

FCC Adopts New Broadband Privacy Rules

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On November 2, the FCC released its Report and Order adopting [new privacy rules for telecommunications carriers](#) after a 3-2 vote. After the reclassification of broadband internet access service as a telecommunications service in the FCC's 2015 Open Internet Order, the FCC is utilizing its regulatory authority to ensure that all telecommunications carriers, including broadband ISPs, are protecting their customers' private information. However, the rules were released just before the election this year, and the FCC transition team leaders appointed by the President-elect have been vocal opponents of net neutrality and the FCC's extended regulatory authority. While this leaves some uncertainty as to the future of the new privacy rules, telecommunications carriers should still be prepared to comply.

Among other extensive obligations, the new rules require broadband internet service providers to notify customers about the information they collect and share, and the entities they share the information with. A consumer must now "opt in" before the ISP may gather and share certain kinds of sensitive information, such as web browsing, app usage, and financial and health information. A consumer must also have the option to "opt out" of allowing non-sensitive information to be obtained and shared. There are also specific notification requirements in the event of an unauthorized disclosure of a customer's personal information. In a statement, FCC Commissioner Tom Wheeler stated that the rules were crafted "to provide consumers increased choice, transparency and security online." For broadband service providers and other telecommunications

carriers, the new rules almost certainly mean big changes in the way they do business.

Wheeler also promised the changes would not end there. In his statement, he noted that the “time has also come to address the harmful impacts of mandatory arbitration requirements” and said the FCC had already commenced an internal process designed to produce a notice of proposed rulemaking by February 2017. According to the 2016 [Carlton Fields Class Action Survey](#), nearly 67% of companies currently use arbitration clauses to offset the risks and costs of high-stakes class actions and almost 69% of companies are handling one or more class action lawsuits on an ongoing basis. With the FCC’s proposed rulemaking, this could mean an overall increase in high-exposure class actions, particularly for broadband Internet service providers and other telecommunications carriers. In fact, corporate counsel predicted that the next wave of class action suits will most likely involve data privacy and security issues. Carlton Fields regularly defends corporate clients, including financial services and telecommunications firms, against [class action lawsuits](#) spanning a wide range of subject matters and across several industries including telecommunications, banking, insurance, construction and mass torts. The firm is ranked nationally in Tier 1 for mass tort litigation/class actions. In addition, the firm’s attorneys regularly handle related cutting-edge appellate issues and advise clients on regulatory matters involving these industries. Explore our [interactive class action experience map](#), and stay up-to-date on class action developments and trends by subscribing to [Classified: The Class Action Blog](#).

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