

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of

Protecting the Privacy of Customers of
Broadband and Other
Telecommunications Services

WC Docket No. 16-106

OPPOSITION TO REQUEST FOR EXTENSION OF TIME

Pursuant to Section 1.46(b) of the Commission's Rules,¹ the undersigned organizations oppose the Request for Extension of Time filed in the above-captioned proceeding by the Association of National Advertisers ("ANA") on April 11, 2016.

The ANA argues that its requested 60-day extension is warranted because the NPRM "contains numerous proposed requirements with potentially complex impacts," and the questions contained in the NPRM "require sufficient and thoughtful analysis."² The FCC should not grant this extraordinary extension.

Extensions of time are not routinely granted.³ The FCC has a longstanding interest in enacting rules that protect the public interest without undue delay and "the practice of requesting and granting requests for extension of time...[could grow] to the point of abuse and...contribute[] materially to the delay of proceedings."⁴

¹ 47 C.F.R. § 1.46(b).

² ANA Request, at 1.

³ "It is the policy of the Commission that extensions of time shall not be routinely granted." 47 C.F.R. § 1.46(a).

⁴ Adjudicatory Re-regulation Proposals, 41 Fed. Reg. 14865, at 14869 (Apr. 8, 1976); see Order, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 29 FCC Rcd 10408

The undersigned organizations oppose the ANA's request to extend the comment deadline by 60 days. First, this issue is extremely important and timely. In order to protect consumers without undue delay, the FCC should decide it as quickly as possible.⁵ More than a year has passed since the FCC said it would engage in a separate rulemaking regarding Section 222's application to broadband providers.⁶ ANA now seeks to further delay FCC action on this important and timely issue by another 60 days.

Second, the questions in the NPRM are not unanticipated. The Open Internet Order gave a clear indication that the FCC would engage in this rulemaking and therefore interested parties should begin thinking about the issue.⁷ In addition, the public has long had notice of many of the questions the FCC would attempt to address in this proceeding because of the extensive interactions between the FCC, regulated entities, and the public.⁸ Even ANA itself has been aware of these issues. It wrote a detailed blog post in response to

(Aug. 29, 2014) (denying a 30-day request for extension of time when USTelecom argued "an extension of time will enable it and other commenters to gather and submit appropriate and useful information, and to submit thoughtful analyses regarding issues that USTelecom describes as new and novel.").

⁵ Notably, the initial comment period for the Open Internet NPRM, a similarly complex proceeding, was also set at 60 days. Notice of Proposed Rulemaking, *Protecting and Promoting the Open Internet*, 29 FCC Rcd 5561 (May 15, 2014) (setting initial comment due date of July 15, 2014).

⁶ Order, *Protecting and Promoting the Open Internet*, 30 FCC Rcd 5601, at ¶462 (Mar. 12, 2015).

⁷ *Id.*

⁸ E.g., Letter to Chairman Wheeler from Access *et al.*, Jan. 20, 2016, https://www.publicknowledge.org/assets/uploads/documents/Broadband_Privacy_Letter_to_FCC_1.20.16_FINAL.pdf; *Public Workshop on Broadband Privacy*, FCC (Apr. 28, 2015), <https://www.fcc.gov/news-events/events/2015/04/public-workshop-on-broadband-consumer-privacy>; see *Enforcement Bureau Guidance: Broadband Providers Should Take Reasonable, Good Faith Steps to Protect Consumer Privacy*, FCC (May 20, 2015), https://apps.fcc.gov/edocs_public/attachmatch/DA-15-603A1_Rcd.pdf.

the January 20, 2016, letter sent by fifty-nine organizations. In the post, the ANA expressed its preference for the FTC regime over any new FCC regulation.⁹ ANA also held a conference on April 6, 2016, where Daniel L. Jaffe, author of the Request for Extension of Time, spoke in detail about the FCC's broadband privacy initiative.¹⁰ Thus, these are not new issues to ANA or the public.

For these reasons, a 60-day extension is unwarranted. The FCC should reject ANA's request.

By:

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Respectfully submitted,

Access Now
Center for Digital Democracy
Center for Democracy and
Technology
Consumer Action
Consumer Federation of America
Consumer Watchdog
Electronic Privacy Information
Center
Free Press
New America's Open Technology
Institute
Public Knowledge

⁹ *The FCC and Internet Privacy*, ANA Regulatory Rumbblings Blog (Feb. 23, 2016), <http://www.ana.net/blogs/show/id/38756>.

¹⁰ Daniel L. Jaffe, *What's in Store for Advertisers in Washington and Beyond*, ANA (Apr. 6, 2016), <http://www.ana.net/mkcdelivery/show/id/p-law-apr16-ana-j>, at 13-15.