

October 10, 2014

From: Wendell

To: Chairman Tom Wheeler & the FCC Leaders

Subject: Proposed Internet "Fast Lane" FCC Rules

Mr. Tom Wheeler & FCC Commission,

I am writing to you today as a consumer. I have an acute understanding of the current situation with the proposed "internet fast lane" rules and I am aware of the technical and circumstantial details around the recent Netflix/Comcast event.

I must say that I was not expecting this from your office at this time; the proposed rules do not make sense and do not follow the FCC charter. In 2009 the FCC drafted similar rules because of the events surrounding Comcast and Comcast's arbitrary throttling of peer-to-peer traffic; in that case the FCC lost their case when the DC district court ruled that Comcast is classified as an "information service."

Recently, the FCC finished writing the "Open Internet" rules and once again the FCC was sued by Verizon. The FCC lost their case once again - in both of these cases the court urged the FCC to reclassify these ISPs as a Title II communications company if the office of the FCC was serious about drafting rules that these companies must follow.

I'm aware that Title II has some stringent rules and that these rules may not all be applicable to internet service providers like Verizon, AT&T and Comcast. However, I would remind you that the FCC has the power of forbearance; the office can choose what rules will be imposed. Were these internet service providers classified as "telecommunications services", as the FCC has been encouraged to do by these two court cases, then it does not have to enforce all the rules under Title II.

Certainly I have been surprised by these proposed "internet fast lane" rules; they were entirely unexpected at this time. I do not see how they are substantially different than the rules put forth in the previous two failed court cases. Also, I would not expect to entertain such a proposal unless and until the FCC reclassifies these ISPs as telecommunications companies under Title II.

In point of fact, Comcast has already negotiated a "fast lane" deal with Netflix. However, Comcast is selling service tiers to customers that specify a speed (e.g. 50 megabits per second) and a byte cap (250 gigabytes, as specified in the terms-of-service). As a customer of Comcast, I may elect to use some or all of the capacity I have purchased on Netflix services.

I am confident that should the FCC investigate the particulars of Comcast's activities in this case, they would have an open-and-shut antitrust case. To use a telephone analogy, this is no different than a cellular telephone provider charging a call recipient "extra" to "help prevent the call from being dropped."

This is exactly the same type of abusive conduct that the FCC tried to deal with in the court cases in 2009 and again with Verizon more recently.

Please, halt what is being done with these "internet fast lane" rules, and simply reclassify internet service providers as Telecommunications companies under Title II of the 1996 Telecommunications Act. It is a faster, simpler, and more effective way to accomplish your goals.

Sincerely,

James young