

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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|   |   |                     |
|---|---|---------------------|
| In the Matters of:                            | ) |                     |
|   | ) |                     |
| Petition of Free Press et al. for Declaratory | ) |                     |
| Ruling that Degrading an Internet             | ) |                     |
| Application Violates the FCC's Internet       | ) |                     |
| Policy Statement and Does Not Meet an         | ) |                     |
| Exception for "Reasonable Network             | ) | WC Docket No. 07-52 |
| Management"                                   | ) |                     |
|   | ) |                     |
|   | ) | WC Docket No. 08-7  |
| Vuze, Inc. Petition to Establish Rules        | ) |                     |
| Governing Network Management Practices        | ) |                     |
| by Broadband Network Operators                | ) |                     |
|   | ) |                     |
| Broadband Industry Practices                  | ) |                     |

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**COMMENTS OF ROBERT M. TOPOLSKI**

February 26, 2008

Robert M. Topolski  
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customer of Comcast Corporation*  
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I am a customer of Comcast Corporation, subscribing to both their High-Speed Internet service as well as a mid-level television package. I am one of the Comcast customers whose testimony appears attached on the original Free Press petition as I directly observed, researched, and documented the Comcast interference with Peer-to-Peer (P2P) File-Sharing protocols.

During the *En-Banc* Hearing of February 25, 2008, I was monitoring the proceedings from home. Immediately following the presentation of David Cohen, I monitored raucous audience applause that seemed uncharacteristic of the presentation that was just presented.

The gist of Comcast's presentation was to explain that it was acting reasonably and that the public and Commission should find its behavior reasonable. This is not a position that generally would elicit roof-shaking ovations.

I have learned through first-hand accounts <sup>1</sup>and press coverage<sup>2</sup> that quotes a Comcast spokesperson that Comcast paid seat-fillers who occupied seats at the room-capacity meeting, keeping everyday members of the general public from attending the meeting!

Commissioners, some of you may believe that you are being asked to make a judgment call. Indeed, the question of reasonableness – despite the evidence you have already seen as to long-existing Internet Standards from the IETF – reasonableness still seems to be a determination of good judgment. As you assess the merits of this case, please consider Comcast’s behavior and deportment in this matter in determining whether the company has exercised good judgment..

/s/ Robert M. Topolski

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<sup>1</sup> <http://www.savetheinternet.com/blog/2008/02/25/comcast-blocking-first-the-internet-now-the-public/>  
Comcast Blocking: First the Internet — Now the Public Feb 25 2008 SaveTheInternet Blog

<sup>2</sup> [http://www.portfolio.com/news-markets/top-5/2008/02/26/Comcast-FCC-Hearing-Strategy?print=true#Grassroots Support? Or Astroturf?](http://www.portfolio.com/news-markets/top-5/2008/02/26/Comcast-FCC-Hearing-Strategy?print=true#Grassroots+Support?+Or+Astroturf?) by Sam Gustin Feb 26 2008 Condé Nast Portfolio

# Grassroots Support? Or Astroturf?

by Sam Gustin Feb 26 2008

## Comcast acknowledges that it hired people to take up room at an F.C.C. hearing into its practices.



Two men apparently sleeping during an F.C.C. hearing at Harvard on Monday. Comcast acknowledged that it paid some people off the street to hold places in line for its employees, but denied they took seats in the hearing room. Photograph courtesy of: Free Press

How big are the stakes in the so-called network neutrality debate now raging before Congress and federal regulators?

Consider this: One side in the debate actually went to the trouble of hiring people off the street to pack a Federal Communications Commission meeting yesterday—and effectively keep some of its opponents out of the room.

Broadband giant Comcast—the subject of the F.C.C. hearing on net neutrality at the Harvard Law School in Cambridge, Massachusetts—acknowledged that it did exactly that.

Comcast spokeswoman Jennifer Khoury said the company paid some people to arrive early and hold places in the queue for local Comcast employees who wanted to attend the hearing.

Some of those placeholders, however, did more than wait in line: they filled many of the seats at the meeting, according to eyewitnesses. As a result, scores of Comcast critics and other members of the public were denied entry because the room filled up well before the beginning of the hearing.

Khoury said the company didn't intend to block anyone from attending the hearing. "Comcast informed our local employees about the hearing and invited them to attend," she said. "Some employees did attend, along with many members of the general public."

That was not enough to satisfy Comcast's critics.

Craig Aaron, a spokesman for Free Press, which was one of the groups that filed the complaint against Comcast, denounced the company's tactics.

"The sad thing about this is that literally hundreds of people who were not paid to stand in line, or paid by their employer to attend, were prevented from even entering the building," Aaron said.

Such tactics are not unheard of at congressional hearings in Washington, but Comcast's critics said they were inappropriate for a public hearing on a college campus.

Free Press campaign director Timothy Karr said he showed up at the hearing 90 minutes early, only to find the room "75 percent full." "The only reason these people were in the room, it seemed to me, was to keep seats warm and exclude others," Karr said.

Some audience members appeared to sleep through the proceedings, according to photos taken during the hearing. Other applauded enthusiastically when Comcast executive vice president David L. Cohen delivered key points in his presentation.

A number of people in the audience wore yellow highlighter marking pens on their shirts or jackets; Karr said that was to identify them to Comcast employees coordinating the company's appearance at the event. Khoury acknowledged that Comcast coordinated the employees that it brought to the hearing.

The revelation that Comcast paid non-employees to stand in line at the hearing comes against the backdrop of a bitter public relations war between Comcast and its critics, including the public interest groups Free Press and Public Knowledge.

"For the past week, the Free Press has engaged in a much more extensive campaign to lobby people to attend the hearing on its behalf," Khoury said.

The hearing was held to address complaints leveled by Free Press, Public Knowledge, the web video company Vuze, and others, that Comcast is trying to stifle competition by blocking the delivery of rival video-on-demand services over its cable system.

For weeks, Free Press had been trying to organize supporters to attend the hearing by issuing press releases and circulating flyers advertising the event.

Unlike Comcast, Free Press did not pay anyone to stand in line, Aaron said, nor did it provide transportation to any of its supporters.