

## SAFEGUARDING AND SECURING THE OPEN INTERNET FCC-FTC MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into by the Federal Communications Commission (“FCC”) and the Federal Trade Commission (“FTC”) (collectively, the “Agencies”) for the purpose of facilitating their joint and common goals, obligations, and responsibilities to protect consumers and the public interest. The Agencies recognize and acknowledge that each agency has legal, technical, and investigative expertise and experience that is valuable for rendering advice and guidance to the other relating to the acts or practices of Internet service providers.

The Agencies further recognize, and this MOU reflects, that:

- (1) Pursuant to the FCC’s authority under the Communications Act of 1934, as amended, on April 25, 2024, the FCC adopted a Declaratory Ruling, Report and Order, and Order on Reconsideration in the proceeding *Safeguarding and Securing the Open Internet*, WC Docket No. 23-320, Declaratory Ruling, Report and Order, Order on Reconsideration, FCC 24-52 (April 25, 2024) (“*Open Internet Order*”), which, in principal part, reestablishes the Commission’s authority over broadband internet access by classifying it as a telecommunications service under Title II of the Communications Act and reclassifies mobile broadband internet access service as a commercial mobile service.
- (2) The *Open Internet Order* ensures the FCC can fulfill statutory obligations and policy objectives to ensure Internet openness, defend national security, address cybersecurity, safeguard public safety, monitor network resiliency and reliability, protect consumer privacy and data security, support consumer access to BIAS, and improve disability access; and
- (3) Congress has directed the FTC to, among other things, prevent unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce under Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and has charged the FTC with enforcing a number of other specific rules and statutes;

Therefore, it is agreed that:

1. The 2017 Restoring Internet Freedom FCC-FTC Memorandum of Understanding is hereby terminated.
2. The 2003 Memorandum of Understanding regarding Telemarketing Enforcement and the 2015 FCC-FTC Consumer Protection Memorandum of Understanding<sup>1</sup> remain in effect, and nothing in this Memorandum should be construed as altering, amending,

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<sup>1</sup> As stated in the 2015 FCC-FTC Consumer Protection Memorandum of Understanding, the Agencies continue to “express their belief that the scope of the common carrier exemption in the FTC Act does not preclude the FTC from addressing non-common carrier activities engaged in by common carriers.”

or invalidating the 2003 and 2015 Memoranda.<sup>2</sup>

3. The Agencies may from time to time amend this MOU in writing, and such amendment shall become effective when executed by both parties. This MOU may be terminated by either party upon thirty (30) days' advance written notice.

4. This MOU shall take effect upon the effective date of the *Open Internet Order*. Nothing in this MOU shall be construed to impair or otherwise affect the authority granted by law to either party. This MOU shall be implemented consistent with applicable law and subject to the availability of appropriations. This MOU is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against either the FCC or the FTC; their officers, employees, or agents; or any other person.

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<sup>2</sup> The Agencies express their belief that the *Open Internet Order* does not affect either Agency's jurisdiction over Voice over Internet Protocol ("VOIP") service providers, or the Agencies' ongoing coordination regarding telemarketing enforcement.

For the Federal Trade Commission, Bureau of Consumer Protection

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