



HARRIS, WILTSHIRE
& GRANNIS LLP

January 8, 2015

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 Tuesday, January 6, Lauren Van Wazer, Vice President, Global Public Policy, of Akamai Technologies, Inc. (Akamai), undersigned counsel, and Brita Strandberg of this firm met with Rebekah Goodheart, Legal Advisor to Commissioner Clyburn and Carter McMillan, Intern, to discuss this proceeding. On Wednesday, January 7, the same representatives of Akamai met with Stephanie Weiner, Associate General Counsel, and Matthew DelNero, Deputy Chief of the Wireline Competition Bureau; with Amy Bender, Legal Advisor to Commissioner O'Rielly; and with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenworcel.

During those meetings, Akamai expressed its concern that any action the Commission takes in this proceeding preserve the vital role Akamai and other content delivery networks (CDNs) (including content providers that self-provision CDN services) play in improving the performance of the public Internet.

In particular, Akamai asked that any Commission action recognize that:

1. CDNs do not sell transport and do not offer any services that could be considered Title II services, even if the Commission concludes that certain ISP services do fall within Title II. Instead, CDNs cache content close to end users and then use software and specialized mathematical algorithms to identify the cached content that is close and accessible to a particular requesting end-user. This enables the end-user to seek the content over the existing best efforts Internet from a server that is easily accessible via a less-congested path. That is, the end-user accesses the content over the physical networks operated by others.
2. Using software and mathematics to identify preferred locations and routes for users to access content in a way that avoids congestion on the Internet does not constitute prioritization.
3. ISPs that permit content providers and third parties distributing content (such as CDNs) to cache data near end-users to expedite access to that content are not engaging in prioritization.

4. Rules banning unreasonable discrimination by ISPs should permit flexibility for ISPs to allow some but not all content providers or third parties distributing content (such as CDNs) access to any particular ISP facility. Requiring ISPs to give blanket access to all-comers is not technically feasible and the result would be access for none, which would decrease the performance, scalability, reliability and security of the Internet.
5. Rules banning unreasonable discrimination by ISPs should prevent ISPs from giving better treatment to captive, or vertically integrated, content or CDNs than to third-party content providers or distributors such as CDNs.

By making these points expressly, the Commission can avoid any confusion about the impact of its actions on content providers and CDNs, ensuring that both may continue to improve the Internet experience for all users.

Sincerely,

Scott Blake Harris

Scott Blake Harris
Counsel to Akamai Technologies, Inc.

cc: Priscilla Delgado Argeris
Amy Bender
Matthew DelNero
Rebekah Goodheart
Carter McMillan
Stephanie Weiner