

In the Matter of)
)
Restoring Internet Freedom) WC Docket No. 17-108
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CTIA, NCTA – the Internet & Television Association, and USTelecom respectfully submit this Opposition (“Opposition”) to the Motion for Extension of Time filed by Public Knowledge *et al.*¹ (“Movants.”) For the reasons set forth below, the Commission should deny the Motion, or, at most, extend the deadline for filing reply comments in this docket by 10 days or less.

“It is the policy of the Commission that extensions of time shall not be routinely granted.”² Movants have not provided a sufficient justification for an extension.

¹ Motion for Extension of Time to File Reply Comments of Public Knowledge *et al.*, WC Docket No. 17-108 (filed Aug. 1, 2017) (“Motion”).

² 47 C.F.R. § 1.46(a).

³ See, e.g., *Inquiry Concerning High-Speed Access to the Internet over Cable and Other Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798 (2002) (“*Cable Modem Order*”); *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) (“*Wireline Broadband Order*”); *United Power Line Council’s Petition for Declaratory*

Notices issued by the Commission in 2010 and 2014,⁴ as well as the instant NPRM. The core issue under examination here was, moreover, litigated at the Supreme Court over a decade ago,⁵ and more recently was litigated in the U.S. Court of Appeals for the D.C. Circuit.⁶ The technical issues presented in this proceeding are not new – the Commission has evaluated them across multiple Administrations.⁷ The Commission majority that adopted the *Title II Order* acknowledged that its decision was not motivated by any new circumstances in 2015,⁸ and the facts and issues presented remain the same today as they have been for the entirety of this debate.

Moreover, all parties have had adequate time to consider their arguments in the current rulemaking. The Commission released the virtually verbatim text of the *Restoring Internet*

Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service, Memorandum Opinion and Order, 21 FCC Rcd 13281 (2006); *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901 (2007) (“*Wireless Broadband Order*”).

⁴ *Preserving the Open Internet; Broadband Industry Practices*, Notice of Proposed Rulemaking, 24 FCC Rcd 13064 (2009); *Framework for Broadband Internet Service*, Notice of Inquiry, 25 FCC Rcd 7866 (2010); *Protecting and Promoting the Open Internet*, Notice of Proposed Rulemaking, 29 FCC Rcd 5561 (2014).

⁵ *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Services*, 545 U.S. 967 (2005) (“*Brand X*”).

⁶ *See USTelecom v. FCC*, 825 F.3d 674, 704 (D.C. Cir. 2016), *reh’g en banc denied*, 855 F.3d 381 (D.C. Cir. 2017).

⁷ *See, e.g., Wireline Broadband Order*, 20 FCC Rcd at 14860 ¶ 9; *BPL-Enabled Internet Access Services Order*, 21 FCC Rcd 13281, 13286-87 ¶ 9 (2006); *Wireless Broadband Order*, 22 FCC Rcd at 5909-11 ¶¶ 18-26.

⁸ *Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 at ¶ 360 n.993 (2015) (“*Title II Order*”) (“We clarify that, even assuming, *arguendo*, that the facts regarding how BIAS is offered had not changed, in now applying the Act’s definitions to these facts, we find that the provision of BIAS is best understood as a telecommunications service, as discussed below ... and disavow our prior interpretations to the extent they held otherwise.”).

Freedom NPRM a full three weeks before voting upon it, some three-and-a-half months ago.⁹ Commenters had more than two months from that date to file initial comments, and have been afforded more than sufficient time to reply to opening filings. The vast majority of comments filed merely state (often in one or two sentences) the commenter’s ultimate policy preferences. As widely reported, many of these comments are apparently fabricated, not associated with the actual individuals whose names appear on them (where any such name appears at all). One study revealed that over seven million of the comments filed between July 3 and August 4, 2017 appear to be entirely fraudulent.¹⁰ In the words of Movants Public Knowledge and CCIA, where – as here – the agency has “repeatedly solicit[ed] extensive comments and *ex partes* for more than a decade”¹¹ across related dockets, extension is not warranted.

CONCLUSION

Accordingly, the Commission should deny the Motion. Alternatively, it should limit any extension to no longer than 10 days.

⁹ See *Restoring Internet Freedom*, Draft Notice of Proposed Rulemaking, FCC-CIRC1705-05, WCK Docket No. 17-108 (rel. Apr. 27, 2017), available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-344614A1.pdf

¹⁰ Peter Flaherty, *Another 5.8 Million Fake Net Neutrality Comments Found*, Nat’l Legal and Policy Ctr. (Aug. 8, 2017), <http://nlpc.org/2017/08/08/another-5-8-million-fake-net-neutrality-comments-found-1-5-million-fakes-put-online-public-scrutiny/> (detailing 5.8 million fake comments filed between July 17, 2017 and August 4, 2017); Peter Flaherty, *Analysis: 1.3 Million More Pro-Net Neutrality FCC Public Comments Came From Russia, Other Foreign Countries*, Nat’l Legal and Policy Ctr. (July 17, 2017) (detailing 1.3 million fake comments filed between July 3, 2017 and July 12, 2017 alone, from “addresses in France, Russia and Germany”).

¹¹ Opposition to the Request for Extension of Time of Public Knowledge *et al.*, WC Docket Nos. 16-143, 05-25, at 2 (filed May 19, 2016).

Respectfully submitted,

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