



July 17, 2008

**ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW Washington DC 20554

**RE: Ex Parte, WC Docket No. 05-337, CC Docket No. 96-45**

Dear Ms. Dortch:

The Open Internet Coalition (“OIC”)<sup>1</sup> fully supports the goal of bringing broadband Internet to all Americans, including those living in rural areas. As the Congress and the Commission turn to the issue of reforming the universal service system, we would like to take this opportunity to set forth our views. There is nothing more important for the Congress or this Commission than ensuring that all consumers have access to universal, affordable, and open broadband connections. Ensuring an open Internet is perfectly consistent with universal, affordable Internet and should be an essential component of our policies.

As this Commission is well-aware, our universal service system primarily supports analog infrastructure. Meanwhile, other countries are preparing the ground to switch over to an all-Internet, completely broadband network. Much like the transition to digital broadcasting, America requires a bi-partisan commitment to transition to a national broadband network so that all Americans can realize the full potential of an Internet-enabled economy. OIC believes that universal service support for broadband should be targeted to those parts of the country that would otherwise not cross the digital divide without government assistance.

The Federal-State Joint Board on Universal Service (“Joint Board”) has taken on the difficult task of recommending reforms to the high-cost universal service program to address inefficiencies and the growing cost of the program to consumers. While the Joint Board

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<sup>1</sup> Open Internet Coalition supporters include the following organizations: eBay, Google, IAC, Amazon.com, Sling Media, TiVo, Free Press, EDUCAUSE, Earthlink, American Library Association, American Association of Law Libraries, Association of Research Libraries, the Computer and Communications Industry Association, Data Foundry, Electronic Retailing Association, Internet 2, NetCoalition, Public Knowledge, Skype, TechNet, US PIRG, and the Future of Music Coalition. A more complete list and more information can be found at [www.openinternetcoalition.org](http://www.openinternetcoalition.org).

recognized the importance of ensuring that all Americans have access to broadband services, it is equally important that all Americans have access to the applications and services which ride on top of broadband connections.

In this regard, an open Internet is essential to achieving the goal of increasing broadband adoption in high-cost areas. Ensuring that consumers have sufficient reasons for subscribing to broadband Internet access is at least as important as targeting universal service support to the places that need it. Subsidizing a constrained, closed version of the Internet will not reverse the U.S. slide in international broadband rankings or lead to broadband subscribership numbers of which policymakers can be proud. An open Internet allows consumers to benefit from the entire array of innovations occurring at the edge of the network without the network operator playing the role of gatekeeper or favoring some applications or services over others.

In today's information economy, an open Internet is an increasing necessity for rural broadband users, who deserve to have full access to the same range of products and services as their urban counterparts. As sellers of products and services, rural consumers should be able to conduct business around the country and the world. Such openness furthers the existing statutory goal of giving consumers in high-cost areas access to "advanced telecommunication and information services . . . that are reasonably comparable to those services provided in urban areas . . . ."<sup>2</sup>

It is important that policymakers ensure that rural carriers are financially able to transition to an IP network. We should make no mistake; it is the nation's small rural carriers – not the incumbent Regional Bell Operating Companies (RBOCs) and cable operators – who will deliver affordable broadband service to rural Americans. Indeed, OIC submits that RBOC and cable industry objections to network neutrality rules are a result, in part, of their desire to create a non-transparent, complicated payment scheme that imposes new costs on edge-based content companies and rural carriers. We support open and transparent networks that preclude the telephone and cable industry from manipulating their market position to the detriment of other entities that are part of the larger Internet ecosystem.

OIC supports proposals to establish a Broadband Fund to make broadband infrastructure available to rural consumers who would otherwise lack access to the broadband Internet. The proposal to allocate approximately \$300 million per year in USF funding may be an incremental first step, but it is woefully inadequate if all-rural users are to benefit from affordable broadband.<sup>3</sup> Should the FCC move forward with the Joint Board's recommendation, OIC strongly urges the Commission to require that support from such a

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<sup>2</sup> 47 U.S.C. § 254(b)(3); see also *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-22, ¶ 57 (rel. Jan. 29, 2008) ("*High-Cost Support NPRM*").

<sup>3</sup> *High-Cost Support NPRM*, ¶ 29.

Fund be conditioned on eligible telecommunications carriers (“ETCs”) operating their broadband networks in accordance with openness requirements.

In this regard, OIC offers its unqualified support for NTCA’s call for non-discriminatory access to transport needed for rural communications carriers to reach the Internet backbone. We support its position that once broadband becomes a supported service under Title II of the Act, carriers receiving such support should be subject to additional regulatory conditions,<sup>4</sup> in this case, an obligation to operate supported broadband networks consistent with openness requirements previously discussed.

As OIC has argued in the past,<sup>5</sup> such openness requirements should include not only adherence to the four principles contained in the Commission’s *Broadband Policy Statement* but also an enforceable nondiscrimination principle similar to the condition agreed to by AT&T during the approval of its merger with BellSouth.<sup>6</sup> By doing so, Congress will ensure that rural consumers and others in high-cost areas truly enjoy the benefits of an open Internet, including innovation and competition at both the application and network levels.<sup>7</sup> We ask that the Congress and the Commission also seriously consider other, more comprehensive infrastructure proposals like those proposed by Free Press<sup>8</sup> and EDUCAUSE<sup>9</sup> as a way of harmonizing the nation’s interest in broadband deployment with protecting an open Internet. These more comprehensive proposals are a better approach to reforming the nation’s universal service policies.

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<sup>4</sup> Comments of National Telephone Cooperative Associations, WC 05-337, CC Docket 96-45, at Pg. 4.

<sup>5</sup> Comments of the Open Internet Coalition, WC Docket No. 07-52, at 14-15 (filed June 15, 2007).

<sup>6</sup> *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order, WC Docket No. 06-74, FCC 06-189, at 154 (rel. Mar. 26, 2007). Under such a nondiscrimination condition, a network operator would be prohibited from providing or selling to Internet content, application, or service providers, including those affiliated with the network operator, any service that privileges, degrades or prioritizes any packet based on its source, ownership or destination.

<sup>7</sup> Cf. Rural Cellular Association, *Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers*, RM-\_\_\_\_\_ (filed May 20, 2008) (noting that rural wireless consumers do not enjoy the same choices with respect to wireless handsets, including smartphones that access broadband services, as do urban users).

<sup>8</sup> See [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6520012212](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520012212)

<sup>9</sup> See "A Blueprint for Big Broadband: An EDUCAUSE White paper," available at <http://net.educause.edu/ir/library/pdf/epo0801.pdf>

Please do not hesitate to address any questions to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Erickson", followed by a long horizontal line extending to the right.

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