



November 7, 2014

Ex Parte notice

Ms. Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

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

Dear Ms. Dortch:

On November 5, 2014, the undersigned and Andrew M. Brown of Levine, Blaszak, Block & Boothby, on behalf of the Ad Hoc Telecommunications Users Committee (“Ad Hoc”) and accompanied by Ad Hoc members Lawrence Chattoo and Nicholas Lewis, met with Commissioner Pai and his Wireline Legal Advisor Nicholas Degani.

We noted that Ad Hoc’s membership consists of Fortune 500 companies from a variety of industry verticals including banking, construction, financial services, information services, insurance, manufacturing, payment processing, shipping and logistics, and systems integration. We explained that Ad Hoc has no cable or telecommunications companies as members and accepts no funding from such companies. As a result, Ad Hoc’s positions serve only the interests of customers and are not influenced by Internet service providers or their competitors.

We discussed the issues raised in the written comments filed by Ad Hoc in the docket captioned above, particularly the absence of competitive options once a subscriber selects an Internet service provider (“ISP”). We noted that, regardless of how competitive the market may be when the subscriber is choosing among potential providers, that competition no longer applies once the subscriber selects its provider. Any party seeking to communicate with that subscriber can only use the provider selected by the subscriber in order to communicate with, i.e., download content to, the subscriber. Accordingly, enterprise customers (or any other entities) seeking to communicate with a subscriber inevitably face a “terminating access monopoly” on communications with the subscriber. We observed that the Commission has repeatedly held in prior decisions that terminating access therefore constitutes a classic case of market failure requiring regulatory intervention to ensure a “bill-and-keep” payment model. We urged the Commission to do the same in this case.



We also discussed the factual justification for concluding that today's Internet access service constitutes "telecommunications" as Congress has defined that term in Title II of the Communications Act. We noted the fundamental differences between the Internet access service classified as an "information service" by the Commission in 1998 and the Internet access service provided today.

Finally, we observed that the current status quo for Internet service is that every Internet access customer pays only for its own connection and is not forced to make additional payments to the ISPs of other subscribers when it terminates traffic to them. We noted our support for Commission rules that would preserve this "bill-and-keep" model and prohibit ISPs from exploiting their terminating access monopolies by charging non-subscribers for access to their subscribers.

We distributed the handout attached to this letter at the meeting.

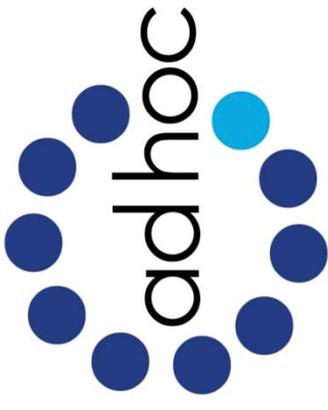
Pursuant to Section 1.1206(b) of the Commission's Rules, this letter is being filed electronically in the above-referenced proceeding. Please feel free to contact me with any questions or concerns regarding this filing.

Respectfully submitted,

A handwritten signature in cursive script that reads "Colleen Boothby".

