



July 16, 2017

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554  
*Via Electronic Submission*

***RE: Restoring Internet Freedom, WC Docket No. 17-108***

Dear Secretary Dortch:

On behalf of the Small Business & Entrepreneurship Council (SBE Council), I am writing to express our full support of Federal Communication Commission (FCC) efforts to Restore Internet Freedom by returning to the bipartisan, light-touch regulatory framework that previously and appropriately governed this critical space. Non-intrusive and smart regulation will restore certainty, investment and innovation, which is critical to bringing broadband to communities left behind and ensuring that our entrepreneurs and small businesses have first-class networks for effectively competing in the global marketplace.

SBE Council is a nonpartisan, nonprofit advocacy, research and education organization dedicated to protecting small business and promoting entrepreneurship. With nearly 100,000 members nationwide, SBE Council is engaged at the local, state, federal and international levels where we collaborate with elected officials, policy experts and business leaders on initiatives and proposals to enhance competitiveness and improve the environment for business start-up and growth. For nearly 25 years, SBE Council has successfully worked to implement initiatives and policies that strengthen the ecosystem for startups and small businesses.

Broadband has been a critical development for our members, as well as for U.S. entrepreneurship. The array of tools made possible through the Internet and broadband has helped countless firms grow, innovate and become more competitive in today's challenging climate. SBE Council has long been a proponent of policies that support broadband investment, as well as initiatives that encourage adoption. Accelerating the reach and benefits of broadband are critical to sustaining U.S. entrepreneurship and job creation.

As we have noted [in our research on the state of entrepreneurship in the United States](#), the cumulative dearth in startup activity and new business creation over the past decade means that our economy is missing some 3.4 million businesses. While the state of the economy, access to capital, and sound policies at all levels of government play a role in enabling American entrepreneurship, business owners and entrepreneurs must also have access to the tools and resources that allow them to compete in the economy and use their own resources efficiently. The Internet and broadband access is critical to delivering the tools, resources, and information necessary to start and grow a business.

When Title II regulation was first being considered under the previous leadership of Chairman Tom Wheeler, SBE Council and our members [expressed our deep concerns and opposition](#) to this archaic regulatory approach – that is, treating the broadband internet as a public utility by applying 1930s-era rules - and our belief that this overbearing and unnecessary approach would erode investment and innovation. We communicated that this intrusive rulemaking would harm entrepreneurs, small businesses and the growth of the economy. Unfortunately, our concerns, echoed by many others, were ignored.

Supporters of Title II regulation could not point to any market failure to warrant such intrusive regulation of the Internet. That being the case, our members were mystified as to how a partisan majority of FCC commissioners voted to impose such a restrictive and harsh regulatory straightjacket on the Internet. The warnings and unintended consequences issued both before and after the FCC voted in 2015 to regulate the Internet – both wired and wireless broadband networks – as utilities were clear. That is, such a decision would create uncertainty, limit innovation and restrain investment, with significant wider economic consequences.

### **The Warnings and Impact**

As I **noted** in an *ex parte* filing in October 2014 when several SBE Council members met individually with various commissioners or their staffs, it was paramount that commission actions and policies promote affordable access to broadband and encourage investment to bring more choices and reliable service to small businesses throughout the country. It is stunning indeed that access to broadband (and reliable service) is still lacking in some areas of our nation where business owners and entrepreneurs want to serve customers, expand their operations, or where people simply want to start a business.

For the small business and entrepreneurial sector of our economy, broadband access to the digital marketplace is vitally important. Beyond the tools and resources that help startups and established firms grow and compete, broadband enables small businesses to raise capital, and reach and connect with consumers from every corner of the country, if not the globe.

Private investment and calculated risks took the Internet from the halls of the Department of Defense to households and offices across the globe; innovators and investors transformed dial-up into the instantaneous networks most Americans use today. Keeping robust development alive will only occur in an environment where broadband providers can freely compete, innovate, invest and provide new services.

The light-touch regulatory environment of the past incentivized broadband providers to invest in infrastructure and services. Approximately \$1.2 trillion has been invested in the U.S. since the mid-1990's. Such effects echo up and down the business chain; they mean faster and more innovative services for business owners at less of a cost.

Unfortunately, the warning and concerns of many, including SBE Council, regarding the dampening effect on investment as a result of Title II rules has come to reality. Hal J. Singer, a principal at Economists, Inc. has tracked ISP investment since the FCC voted to impose Title II regulation on the Internet. In his latest analysis (March 2017), Singer reported that there was a decline of 5.6 percent relative to 2014 levels. [As he notes in a blog post about his findings:](#)

"Of the twelve firms in the survey, eight experienced a decline in domestic broadband capex relative to 2014 - the last year in which ISPs were not subject to common carrier regulations. **Across all twelve firms, domestic broadband capex declined by \$3.6 billion, a 5.6 percent decline relative to 2014 levels.**"

The decline in investment hurts small businesses in many ways. Thousands of small businesses are suppliers to ISPs. When investment goes down, these small firms are negatively impacted. In addition, lost investment hurts small businesses as content providers in many industries, and enterprises across industries that reach new customers and markets via the Internet, and of course, as consumers of goods and services online. Of course, many small businesses are still waiting for broadband, or quality choices in broadband, and robust investment is needed to bring them that access and/or choice.

### ***Small ISPs Disproportionately Impacted – "All pain, no gain"***

The previous FCC ignored the concerns and impact expressed by small ISPs regarding Title II rules. As noted by Matthew Polka, president & CEO of the American Cable Association, in a media release about FCC Chairman Ajit Pai's announcement in April 2017 regarding the reconsideration of the 2015 Open Internet rulemaking:

"For smaller ISPs, most of whom operate in more rural areas, the costs of these rules are real and substantial. Their customers also are being harmed as smaller ISPs have put off network investments and are deferring, and even halting, the development of

new features and services. The 2015 rules have turned out to be all pain and no gain.”

Regulations have a disproportionate impact on small firms. Among firms within the telecommunications sector, for example, 83 percent have fewer than 20 workers.

It is essential that small ISPs – the critical lifeline to small communities as many are the ONLY provider of Internet service – not only survive but thrive. Their capital and resources are limited, and with more being directed to regulatory compliance and lawyers, less is available to re-invest back into their networks to improve and expand service for customers. With many of these ISPs operating in rural areas of the U.S., policies need to enable their growth and give them every opportunity to succeed. These small firms also compete with larger ISPs, and their potential innovations and new ways of providing services to customers is good for the entire ecosystem. Lastly, many small businesses and entrepreneurs in the communities where these small ISPs serve are dependent upon these services. Undermining investment and the survival of small ISPs undermines entrepreneurship and economic development in these communities, and the ability of existing small businesses to compete and grow.

### **Light-Touch Promotes Certainty, Investment and Flexibility**

Entrepreneurs drive innovation in the U.S. economy and within the telecommunications industry. Excessive government regulation disproportionately hurts small businesses, both as consumers and players in the industry.

FCC rules need to take into account our modern economy and the pace of technological change. They need to be tailored to ensure they do not harm investment and small businesses. Where there is no proven harm in the marketplace, the FCC should not be issuing regulations that potentially undermine innovation, entrepreneurship and growth in our economy. Policies and actions should consistently strive to “do not harm” to entrepreneurs and investment, allowing both to flourish. That is what a return to a light-regulatory touch will accomplish.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Kerrigan". The signature is fluid and cursive, with the first name "Karen" and last name "Kerrigan" clearly distinguishable.

Karen Kerrigan  
President & CEO

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**Protecting Small Business, Promoting Entrepreneurship**