

Promoting Responsible ISP Values & Improving Subscriber Privacy (PRIV-ISP) Act

Internet Service Providers (ISPs) control the physical connection points to the Internet and the service consumers can use. Because of this unique position, ISPs have the privilege of seeing, amassing, and using an incredible amount of consumers' private information.

ISPs have abused this position to monetize consumer information, as was the case with AT&T's Internet Preferences program, which analyzed customers' web browsing to deliver targeted ads. Since the repeal of the Federal Communication Commission's Broadband Privacy Rules, consumers nationwide have been without sufficient protections against the collection and use of their personal information by ISPs.

Consumers face three primary blocks when making decisions about their privacy online:

- (1) a lack of meaningful choice between ISPs;
- (2) a lack of transparency about how their information is collected and used, and;
- (3) an inability to control how their data is collected and used.

The PRIV-ISP Act would address each of these problems by requiring ISPs to:

- (1) provide their competitors or potential competitors access to the ISP's last-mile network infrastructure by unbundling their local-loop infrastructure at reasonable rates. Forcing ISPs to lease out their infrastructure will help foster competition, and when combined with requirements under the Act, lead to more consumer-friendly privacy policies.
- (2) provide notice to consumers about the ISP's privacy practices, including how the ISP intends to collect, use, sell, or share consumer information. Notice would be required before providing service or using data, and must be provided in an easily readable format.
- (3) obtain opt-in consent from consumers prior to collecting, using, selling, or sharing consumers' proprietary information at the point of sale of a service and when the ISP makes any material change to its privacy or data-use policies. ISPs would be banned from providing different service options based on consumer consent choices.

The bill empowers the state Attorney General to enforce the provisions and monitor ongoing conduct if there is a violation and creates a private right of action for consumers whose data is used or collected without appropriate consent or notice, regardless of any additional provable harm to the consumer.