

3 November 2014

VIA ECFS

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

Re: *Protecting and Promoting the Open Internet*, GN Docket No. 14-28

Dear Ms. Dortch,

On Thursday, 30 October 2014, Lauren Van Wazer, Vice President, Global Public Policy, of Akamai Technologies, Inc. (Akamai), and undersigned counsel met with General Counsel Jonathan Sallet, Special Advisor to the Chairman on Internet Law and Policy Stephanie Weiner, and Matthew DelNero, Deputy Chief of the Wireline Competition Bureau, to discuss this proceeding. Akamai made the following points:

1. Akamai supports net neutrality, particularly as outlined by the Commission in the NPRM in this proceeding.
2. Akamai believes that using Section 706 to focus on practices that are commercially unreasonable and anti-competitive is the most effective way to promote an Open Internet in both the short and long term.
3. Akamai believes that under Section 706 there should be a rebuttable presumption that it is anti-competitive and commercially unreasonable for ISPs to give preference to captive (i.e., vertically integrated) services, whether those services be voice, video, gaming, or general content delivery services like Akamai.
4. Akamai believes basing Open Internet rules on Title II in any form or fashion (including as suggested in the Mozilla proposal or in combination with Section 706) will do far more harm than good to the goal of an Open Internet.
 - Even those who support Title II concede that forbearance would be required to avoid disaster, yet forbearance cannot be granted by some magical incantation. Evidence supporting forbearance is required and the record in this proceeding has virtually none of the evidence required by statute and Commission precedent.

- Adopting Open Internet rules using Title II with forbearance, or in conjunction with Section 706 for some or all of the Internet, guarantees – at least on the record in this proceeding – years of litigation and uncertainty, and reduced investment in broadband infrastructure.
- Applying Title II will brand broadband service as a basic telecommunications service – subject to legacy telecommunications regulations and regulatory bodies (such as the ITU) around the world. This will undermine the long-standing U.S. policy of freeing the Internet from the stifling regime of international telecommunications regulation.

5. Some have argued that if ISPs are subject to Open Internet regulations, so too should content providers, edge companies, CDNs, and others. But regulation is an attempt to deal with the consequences of market power – and edge companies, content providers and CDNs simply do not have the kind market power, over consumers or otherwise, to justify regulation.

6. No one seriously disputes that wireless broadband providers have bandwidth limitations that wireline broadband providers do not have. Accordingly, to the extent that Open Internet rules are applied to wireless providers, the Commission should be more flexible in allowing wireless providers to craft network management rules.

Sincerely,

Scott Blake Harris

Scott Blake Harris
Counsel to Akamai Technologies, Inc.

cc: Jonathan Sallet
Stephanie Weiner
Matthew DelNero