

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
Comment Sought on Petition for ) WC Docket No. 07-52  
Declaratory Ruling Regarding )  
Internet Management Policies )  
 )

**COMMENTS**

The PART-15 Organization (PART-15.ORG), by its membership and pursuant to the *Commission's Public Notice issued on January 14, 2008*, addressing the Petition for Declaratory Ruling filed by Free Press *et al.* More specifically, the matters pertaining to “the practice of broadband service providers degrading peer-to-peer traffic” and whether those practices violates the FCC’s Internet Policy Statement.

As the Commission is aware, PART-15.ORG is a worldwide organization of Wireless Internet Service Providers (“WISPs”) and equipment vendors who provide technical support and training in the provisioning of broadband service via the license-exempt spectrum bands. The License Exempt Wireless Internet Service Providers (WISPs) voice their regulatory concerns via PART-15.ORG who are active in a number of Commission proceedings that directly or indirectly pertain to the license-exempt industry.

PART-15.ORG members and over 9,000 WISPs in general have direct, immediate and substantial interest in any petition before the Commission that creates an atmosphere of government management of commercial businesses models.

PART-15.ORG therefore urges the Commission to avoid and refrain from extensive rule-making and use caution when any such ruling surely lacks the stamina required to sustain in the ever-changing environment of the “internet”. Therefore, this organization recommends the Commission deny the requests of Free Press, et al., and Vuze, Inc.. accordingly.

## **BACKGROUND**

In August of 2005, the FCC adopted the Commissions Policy Statement to ensure that broadband networks are widely deployed, open, affordable, and accessible to all consumers, the Commission adopts the following principles:

- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to access the lawful Internet content of their choice.*

- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.*

- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to connect their choice of legal devices that do not harm the network.<sup>13</sup>*

- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to competition among network providers, application and service providers, and content providers.<sup>14</sup>*

The Commission concluded that the Commission has a duty to preserve and promote the vibrant and open character of the Internet as the telecommunications marketplace enters the broadband age. To foster creation, adoption and use of Internet broadband content, applications, services and attachments, and to ensure consumers benefit from the innovation that comes from competition; the Commission incorporated the above principles into its ongoing policymaking activities. As Broadband Services Providers, this organization supports the Commissions conclusions.

Two petitions are presently before the Commission. The *Free Press*, et al., seeks a declaratory ruling that “the practice by broadband providers of degrading peer-to-peer traffic violates the FCC’s Internet policy statement” and that such practices do not constitute reasonable network management. Additionally, a petition filed by Vuze, Inc. seeks the Commission to initiate a rulemaking to clarify what constitutes “reasonable network management” for broadband network operators.

PART-15.ORG does not believe the Commission should act on either of these two petitions but rather concentrate on the underlying issues that generated these symptoms. This organization further seeks that the Commission does not adopt any rules or regulations that in form take away from the rights of the service providers to manage their network in whatever fashion they elect based on lawfully designed business plans.

### **Issues at Hand**

The Petitions by Free Press, *et al.*, and Vuze Inc., purport to the issues of legal rights of broadband consumers versus the legal rights of the broadband service

providers. When in fact, the petitions before the Commission are but a symptom of other underlying issues within the broadband industry.

PART-15.ORG believes that the three most pressing real issues at hand here are:

Issue 1: Is the internet an “all-you-can-eat” buffet for a flat rate cost or do broadband service providers have the right to charge their customers on a per-consumption basis in the same form and manner as utility companies (or others) presently charge their customers?

Issue 2: Does the technology exist to determine legal versus illegal peer-to-peer traffic?

Issue 3: Is there a need for better education of the consumer that would provide the consumer more real expectations of the services promised by their broadband provider?

PART-15.ORG fully supports a Commission policy and is committed to making all legal content available through lawful applications on a wide variety of platforms without restriction. However, this Organization does not support any Commission action regarding the internal management and company policies pertaining to providing those lawful activities.

