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To Whom it May Concern:

This written comment addresses Proceeding [17-108](#): Restoring Internet Freedom, which proposes the reclassification of Internet Service Providers (ISPs) from Title II (Common Carrier) to Title I (Information Services). This comment will argue that this reclassification will adversely effect both the commenter and innovation and investment in internet infrastructure.

### **ISP Infrastructure Investment:**

The nominal purpose of the proposed reclassification is to spur investment in infrastructure by ISPs. However, since ISPs were reclassified as Title II common carriers, infrastructure investment has increased. I have taken the liberty of attaching a study which demonstrates this fact as a supplemental document.

### **Jurisprudence Considerations:**

The reclassification depends not just on practical concerns but also on an accurate reading of the law itself. The telecommunications act of 1996 has the following definition:

`(41) INFORMATION SERVICE- The term `information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system.

While this definition matches most websites (which generate, acquire, and make available information) it does not include ISPs (who simply convey information from those who make it available to their customers). As such it is clear that ISPs do not qualify as a Title I information service, and do qualify as a Title II common carrier (as their main business is transmitting information from a third party to the customers of that third party and back).

The commenter's internet service does not include services other than this common carriage data service, and even if other services were provided they would not be wanted or used, as internet access would be the primary (and only desired) service.

On a personal note, the commenter is a landlord, and includes internet service as one of the utilities that the tenants must pay for as a condition of tenancy. It is common practice to think of internet service as a utility, so a common sense classification requires regulating ISPs as utilities.

### **ISP Competition**

In the last three locations the commenter has lived, ISP choice has been nearly nonexistent. In each case, there have been nominally two providers, with one provider offering slow and unreliable internet service. In each case there has been only one viable provider. Given the effective lack of competition in the marketplace, a regulatory framework capable of regulating utility rates should it become necessary is essential

### **Small Website Operators**

I operate three small websites, primarily for the use of family and friends, hosting e-mail listservs for community events, a repository of my own photos, and updates on the status of laboratory research equipment (which requires constant attention to prevent catastrophic damage to university owned equipment). In each case, I could not afford to pay an ISP to not degrade the performance of connections to my sites. This practice of paid prioritization could become common under Title I rules, and would negatively impact the usability of my websites for researchers, family, and friends. In addition, this practice creates an anticompetative force in the marketplace, where large, established websites can squash any small businesses which encroach on their user base.

### **Summary:**

In summary, the proposed rule making would inhibit infrastructure investment, weaken consumer protections, hurt small business and hobbyists, and stands on shaky legal ground.

Thank you for taking the time to read this comment, and feel free to contact me for any clarifications or questions.

Matthew Lawson