Colleen Boothby
Counsel, Ad Hoc Telecommunications Users
Committee

cc: Commissioner Pai
Nicholas Degani



Ad Hoc Telecommunications Users Committee

Open Internet Issues

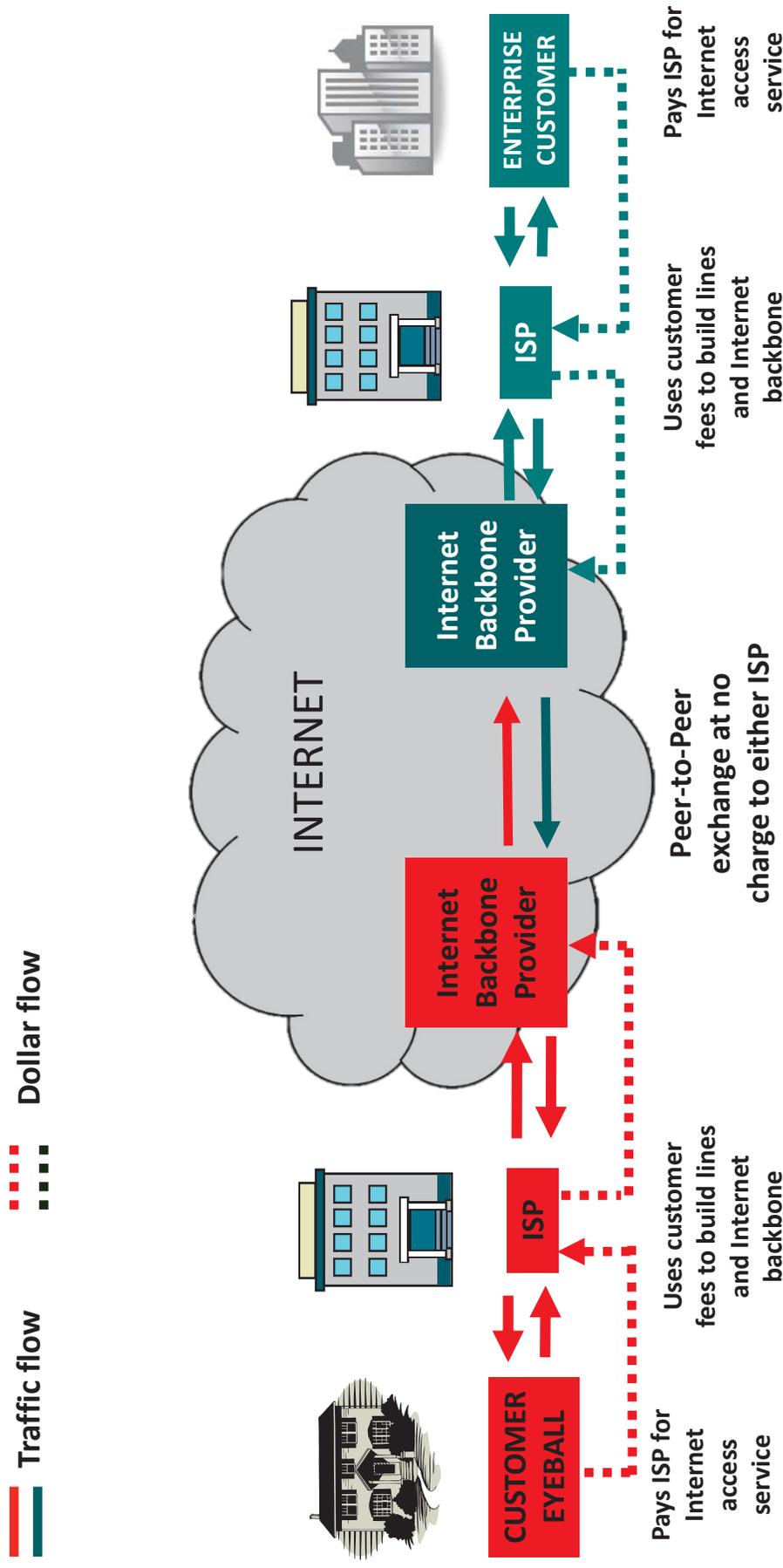
Who we are

- Fortune 500 companies
- From a broad range of industry verticals: banking, construction, financial services, insurance, manufacturing, payment processing, shipping and logistics, systems integration, and information services

