



October 27, 2009

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Genachowski:

The Entertainment Consumers Association (ECA) lauds your proposed Net Neutrality rules and urges your continued support for them. Net Neutrality is a key right for consumers, protecting one's choice of content, guaranteeing equal opportunity on the Internet and ensuring continued enjoyment and use of the Internet for a variety of applications including recreation, creativity and economic expansion.

With online components of game play becoming more the rule than the exception, the Internet is increasingly important in how video games are enjoyed. Of the 117 million active gamers in the United States, 56 percent play games online, accounting for over 65 million Americans. The average age of game consumers has risen to 35 years of age with the maturation of Generations X and Y, making them important, tech savvy and vocal constituents. A neutral Internet is important for gamers and gaming in numerous ways including:

- Popular massively multiplayer online (MMO) games such as Activision-Blizzard's *World of Warcraft* hosts more than eleven million users worldwide;
- Both Xbox Live® and PlayStation Network® connect over 46 million console users in the United States and abroad in hundreds of games online; and
- Well-liked gaming websites like Kongregate, PlayFirst, Pogo.com and PopCap Games also serve hundreds of millions of users on their web browsers.

Digital distribution is also an increasing trend with games, allowing users to download the game directly to their platform of choice and bypass the need for physical media, such as CD-ROMs, entirely. One of the fastest-growing avenues of digital distribution is in the wireless arena. The iPhone App Store and other wireless providers are selling thousands of games to consumers on their phones, but are also urging that principals of Net Neutrality should not apply to them. From a gamer's perspective, wireless providers must be treated the same as any other service provider to insure the same gaming experiences exist across platforms.

All of these applications need Net Neutrality to insure that carriers cannot price discriminate against gamers, or eliminate or limit access to another provider's content. While the Internet has traditionally been a place of relative freedom, several recent actions by service providers concern the ECA. Under

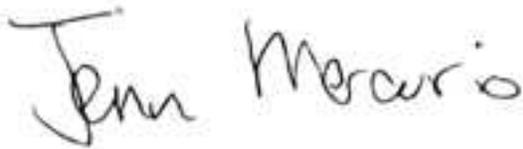
current law, or the lack thereof, Internet service providers can block websites, content, services or applications they don't like. And they have, most notably when Comcast secretly interfered with users' ability to access popular video, photo and music-sharing applications; or AT&T and Apple deciding which applications can be downloaded to iPhones. Both of these activities could easily be aimed at games to limit our hobby online.

And we are seeing more troubling behavior in the marketplace. Internet service providers have stated their intention to deploy discriminatory "deep packet inspection" technology that would allow them to monitor and control the Internet. This dangerous technology would give network providers unprecedented power over Internet users, and it presents a serious threat to online privacy.

For these and many other reasons, the ECA asks that the FCC take action now to affirmatively safeguard the free flow of information on the Internet before it's too late. If you have any questions on this or other similar issues please contact me at jenn@theeca.com.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Jenn Mercurio". The signature is written in a cursive, slightly slanted style.

Jennifer Mercurio
Vice President & General Counsel

Cc: Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker