

November 13, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20054

Via Electronic Filing

**Re: GN Docket No. 14-28, *Protecting and Promoting the Open Internet*
GN Docket No. 10-127, *Framework for Broadband Internet Service***

Dear Ms. Dortch,

On Monday, November 10, 2014, representatives from thirteen public interest, social justice, civil liberties, activism, and technology policy groups met with Chairman Tom Wheeler and his staff to discuss matters in the above-captioned dockets.

The public interest representatives in attendance were Michael W. Macleod-Ball, American Civil Liberties Union; John Windhausen, for the American Library Association and EDUCAUSE; Erik Stallman, Center for Democracy & Technology (“CDT”); Malkia Cyril, Center for Media Justice; Rashad Robinson, ColorOfChange.org; Ellen Bloom, Consumers Union; Carissa Miller, Daily Kos; David Sobel, Electronic Frontier Foundation; Matt Wood, Free Press; Michael Scurato, National Hispanic Media Coalition; Michael Calabrese, New America’s Open Technology Institute (“OTI”); Laura Friedenbach, Progressive Change Campaign Committee; and Gene Kimmelman, Public Knowledge.

Attending from the Commission along with Chairman Wheeler were Gigi B. Sohn, his Special Counsel for External Affairs; Daniel Alvarez, his Legal Advisor for Wireline, Public Safety and Homeland Security; Matthew DelNero, Deputy Chief of the Wireline Competition Bureau; and Eric Feigenbaum, Director of Outreach & Strategy, Office of Media Relations.

During the course of a short meeting, the public interest representatives generally expressed their continued support for strong and sound Open Internet rules, but their brief individual presentations covered a broad range of specific topics.

Free Press highlighted the President’s announcement earlier that morning, which called on the Commission to “reclassify consumer broadband service under Title II of the Telecommunications Act — while at the same time forbearing from rate regulation and other provisions less relevant to broadband services.”¹ Free Press explained that this broadband service is indeed a telecommunications service that must permit users to send and receive the information of their choosing. By focusing on the duty of nondiscrimination owed to users of this service (rather than so-called “senders”), the Commission clearly can adopt rules to prevent blocking, prioritization, throttling, and other unreasonably discriminatory and harmful practices.

¹ “Net Neutrality: President Obama’s Plan for a Free and Open Internet,” <http://www.whitehouse.gov/net-neutrality> (last visited Nov. 13, 2014).

Consumers Union also noted the President's statement, expressed its own continued support for Open Internet rules grounded in the best legal authority to protect consumers from discrimination, and discussed how groups such as Consumers Union were communicating with the public and Congress to explain the importance of sound rules.

In response to questions regarding application of Title II to wireless, OTI discussed its filing made on the day of the meeting² which explains that Section 332(c) presents no barrier to treatment of mobile broadband as a common carrier service. Congress, in subsection (d) of that same statutory provision, explicitly left to the Commission's discretion the determination and definition of what qualifies as an "interconnected service," or as the "functional equivalent of a commercial mobile service." Moreover, as OTI explained, mobile broadband is quite literally and obviously interconnected even with the public switched telephone network, as broadband users quite readily can call any telephone number they wish using their broadband connection.³

Public Knowledge described its own filings in the record of these proceedings that address questions about the Commission's authority under Title II to prohibit unreasonable discrimination, its ability to apply Title II to mobile broadband, and other questions regarding application of Title II to broadband telecommunications services. All of the attendees at this meeting, and other participants in the proceeding, stand ready to continue answering questions regarding forbearance authority, and more specifically about proper use of Commission authority to safeguard the privacy of telecom users (in Section 222) and its authority to ensure that advanced telecommunications services are available to all (in Section 254).

Finally, with respect to legal classification arguments, CDT noted that its prior comments had supported hybrid approaches as well as reclassification. CDT's goal remains the adoption of strong open Internet rules that have broad support and the best chance of surviving legal challenge. Even with Title II reclassification, as CDT explained, Section 706 may have a role to play in achieving that goal of implementing strong rules.

The Center for Media Justice called upon Chairman Wheeler and the Commission to move forward without delay, and to adopt the strong Net Neutrality rules and protections against discrimination based on Title II that so many millions of people have called for. Such rules must protect all broadband users – meaning the whole Internet, not just the "senders" of information, and not just corporate speakers – including the communities and individuals who rely so much on Internet access today to organize for social justice, educate themselves, seek out employment, and make their voices heard by participating in the political process.

ColorOfChange.org described the work it does to highlight and fight against injustice, and the essential nature of the Internet in allowing people to speak out about topics like voting rights violations, unjust laws, and the momentous events that took place in Ferguson, Missouri,

² Letter from Michael Calabrese, New America's Open Technology Institute, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket Nos. 14-28, 10-127 (filed Nov. 10, 2014).

³ *See id.* at 3 ("It shouldn't matter that a bit of software enables this interconnection (a VoIP or VoLTE application) any more than the fact that a handset or switching protocols in the carrier network have always been required to connect a mobile telephone call.").

this past summer, to name just a few. ColorOfChange.org also described the growth of a new civil rights movement across the country, the members of which understand the power of the Open Internet and the import of protecting people's rights to use it, but who do not agree with the positions staked out by legacy civil rights groups that have opposed the use of Title II and the nondiscrimination provisions at its core.

Daily Kos articulated for the Chairman the fact that its readership is made up of millions of users who come to the site each month for community, activism, and news. In fact, Daily Kos has more visitors than the websites of many typical news organizations. But what it does not have is the same deep pockets that large media conglomerates have, or the ability to pay new tolls just to reach its users. Daily Kos and its members stand ready to support the Commission vigorously in its use of Title II authority to protect the Open Internet, but will not hesitate to criticize the Commission should it delay the adoption of such rules or shortchange broadband users by settling for something less than the strongest authority.

Respectfully submitted,

/s/ Matthew F. Wood

Policy Director

Free Press

202-265-1490

mwood@freepress.net

cc: Gigi Sohn
Daniel Alvarez
Matt DelNero
Eric Feigenbaum
Jon Sallet
Stephanie Weiner