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January 14, 2010

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Preserving the Open Internet Broadband Industry Practices

GN DocketNo.09-191
WC Docket No.07-52

Dear Chairman Genachowski and Commissioners:

The League of United Latin American Citizens firmly supports the FCC's goal of preserving a free and open internet. In fact, we believe that the FCC's existing internet principles have worked so well that very few instances of anti-competitive or censoring behavior by U.S. based ISPs have occurred to date. Compared to the substantial reduction in economic opportunity caused by the digital divide or the fact that one in four computers affecting more than 60 million users in the United States are infected with malware, the vast majority of consumers have not been adversely impacted by the potential concerns that the FCC seeks to address in its NPRM.

While we support the FCC's goal of codifying its existing network neutrality principles, we are concerned that by vigorously pursuing these new regulations while virtually ignoring the impact and cost of viruses, identity theft, phishing sites, Trojan horses, spyware, adware, worms, rootkits, adware, botnets, pornography and spam, the FCC appears to place the interests of elite computer users who consume a disproportionate share of bandwidth yet are sophisticated enough to avoid malware attacks over the interests of the vast majority of internet users who have been hit extremely hard by malware. On behalf of these users, LULAC urges the FCC to place at least as high a priority on internet security as it places on protecting a free and open internet that doesn't appear to be in any jeopardy.

LULAC firmly believes in the ability of safe and secure broadband to empower Americans of all ethnic backgrounds and improve the quality of life for everyone in our nation. As such, we thank the FCC for its efforts to develop a National Broadband Plan that makes the expansion and adoption of broadband service a priority with a special focus on reducing the digital divide.

While we are in general support of the majority of the FCC's proposed rules, we are concerned that the fifth principle requiring a broadband Internet access service provider to treat lawful content, applications, and services in a nondiscriminatory manner, could prevent a decrease in internet access costs in the future and result in congested networks that degrade the user's experience. LULAC believes the relatively high cost of internet access has deterred adoption by low income Americans and increased the digital divide.

If the nondiscrimination rule prevents application service providers from sharing in the cost of deploying the next generation of broadband infrastructure, the entire cost of this next generation internet will be passed on to internet users even as the application service providers make billions in profits from these new pipes. Worse if the nondiscrimination rule places competing video and voice applications on an equal footing with the ISPs own offerings, the triple play income stream that has paid for today's internet infrastructure will become a single revenue stream resulting in much higher charges for internet access. Finally, if the nondiscrimination rule prevents an ISP from prioritizing time-sensitive traffic such as video and voice over non time-sensitive traffic such as peer-to-peer file sharing, then it could create the type of network congestion that makes the internet unusable for certain services that consumers depend on.

The success of ad-supported web application service providers has proven that consumers prefer free or low cost services subsidized by advertisers over application service providers that charge the full cost of their product to consumers. Consumers may also prefer internet service providers that provide reduced price internet service by subsidizing part of the cost of that access with support from application service providers who need guaranteed high speeds to improve their product offerings. Many consumers were pleasantly surprised when Google paid for internet access at many US airports over the holidays. We see no legitimate reason for the FCC to prohibit such a practice without evidence that these arrangements are anti-competitive or any more unfair than the advantages that application service providers provide to their advertisers.

In conclusion, if drafted or applied incorrectly, the non-discrimination rule could increase the price of broadband for minorities, reduce broadband adoption, result in congested networks, deter investments, and prevent the type of cost sharing that could help close the digital divide. As the comments filed by David Honig on behalf of 16 national organizations state, "if not carefully drafted, net neutrality rules could have the unintended effect of locking current disparities in place for years to come, thereby consigning minorities to a permanent digital underclass."

As the oldest and largest Hispanic civil rights organization in the United States, the LULAC is keenly interested in improving educational, economic and other opportunities for Latinos. The National Broadband Plan can help us with that mission, but only if it maintains a strict focus on strategies that will put broadband within the reach of all Americans.

Consequently, the League of United Latin American Citizens urges the FCC to proceed cautiously when considering the nondiscrimination rule. Given the relatively few incidents in the United States where legitimate internet traffic was blocked or slowed for anti-competitive or censorship reasons, the FCC appears to be pushing a new regulation as a preventative measure for a problem that has yet to warrant such action. In doing so it could unintentionally increase prices for consumers and hinder its efforts to close the digital divide while precluding type of innovative cost sharing strategies that has made the internet the popular service it is today.

Sincerely,



Brent A. Wilkes

National Executive Director