



4/24/19

**Re: LD- LD 946, “An Act To Protect the Privacy of Online Customer Information”**

Fletcher Kittredge offers the following testimony in favor of LD- LD 946, “**An Act to Protect the Privacy of Online Customer Information**”.

Senator Lawrence, Representative Berry and members of the Committee, thank you for giving me the opportunity to testify. My name is Fletcher Kittredge and I am CEO of Biddeford Internet Corporation d/b/a GWI. GWI was founded in 1994 and is an ISP serving all 16 counties of Maine by building and operating fiber-optic networks. In addition, GWI has helped a number of Maine municipalities build municipal fiber networks and we have a business line of operating those municipal networks. I am also a board member of the Vermont based non-profit ValleyNet, which builds and operates fiber-optic networks for municipalities in the Upper Valley region of Vermont and New Hampshire. ValleyNet’s most prominent project is building and operating ECFiber’s network. ECFiber is a municipally owned telecommunications utility offering universal fiber-optic internet service to 24 very rural towns in east central Vermont.

On Monday, the Portland Press Herald had an editorial recommending the passage of LD 946; it is attached as Appendix A. It does a good job of laying out the arguments from an ordinary citizen’s perspective and I will not repeat them. I do want to give my personal perspective as someone who has been working to build the Internet for close to four decades, first while working at a research lab in Cambridge, MA and then as the founder and CEO of an ISP which has served Maine for the last quarter of a century.

I worked on the team that did much of the early work on developing the Internet technologies. I have stayed in touch with my fellow team members and mentors, who are now in their seventies, eighties, and nineties. One theme of discussion is that the internet technologies escaped from the research lab and grew far faster than anyone had imagined in the early years. This comes with regret that we did not build in security and privacy before it left the lab. The Internet grew up too quickly. There is also an understanding amongst these experts that there are technical solutions to the vast majority of the Internet’s ills. An ordinary citizen might get the sense that these problems are intractable, but they are not. The reason people have that impression is that the enormously wealthy technology companies would have a decrease in their enormous profits. They would still make good money, just not the unprecedented amounts. The benefit to society from fixing these problems would far outweigh the reduction in profit.

However, there is widespread acknowledgement that while there are technical solutions to these problems, they will never solve the problem alone because ultimately technology is steered by humans. The only sure way to fix the problems are laws that enforce good behavior combined with wicked good technical solutions. This bill is a potential part of the solution.

GWI is a Maine Internet Service Provider (ISP). We are among the targets of LD 946. The regulatory burden will fall directly on us and no party will have a greater burden than us. Despite that, we strongly support LD 946 for four good reasons:

1. The requirements are not onerous. The vast majority of the requirements are steps we would take as the normal course of business. Those that are unique are minor.
2. The burden is particularly small because the requirements are a reasonable extension or overlap of existing requirements. Like the vast majority of ISPs, GWI is also a phone company so we have existing CNPI requirements regarding privacy of data for phone customers. The privacy requirements are actually lighter than HIPAA requirements that many ISPs seek to meet in order to serve the healthcare market. They are also lighter than the EU privacy requirements that large multinational ISPs seek to meet so that they can serve an international audience. Many other states have adopted or are in the process of adopting similar laws so ISPs that do business in many states already have to comply in other jurisdictions. All this law does is extend the protections available to consumers in other jurisdictions to Maine.
3. This law creates a level playing field in the industry. **Like most local, Maine-based ISPs, GWI doesn't want to sell its customers private information.** The opposition to this bill comes from large national ISPs. If these national ISPs are allowed to get a large income stream from bad behavior, the local competitors doing the right thing are at a significant competitive disadvantage.
4. The exemptions are significant and reasonable. For example, an ISP can still sell a customer's data as long as the customer gives permission.

Given the above factors, **the only regulatory burden placed on ISPs by this bill is the restriction against selling a Maine customer's data without permission.** This restriction is no burden to companies with even a small desire to serve the public good.

### **The Internet is a public necessity and ISPs are [public utilities](#)**

We have long had laws that require public utilities to provide clean water, safe and reasonably priced power, safe roads, and good ferry service. The principle that companies providing a public utility have to meet minimum standards is well established practice and law. It is certainly true that a telephone utility can not sell your private data and the power company probably can't either.

### **ISP are a public utility that is usually de facto an unregulated monopoly**

If there was choice, businesses and consumers could choose to use a provider that doesn't discriminate. We would not need this law if Maine had choices for good Internet access

so a consumer could chose a provider that protected their data, but there aren't choices in most locations. In most of Maine, the only choice for Internet with speeds fast enough for modern applications is the cable company. In other places, often there is no choice at all.

**This law would be good for Maine citizens and the local ISP industry**

For Maine's ISPs, the value of the law would far outweigh the regulatory cost. All Maine citizens would benefit from having their privacy protected. It would be in the best interest of Maine for you to vote LD-1364 "ought to pass".

Thank you for your time.

Sincerely,

Fletcher Kittredge  
CEO, GWI

## Appendix A

### Our View: Internet customers should own their privacy

[pressherald.com/2019/04/22/our-view-internet-customers-should-own-their-privacy/](http://pressherald.com/2019/04/22/our-view-internet-customers-should-own-their-privacy/)  
By The Editorial Board April 22, 2019

A person's internet activity – the websites they visit, the apps they use, the places they carry their phone – should be their own property.

They can give it away for the convenience of mapping a travel route, or they can hand it over to otherwise free apps like Facebook for the right to use a service. But that should be the individual's decision, made when fully informed of the scope of the information in question and the potential ramifications of sharing it.

Instead, in practice, your privacy is in the hands of private companies, many of which have shown that they care more about exploiting it for monetary gain than protecting it. Often, customers don't have much of a choice about it.

That should change, and it should change nationwide. But with that off the table for now, Maine should act on its own.

On Wednesday, the Legislature's Energy, Utilities and Technology Committee will hold a public hearing on L.D. 946. From Sen. Shenna Bellow, D-Manchester, the bill would prohibit broadband internet service providers from using or selling a customer's personal information unless the customer gives consent. It also requires internet service providers to protect customer data.

The bill was made necessary after Congress and President Trump in 2017 blocked the implementation of an Obama-era rule that included the same provisions. The Federal Communications Commission now is prohibited from bringing forward any similar rules anytime soon, and legislation proposed in Congress has little chance of passing.

The Trump administration says the rules were unfair to internet service providers such as AT&T, Verizon and Spectrum because it banned them from using customer data in the same way that Google and Facebook – their competitors for internet advertising dollars – have done to great profit.

However, Google, a search engine, Facebook, a social media site, and others like them are different from internet service providers. As intertwined as those giant companies are with the internet as a whole, they are still avoidable by users who don't want to give up their data. They are also free, so customers are in effect paying for the use of those sites with their privacy.

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Those companies still need oversight and a strong regulatory environment. But

there's a difference between a website, which you can use or not use, and an internet service provider, which controls the entirety of a customer's online experience, and which may be the only good option for accessing the internet in a particular community.

Even with the defeat of the Obama-era rule, the big internet service providers say they will not sell customer data. But they do use it for other purposes, including targeting ads, and the last few years are full of instances in which tech companies have pushed the limits of law and propriety in using and handling private data. We should not rely on the companies to police themselves.

Your internet activity is valuable – that's why so many companies want to get their hands on it. It should be yours, first and foremost, to use how you please.

That's what L.D. 946 would do, and Maine would be better off for it. < Previous

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