



February 19, 2015

VIA ECFS

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

**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 Wednesday, February 18, 2015, Liz Ruiz and Michael Scurato of the National Hispanic Media Coalition (“NHMC”) met with Rebekah Goodheart and Louis Peraertz, legal advisors to Commissioner Clyburn. In a separate meeting, on the same day, NHMC met with Priscilla Delgado Argeris, senior legal advisor to Commissioner Rosenworcel. During the meetings, NHMC discussed a variety of issues pertaining to the above referenced dockets.

In both meetings, NHMC expressed broad support for Chairman Wheeler’s proposal for Open Internet rules grounded in Title II of the Communications Act.

NHMC explained to both offices that, in addition to many of the proposed rules contained in Chairman Wheeler’s proposal, it had proposed an additional rule broadly prohibiting unreasonable discrimination in comments that it filed on behalf of Voices for Internet Freedom *et al.*¹ NHMC stated its preference that the general conduct rule proposed by Chairman Wheeler, drawing on the authority found in Sections 201 and 202 of the Communications Act and other sources, would serve to prevent future instances of unreasonable discrimination that may not fit within the definitions of blocking, throttling, or paid prioritization. NHMC further expressed the desire that the test designed to enforce the general conduct rule be sufficiently simple and clear to allow it to be easily interpreted and utilized by consumers and companies if they are harmed by an unjust or unreasonable practice.

NHMC explained that it did not believe that the Commission needed to define a new service furnished by Internet Service Providers (“ISPs”) to edge providers in the delivery of traffic. NHMC explained that defining this service had the potential to create new relationships

¹ Comments of Internet Freedom Supporters, GN Docket Nos. 14-28, 10-127, at 6 (filed July 18, 2014).

between ISPs and remote edge providers that they do not directly serve, and that recognition of such relationships could have unforeseen consequences. NHMC expressed its belief that simply classifying broadband Internet access service as a telecommunications service would be sufficient to allow the Commission to confront myriad practices that it may deem harmful.

NHMC urged the Commission to ban the imposition of de facto access fees that could occur when ports that accept traffic into last-mile networks are allowed to degrade and congest. Allowing this type of degradation and congestion impacts a consumer in exactly the same way as interference within the last-mile network by impacting service quality of certain services and applications. When ISPs require edge providers to pay a fee in order to ensure that consumers are able to utilize their services, this practice amounts to the imposition of an access fee.

Further, NHMC urged the Commission to expand existing transparency rules to require ISPs to disclose to consumers any issues occurring at the edge of the last-mile network that could impact service quality generally and/or for specific applications and services. Accordingly, NHMC asked the Commission to pay special attention to instances where ISP customer service representatives may attempt upsell impacted customers to higher bandwidth service plans as a solution to these service quality issues, despite knowing that such upgrades would not mitigate issues stemming from mismanagement of bottlenecks at the entry point to the last-mile network. NHMC included allegations of such practices in comments filed on behalf of Voices for Internet Freedom *et al.*²

Finally, NHMC expressed concern with certain zero rating practices. NHMC explained that it had serious questions about many of the justifications for these practices. Specifically, it pointed out that zero rating put into question the need for data caps as a means of network management, could inflict many of the same harms on consumers and edge providers as other forms of discriminatory treatment, have to date accounted for only one of many ways that ISPs in the United States can and have differentiated their product offerings from competitors, and incentivize ISPs to maintain lower data caps. NHMC pointed out that in the Netherlands, where regulators recently prohibited certain zero rating practices, ISPs were quickly able to double data caps for their customers to encourage “carefree usage” of their network.³

Please contact me should you have any questions regarding this submission.

² *Id.* at 19-20.

³ See Rewheel, “In the Netherlands, where zero-rating is banned, KPN just doubled (free of charge) the mobile internet volume caps to encourage a carefree usage of its online videos,” Feb. 6, 2015, available at http://dfmonitor.eu/downloads/Banning_zerorating_leads_to_higher_volume_caps_06022015.pdf.

Respectfully submitted,

/s/

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CC: Rebekah Goodheart; Louis Peraertz; Priscilla Delgado Argeris