overview of Internet Service Providers (ISPs)



at&t

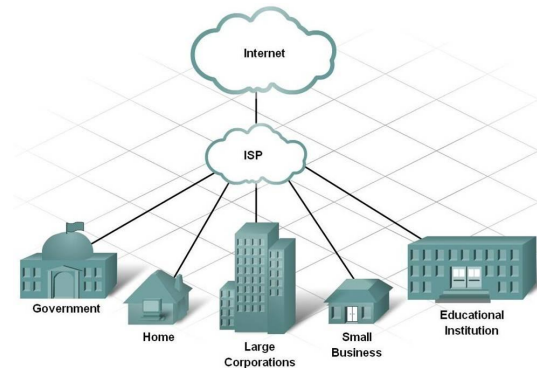


Why are ISPs unique?

- Physical infrastructure that ISPs own and operate is **expensive to build**
- Users have **limited choice** over which ISPs to choose from
- Unlike with content providers, **switching ISPs can be costly** for consumers
- Users have **alternatives to content providers** (e.g., DuckDuckGo, Bing)
- Content providers generally only see user information while a particular user visits its site; **ISPs have a broader pool of information**

What are ISPs' capabilities?

- To provide service, ISPs must access extensive **Customer Proprietary Information (CPI)**, which comprises content and non-content information.
- ISPs collect information across **multiple platforms**, use it to make inferences about users' behavior and preferences, and build profiles of users based on such inferences.



Current ISP practices harm consumer privacy

- Internet access is necessary for everyday life.
- ISPs **require** users to provide personal information to connect to the Internet.
 - Can't opt out: this is a technical necessity for service to function.
- Information on consumers **spans all browsing on all devices**. ISPs know:
 - Where you are
 - Which sites you visited
 - When you went there
- ISPs increasingly use their position as Internet gatekeepers to “**double dip**” and monetize consumer information.

Consumers are disempowered by ISP data collection practices

- Americans believe they have “the right to be left alone.”
- The overwhelming majority of **Americans highly value online privacy.**
 - 90% say that being in control of what information is collected about them is important
 - Over a third of households are less likely to engage in basic Internet services if they do not believe their information is private.
- Current ISP practices **strip consumers of control** of how information is collected and used.
- While collection is often a technical requirement, **use can and should be limited.**

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Major Provisions

- I. Opt-In Privacy Consent
 - II. Providing Access to New ISPs
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I. Opt-In Privacy Consent

In order to collect, use, disclose, sell, or permit access to Customer Proprietary Information (CPI) ISPs must:

- Obtain **Opt-In consent**
- Clearly explain **what data** will be used and how it will be used
- Make clear that the customer has the **right to withhold consent**
- Allow users to **withdraw consent** at anytime
- **Not change services** provided because of withheld consent

II. Providing Access to New ISPs

Access to internet is achieved by physical infrastructure routed to end users. Cost of laying down fiber often leads to monopolies/duopolies

- Mandate ISPs to “**unbundle** local loop”
- ISPs must **lease out physical infrastructure** to other ISP that do not have the same infrastructure, at fair market price
- Gives customers **power to switch providers** if they do not like how their CPI is being used

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Promoting Responsible ISP Values and Improving Subscriber Privacy

ISPs

- **Control access** to the physical Internet
- Collect private **user information** by default

Customers

- Have little or **no choice** in how their data is used
- **Cannot switch** ISPs easily

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- ISPs must obtain user **opt-in consent** to use certain information
- **Unbundle** the local loop, promoting more user choice in ISPs