Each Broadband Service Provider elects how they will manage their network. This decision is one that affects the financial aspects of how they will provide their services. Because one service provider may elect to charge in one fashion and another provider elects a different fashion, neither are of a regulatory concern. As well, the network management techniques of each commercial entity are also not a regulatory

concern. The issues brought about by Free Press and Vuze, Inc., are not regulatory concerns at all, but rather industry wide issues and should not be treated by the Commission as anything other.

The PART-15.ORG emphasize that WISPs are committed to making all content available through lawful, consumer-friendly applications on a wide variety of platforms, including peer-to-peer Internet distribution.

The PART-15.ORG urges the Commission not to adopt rules or policies that shackle broadband service providers in their efforts to develop and implement technological solutions that address the massive and growing problem of pirated content on the Internet Company Policies.

Free Press rightfully states that consumers should have the capability of using these file sharing programs. However, they fail to provide any substantial rebuttal on the rights of the service provider to charge for such "additional" services.

#### **DISCUSSION:**

Limiting traffic is important to network management. Without limiting traffic one consumer could effectively deny service to other consumers. Prioritizing traffic is important to network management. Prioritizing VoIP or IPTV or other protocols are essential to network management as they are less forgiving to network issues than simply peer-to-peer protocols. Businesses should be allowed to manage their networks as they require without interference from the commission or consumers. Consumers need to understand which provider allows higher priorities for what type of traffic to be included with the subscriber package. If however the service provider states their policy as one thing and evidence shows to the contrary then that is a matter of concern but

certainly not a concern of the Federal Communications Commission but possibly the Federal Trade Commission.

In keeping with the Commission's policy, this organization supports many flavors of open-access to content. However, specifically targeting a particular type of IP protocol would not be in keeping with open-access. Further, since "Net-Neutrality" does not seem to have a clear and distinctive definition, these proceeding before the Commission should be considered as is and not construed to be issues of "Net-Neutrality".

Most WISPs provide multiple tiers of service offerings. For example, PDQLink Wireless ([www.pdqlink.com](http://www.pdqlink.com)) has three classes of services (Residential, SOHO and Business. Each of these classes is further broken down into speed and transfer tiers. While not targeting any specific type of traffic (allowing for virtually all legal protocols), the customers of PDQLink Wireless pay for the speed they receive and the amount of traffic transferred per month. This method allows consumer's access to every type of content as well as proving a cost savings for those who use the internet less.

Many larger providers and consumers do not realize the need to treat broadband in the same light as any other consumable product. For example, the more electricity one uses, the higher their monthly bill will be. The same goes for gas, water, food, etc. This Organization has always believed the internet is based on the consumption value. No different than purchasing a Cadillac vs. a Geo Metro. You pay for what you get. But the consumer has been led to believe otherwise. Municipal Wi-Fi, with its promise of FREE HIGH SPEED INTERNET is just one of the contributing leaders on the misinformation road to gain higher consumer expectations.

This Organization does not condone the conduct of broadband providers who misrepresent the facts and mislead the consumer. While forging specific traffic (when used properly) is considered by this industry as necessary network management, those who would deceive and misrepresent the need and manner in which it is carried out, for such network management should be handled on a case-by-case basis rather than through regulatory means.

### **Conclusion**

Broadband Service Providers need to maintain networks in such a manner that allows for consumers to “eat all they want to pay for” while at the same time allow for proper network management. Consumers need to understand that Broadband is a consumable product/service and therefore the more they consume the more they will pay.

Given all the above, PART-15.ORG strongly encourages the Commission to support and foster the growth of broadband competition and that this is not a matter for the Commission.

PART-15.ORG stands ready to work with the commission and other private organizations such as the WCA in securing a more meaningful use and protection of the license-exempt spectrums.

Respectfully submitted,

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael R. Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael R. Anderson  
Chairman

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Michael R. Anderson, Chairman

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