



March 15, 2019

House Committee on the Judiciary
1301 East Sixth Avenue
Room 137
Helena, MT 59620

Re: HB 457, The Internet Access Service Customer Privacy Act—SUPPORT

Dear Chairman Alan Doane and Members of the Committee:

Consumer Reports¹ writes to strongly support HB 457, The Internet Access Service Customer Privacy Act. HB 457 would provide consumers increased choice, security, and transparency over the data their internet service providers (ISPs) collect from and about them. In light of the decision by Congress to repeal the Federal Communications Commission’s (FCC’s) Broadband Privacy Rule under the Congressional Review Act, it is critical for state governments to ensure their citizens’ rights are protected. We applaud the Committee for considering this vital legislation, and we urge the members of the Committee to vote in favor of this bill.

Montanans need strong privacy protections over how ISPs treat their data. ISPs have a unique insight into customer activity because they provide internet service, for which they charge a substantial subscription fee, that requires them to collect a vast amount of data from and about their customers. While it is possible for consumers to take actions to protect themselves against websites who collect their data—by blocking browser connections to those sites—they have no choice but to use an ISP to access the internet and thus share data with the ISP. And *all* of a consumer’s traffic flows over that internet connection. Even if traffic is encrypted, ISPs still know the sites and services their customers use, which can convey very sensitive information such as religious beliefs, race or nationality, sexual preference, physical location, presence at home, personal banking details, and physical ailments.²

¹ Consumer Reports is the world’s largest independent product-testing organization. It conducts its advocacy work in the areas of privacy, telecommunications, financial services, food and product safety, health care, among other areas. Using its dozens of labs, auto test center, and survey research department, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 6 million members and publishes its magazine, website, and other publications.

² See *What ISPs Can See*, UPTURN (Mar. 2016), <https://www.teamupturn.com/reports/2016/what-isps-can-see>.

With such comprehensive data, ISPs can create intricately detailed profiles of their customers to sell to the highest bidder for a variety of purposes, including targeted digital advertisements for products like payday loans or expensive and unnecessary medications. Montana residents should have options over whether their ISP monetizes the data it collects to provide them internet service. The Internet Access Service Customer Privacy Act ensures they have those choices.

The protections spelled out in The Internet Access Service Customer Privacy Act are necessary and reasonable. Further, the public wants these protections. A May 2017 Consumer Reports survey found that 92 percent of Americans think companies should have to get permission before sharing or selling users' online data.³ And, most Americans do not believe that having to give up their personal information to get basic communications service over broadband is a fair deal.⁴ Consumers' privacy concerns have translated into a desire for stronger laws to help them protect their privacy while online: two-thirds of Americans say that current laws are not good enough in protecting their privacy.⁵

In the wake of Congress' decision to repeal the Broadband Privacy Rule, there are not clear rules governing what ISPs can do with customer data. But Montanans already pay a premium every month for internet service at home and on their devices. They should be entitled to a reasonable expectation of privacy in the use of these services. Just as we do not expect a cell carrier to listen to our phone calls, we should not expect them to watch and sell our web browsing and app usage. Thus, it is even more important for the state of Montana to stand up and protect its citizens' privacy rights.

For these reasons, we urge you to vote in favor of The Internet Access Service Customer Privacy Act.

Signed,

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³ *Consumers Less Confident About Healthcare, Data Privacy, and Car Safety, New Survey Finds*, CONSUMER REPORTS (May 11, 2017), <https://www.consumerreports.org/consumer-reports/consumers-less-confident-about-healthcare-data-privacy-and-car-safety/>.

⁴ Joseph Turow, *et al.*, *The Tradeoff Fallacy*, UNIV. OF PA. (June 2015), *available at* https://www.asc.upenn.edu/sites/default/files/TradeoffFallacy_1.pdf.

⁵ Lee Rainie, *Americans' Complicated Feelings About Social Media in an Era of Privacy Concerns*, PEW RESEARCH CTR. (Mar. 27, 2018), <http://www.pewresearch.org/fact-tank/2018/03/27/americans-complicated-feelings-about-social-media-in-an-era-of-privacy-concerns/>.