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MAY 23 2007

Federal Communications Commission
Office of the Secretary

May 2, 2007

WC Docket No. 07-52

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Chairman:

"This letter is in response to the FCC's "Notice of Inquiry" (07-31j) concerning whether the Commission's 2005 Policy Statement provides adequate protections for Internet users. Specifically, the NOI asks whether the FCC "should incorporate a new principle of nondiscrimination and, if so, how would 'nondiscrimination' be defined, and how would such a principle read."

As you and the commissioners are aware, the American Conservative Union is the nation's oldest and largest grassroots conservative lobbying organization. ACU's purpose is to communicate and advance the principles of conservatism through one multi-issue, umbrella organization.

It is in that spirit that we respectfully request you consider our views on this issue, which is often termed "net neutrality regulation" for short:

Neutrality regulation is a "solution" to a non-existent problem

There are so many problems with so-called net neutrality that it's difficult to know where to begin, but probably the most obvious is that it is completely unnecessary. There is not a single instance of online discrimination anywhere in the country today! No provider is blocking or degrading unaffiliated content. Indeed, every major broadband provider has signed on to the Commission's principles, which specifically prohibit deliberate blocking or degrading.

In short, consumers are enjoying unfettered access to the legal content of their choice and the Commission has every reason to accept the success of its policies!

The best way to maintain an open Internet is by adding new bandwidth, not regulating existing bandwidth.

Proponents of Internet regulation, such as House Telecommunications Subcommittee chairman Edward Markey, claim a need for regulation "to keep the Internet as it is." To

us. this sounds like the quintessential example of backwards regulation out of a rear-view mirror.

Today's Internet is beginning the most remarkable step forward in its history. Phone calls, television, movies and other data-rich products are exploding all over the web, as companies increasingly look for cheaper distribution channels. It's their gain and consumers' gain. But it also permanently upends the Net's architecture, since data must now not only be transported across the Internet and private networks between parties, but this must take place amid severe time constraints. If these constraints are not met, then phone calls lack quality and TV/video becomes unwatchable.

The only possible way to avoid these problems is by rapidly expanding bandwidth to the end user. America needs increased network deployment and the only realistic way this will happen is through massive private investment. But adding a massive layer of bureaucracy and stifling regulation to the Internet's fast-changing architecture will just slow down the very deployment that Americans increasingly need.

Neutrality regulations would not differentiate between the public Internet and private networks.

Neutrality regulation would be an appalling slap at the massive private investment that has built today's sophisticated communications networks. It's had enough to want massive new regulations on the public Internet. But it is beyond absurdity to demand these untested regulations be placed on private networks.

Take IP television, which is so data-rich and so dependent on immediate delivery to the end user that it cannot ever touch the public Internet. If it did, consumers would never receive quality comparable to cable and satellite. Private companies invested billions in expensive new systems to deliver the product to consumers who want an alternative to cable and satellite. It would be an appalling overreach by government to demand that virtual private networks only be allowed to operate at the speed of the public Internet.

Neutrality regulations will inevitably wind up costing consumers – for no purpose at all.

As Commissioners know, the development of complex technologies and their successful utilization in the marketplace does not lend itself to one-size-fits-all regulations. There is no such thing as “simple” regulations that must inevitably govern data treatment over:

- Internet backbones
- Middle and last miles
- Caching
- Packet assembly and disassembly rates
- Settlement-free interconnection agreements
- Merit Access Exchanges

Moreover, these regulations will have to be continually updated as changing technologies require newer, even more complex oversight. Contrary to what the pro-regulation crowd claims, there is no inexpensive way for companies to meet these new legal obligations. Inevitably, according to a Forrester Research 2006 report, “Legal costs will shoot through the roof — draining the pockets of everyone involved.”

In sum, Americans need more choices for Internet access and higher bandwidth levels to take full advantage of next-generation online services. But net neutrality regulations will push American consumers further away from both goals. It will raise prices and slow down the network deployment that is increasingly vital to the national economy.

‘Thankyou for your consideration

Sincerely,

J. William Lauderback
Executive Vice President