



**Computer & Communications
Industry Association**
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February 13, 2015

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

RE: EX PARTE NOTICE Via ECFS

GN Docket No. 14-28: In the Matter of Protecting & Promoting the Open Internet
GN Docket 10-127: In the Matter of a Framework for Broadband Internet Service

Dear Ms. Dortch:

Phillip Berenbroick, Policy Director at the Internet Freedom Business Alliance and the undersigned met today with Associate General Counsel Stephanie Weiner, and Matthew DelNero, Claude Aiken and Scott Jordan of the Wireline Competition Bureau to discuss the problem of network interconnection abuses and disputes that may cause degradation of the quality of broadband Internet access service that consumers and small businesses receive from their local network provider.

We began by applauding the draft Open Internet Order's action to classify broadband Internet access as a telecommunications service, and noting that by definition telecom services involve two-way transmission, including local delivery of traffic that an Internet Access Provider's (IAP's) own customers have requested from the Internet. We also noted our support for recognition of interconnection points (IXPs) as a place where Internet access service is vulnerable to interference from IAPs. Specifically, if an IAP allows its IXPs to congest and demands terminating access tolls from edge providers or transit providers, the IAP's customers may experience degraded service that is inferior to the open Internet access they have purchased.

We also explained that small businesses and startups are negatively affected when IAPs allow congestion to build up at interconnection points in order to extract access tolls from transit networks and edge providers. As Tumblr discussed in its Comments, its viability would have been threatened at an early stage in its development if the company had been forced to pay additional fees due to the imposition of access tolls at IXPs by IAPs.¹ Vimeo has pointed out that access tolls that IAPs charge to content delivery networks (CDNs) are passed on to the CDN's customers, "mak[ing] interconnection fees directly relevant to our business and our

¹ See Comments of Tumblr, Inc., GN Docket No. 14-28, at 6, 8 (filed Sept. 9, 2014) (being required to pay access tolls for interconnection would have seriously disrupted Tumblr's business model, "forcing it to reallocate its already limited resources *away* from other, far more mission-critical services – such as engineering, sales, community development, and hiring new employees.")

bottom line.” As companies like Vimeo grow and develop and deploy their own CDNs, IAP access tolls will be directly, rather than indirectly, assessed on their services.²

We stated that our first preference would be to prohibit access tolls entirely where the IAP is charging third parties for merely “opening the door” to its local delivery network. However, we could also support a case by case adjudication approach such as that referenced in the Chairman’s Fact Sheet, if it adequately prohibits conduct that circumvents or undermines the effectiveness or goals of the open Internet rules. We suggested placing the burden of proof on the IAP to demonstrate that interconnection fees and/or practices that are the subject of a complaint are in fact just and reasonable. We also suggested that the Commission consider a “standstill” provision that would preserve the quality of end user Internet access connections during the pendency of a FCC interconnection complaint. See Appendix A.

Respectfully submitted,



Catherine R. Sloan
VP, Government Relations
Computer & Communications Industry Association (CCIA)

cc:

Stephanie Weiner
Matthew DelNero
Claude Aiken
Scott Jordan

² Letter from Michael Cheah, General Counsel, Vimeo, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 14-28, at 2 (filed Oct. 24, 2014).

APPENDIX A

Interconnection

- The Order should recognize that broadband Internet access service providers (IAPs) should not be permitted to evade the Open Internet rules at the local or regional interconnection point (IXP) through which inbound Internet traffic must flow to reach the last mile.
 - Consistent with the FCC's determination that IAP last mile access tolls (*i.e.*, charging edge providers a fee solely for accepting or delivering traffic to and from end user customers) are impermissible (see para 67, 2010 Open Internet Order), the 2015 Order should make clear that such charges are no less problematic if levied at the point of interconnection (IXP) to the last mile.
- In the event of a complaint filed under section 208, broadband Internet access providers should bear the burden of demonstrating that any interconnection fee imposed is just and reasonable and non-discriminatory.
 - Such interconnection fee, if any, may be imposed only where the broadband IAP provides some service other than what's necessary for accepting traffic at the point(s) of interconnection and delivering that traffic from such point(s) to the IAP's own subscribers.

Further to prevent disruption to end users:

- To protect consumers and small businesses during interconnection disputes, broadband IAPs must maintain the original quality of service to their own end user BIAS customers during any dispute so that those customers still get the service for which they have paid during the pendency of the dispute.