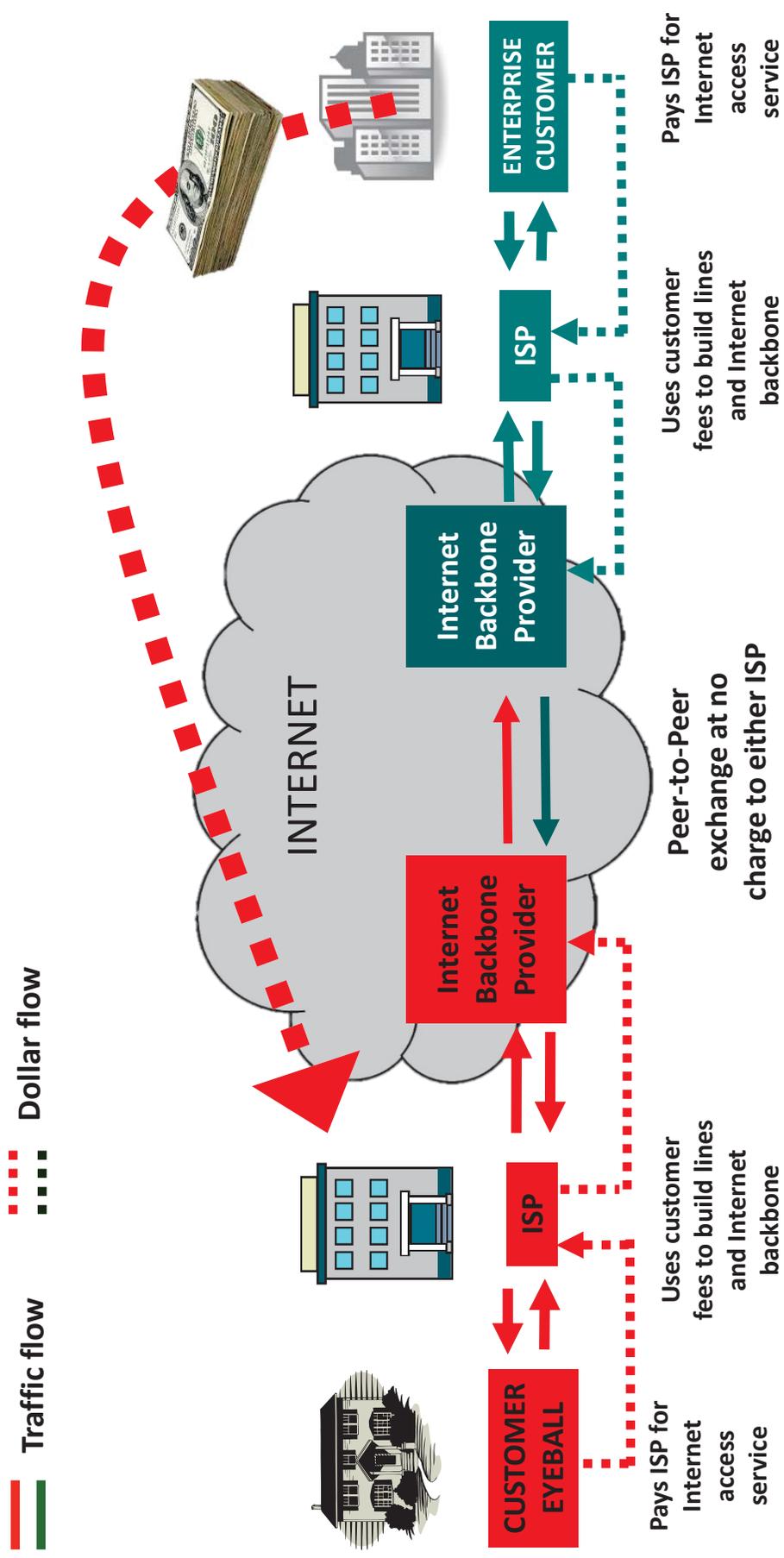
Why we are participating in this rulemaking

- Every business in America is an Internet content provider
- Ad Hoc opposes regulation where markets are competitive
- But there is no competition in the *terminating access* market

The Internet access status quo: Everybody pays their own way



Enterprise customer concern: Double-dipping by ISPs



Ad Hoc's Comments in the Open Internet Rulemaking

- Internet access is a Title II service
 - It's a question of fact, not policy
 - The FCC should use forbearance to de-regulate as needed
- “Terminating access” is a classic market failure
 - Competition can discipline an ISP's prices and practices for its own subscribers
 - But there is no competitive choice when content providers communicate with the ISP's subscriber
 - The FCC has repeatedly called this structure a “market failure”
- Bill-and-keep is the FCC's solution