



Comcast Corporation  
300 New Jersey Avenue, NW  
Suite 700  
Washington, DC 20001  
202.379.7121

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**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

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

Dear Ms. Dortch:

On February 9, 2015, Lynn Charytan, David Don, and the undersigned of Comcast met separately with Amy Bender, Legal Advisor to Commissioner O’Rielly, Priscilla Delgado Argeris, Senior Legal Advisor to Commissioner Rosenworcel, and Rebekah Goodheart, Legal Advisor to Commissioner Clyburn, to discuss the recent proposal in the above referenced proceedings.<sup>1</sup> We addressed the following issues:

*First*, applying the entirety of Section 201(b) of the Communications Act to broadband would enable the Commission or any federal court to declare broadband providers’ rates to be “unjust and unreasonable.”<sup>2</sup> This would be plainly inconsistent with statements by both President Obama and Chairman Wheeler that broadband providers should not and will not be subject to rate regulation.<sup>3</sup> In

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<sup>1</sup> See Fact Sheet: Chairman Wheeler Proposes New Rules for Protecting the Open Internet (Feb. 4, 2015), available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2015/db0204/DOC-331869A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0204/DOC-331869A1.pdf).

<sup>2</sup> See 47 U.S.C. § 201(b).

<sup>3</sup> See White House, *Statement by the President on Net Neutrality*, Nov. 10, 2014, available at <http://www.whitehouse.gov/the-press-office/2014/11/10/statement-president-net-neutrality> (urging the Commission to “forbear[] from rate regulation and other provisions less relevant to broadband services”); Remarks of Tom Wheeler, Chairman, Federal Communications Commission, at the Silicon Flatirons Center (Feb. 9, 2015) (“We will forgo sections of Title II that pose a meaningful threat to network investment. That means no rate regulation. No unbundling. No tariffs or new taxes.”).

order to avoid this outcome, the FCC should forbear from Section 201(b)'s prohibition of unjust and unreasonable "charges." We explained that forbearance from rate regulation and other onerous parts of Title II should accompany reclassification, and that the Commission should ensure that its order honors this in every respect.<sup>4</sup>

*Second*, if the FCC decides to assert jurisdiction over Internet traffic exchange arrangements, it should make clear that this jurisdiction applies to *all* parties to these arrangements, not just retail broadband providers. Other parties to such arrangements, including transit providers and content delivery networks ("CDNs"), are engaged in the transmission of Internet traffic and have the ability to create congestion and performance issues that could impact consumers. In addition, we confirmed that CDNs such as Akamai serve as transmission providers, as they do not host content within Comcast's network but rather transmit traffic to Comcast's network from their own hosting facilities.

*Third*, any new transparency requirements must not obligate broadband providers to disclose information that they do not possess. For example, while broadband providers may possess information regarding interconnection ports, they often lack information regarding whether a particular edge provider's packets are dropped, and whether use of that edge provider's application or service is affected, due to congestion. If the FCC wishes to collect this information, it should do so from edge providers themselves.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

/s/ Kathryn A. Zachem

Senior Vice President,  
Regulatory and State Legislative Affairs  
Comcast Corporation

cc: Amy Bender  
Priscilla Delgado Argeris  
Rebekah Goodheart

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<sup>4</sup> See "Broadband Authority and the Illusion of Regulatory Certainty," Prepared Remarks of Commissioner Mignon L. Clyburn, Media Institute Luncheon (June 3, 2010) ("[W]ithout forbearance there is no reclassification . . . . Think peanut butter and jelly. Salt and pepper. Batman and Robin.").