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November 1, 2017

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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

Dear Ms. Dortch:

On October 30, 2017, Frank Buono of Comcast Corporation (“Comcast”) and the undersigned, of Latham & Watkins LLP, met with Matthew Berry, Chief of Staff to Chairman Pai, and Nicholas Degani, Senior Counsel to Chairman Pai, regarding the above-referenced proceeding. At the meeting, we reiterated Comcast’s support for restoring its prior classification of broadband Internet access service (“BIAS”) as an interstate information service and reversing the 2015 decision to classify BIAS as a Title II telecommunications service. As the record in this proceeding makes clear, the Title II classification not only rested on an erroneous understanding of the factual particulars of BIAS, but also has had a harmful impact on broadband investment and innovation. While we reiterated the wisdom of bipartisan congressional legislation as the ultimate solution to these important issues, we also emphasized the need for the FCC to move forward and expressed support for each of the two paths for ensuring Internet openness set forth in the NPRM in this proceeding, as we did in our Comments and Reply Comments—noting that the Commission could either (1) adopt bright-line open Internet rules under Section 706 and other grants of authority, or (2) rely on the FTC’s proven oversight and enforcement mechanisms to ensure that ISPs’ public commitments to core open Internet protections are honored.¹

¹ As Comcast’s Chairman and CEO Brian Roberts has made clear, Comcast “continue[s] to strongly support a free and Open Internet and the preservation of modern, strong, and legally enforceable net neutrality protections.” Brian L. Roberts, *Comcast Statement Supporting a Free and Open Internet*, Comcast Voices Blog (Apr. 26, 2017), <http://corporate.comcast.com/comcast-voices/comcast-statement-supporting-a-free-and-open-internet>. David L. Cohen, Comcast’s Senior Executive Vice President and Chief Diversity Officer, has similarly emphasized that “we have and will continue to support strong, legally enforceable net neutrality protections that ensure a free and Open Internet

We also emphasized that the Commission’s order in this proceeding should include a clear, affirmative ruling that expressly confirms the primacy of federal law with respect to BIAS as an interstate information service, and that preempts state and local efforts to regulate BIAS either directly or indirectly.²

Respectfully submitted,

/s/

Matthew A. Brill
of Latham & Watkins LLP

cc: Matthew Berry
Nicholas Degani

for our customers, with consumers able to access any and all the lawful content they want at any time.” See David L. Cohen, *Comcast Supports Net Neutrality and Reversal of Title II Classification. Title II is Not Net Neutrality*, Comcast Voices Blog (Apr. 26, 2017), <http://corporate.comcast.com/comcast-voices/comcast-supports-net-neutrality-and-reversal-of-title-ii-classification-title-ii-is-not-net-neutrality>. And as Dave Watson, President and CEO of Comcast Cable, has underscored, “[w]e do not block, slow down, or discriminate against lawful content,” and “we believe in full transparency” so that “customers [will] know” what Comcast’s policies are. Dave Watson, *Comcast Customers Will Enjoy Strong Net Neutrality Protections—Today and in the Future*, Comcast Voices Blog (Apr. 26, 2017), <http://corporate.comcast.com/comcast-voices/comcast-customers-will-enjoy-strong-net-neutrality-protections-today-and-in-the-future>. As Comcast has explained, ISPs could incorporate such commitments into their “publicly stated policies that govern [their] relationship with customers.” Comments of Comcast Corp., WC Docket No. 17-108, at 63 (filed Jul. 17, 2017) (“Comcast Comments”).

² See, e.g., Brief of the Federal Communications Commission as Amicus Curiae in Support of Plaintiffs-Appellees at 7-13, *Charter Advanced Services (MN), LLC v. Lange*, No. 17-2290 (8th Cir. Oct. 27, 2017) (describing different approaches and bases for preempting state and local regulation of interstate services and of information services). As Comcast has explained previously, certain generally applicable state consumer protection authority would remain unaffected under this approach (e.g., state laws preventing fraudulent behavior), so long as such authority is not exercised in a manner that conflicts with or frustrates federal law and policy. See Reply Comments of Comcast Corp., WC Docket No. 17-108, at 38-39 & n.152 (filed Aug. 30, 2017); Comcast Comments at 77-81.