

December 8, 2017

Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Balanced Proposal re Protecting and Promoting the Open Internet**

To the Commission:

I write on my own behalf to propose a solution to the current “net neutrality” rule-making controversy. My previous experience in this field includes work with Professor Simon Wilkie of the University of Southern California Gould School of Law and the California Institute of Technology on radio spectrum auctions and public spectrum protocols.

My proposal will allow Internet service providers (ISPs) and content providers to contract for priority transmission services and yet will protect smaller content providers’ ability to compete on a level playing field. My proposal is as follows:

- The FCC will not place any restrictions on the ability of ISPs and content providers to contract for priority transmission services, except that—
  - All agreements between ISPs and content providers will be publicly available on FCC’s website, with a one-page summary of material economic terms.
  - Priority transmission services contracts may not be exclusive: ISPs will be required to offer priority transmission services to all content providers on the same economic terms on a “most favored nation” (MFN) basis. To facilitate this, each contract must have a form agreement that any other content provider may use to purchase priority transmission services under the same economic terms on a MFN basis.
  - There can be no restrictive terms that would constitute *de facto* barriers preventing smaller content providers from purchasing priority transmission services under the same economic terms, *e.g.*, excessively large minimum buys, prohibitive credit terms, etc.

December 8, 2017

Page Two

I believe that the above proposal would be easy to implement. It would not require additional government oversight or restrictions on the ability of ISPs and content providers to arrive at the most efficient economic solutions. It would ensure transparency. It would prevent larger, established content providers from using their superior market position to stifle new, less-established competition. At the same time, it allows ISPs to engage in free-market negotiations and transactions that will allow for priority transmission services.

From a public relations standpoint, proper communication of the effect of the proposal, if adopted, would lessen public opposition to the current proposed rule changes.

Please consider the proposal. Please contact me if I may be of any service in the FCC's rule-making process.

Sincerely,

PARSONS BEHLE & LATIMER

*Brian M. Rothschild*

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Attorney at Law

BMR: