

Privacy Comments of the International Center for Law & Economics, Restoring Internet Freedom NPRM, FCC

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## Summary

As the Commission’s NPRM notes, the 2015 Open Internet Order “has weakened Americans’ online privacy by stripping the Federal Trade Commission — the nation’s premier consumer protection agency — of its jurisdiction over ISPs’ privacy and data security practices.”<sup>1</sup> The Restoring Internet Freedom NPRM further notes that:

To address the gap created by the Commission’s reclassification of broadband Internet access service as a common carriage service, the Title II Order called for a new rulemaking to apply section 222’s customer proprietary network information provisions to Internet service providers. In October 2016, the Commission adopted rules governing Internet service providers’ privacy practices and applied the rules it adopted to other providers of telecommunications services. In March 2017, Congress voted under the Congressional Review Act (CRA) to disapprove the Commission’s 2016 Privacy Order, which prevents us from adopting rules in substantially the same form.

The Restoring Internet Freedom NPRM proposes to return to the status quo in place before the Commission adopted its 2015 Open Internet Order with respect to privacy rules: not to adopt any new FCC rules, and leave regulation of privacy to the FTC.<sup>3</sup> We offer these comments in response to the Commission’s request regarding that proposal.

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