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Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: GN Docket No. 09-191

April 26, 2010

Dear Chairman Genachowski and Commissioners:

Echoing the comments put forth in our earlier filing, the League of United Latin American Citizens wishes to provide these reply comments expressing our continued support for the FCC's goal of preserving a free and open internet. LULAC remains committed to the FCC's existing internet principles, which have worked so well that very few instances of anti-competitive or censoring behavior by U.S. based ISPs have occurred to date. We are so confident in the FCC's existing principles that we do not believe it is necessary or desirable for new principles to be added. In particular, we find the non-discrimination principle troubling as it could be construed as prohibiting internet software companies from sharing in the cost of providing broadband to the consumer, virtually guaranteeing that broadband prices will remain high and preserving the current disparities in access by income and race. It could also inhibit Quality of Service enhancements, which would impinge on specific internet applications that require heightened security measures and reasonable network management.

As stated in our earlier comments, we urge 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 jeopardy. While we understand the FCC's concerns, we believe the proposed non-discrimination principle would have unintended consequences on access and price while having little if any benefit for consumers. A safe and secure connection to broadband internet will do more to improve the online experience and quality of life of our members than will a non-discrimination principle whose ramifications may far exceed the FCC's intentions. Rather than pursuing a controversial and legally dubious non-discrimination principle, we think the FCC should focus upon its goal of achieving 100% broadband access. Increasing the adoption of broadband while narrowing the digital divide are noble goals that are most worthy of the FCC's time and effort and can unite internet users rather than divide us.

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.

Some commenters have argued that preventing application providers from sharing in the cost of internet access or the erosion of triple play to single play will have no affect on future prices for consumers (see Media Justice Commenters) because internet service providers do not face enough competitive pressure. In their view ISPs would simply pocket the additional revenue without upgrading their networks and/or lowering prices. While we share their concerns over a current lack of competition, we believe that the growth of DSL, cable, wireless, WiMax, satellite, and fiber create the opportunity for stronger competition and lower prices. In fact, we believe that consumers would be better served if the FCC focused its attention on increasing competition rather than insisting upon a rigid non-discrimination principle.

An example of what is possible is M2Z Networks application to use the AWS-3 spectrum to provide free wireless to 95 percent of the country using revenue generated from search providers. It is unclear whether the FCC would interpret the non-discrimination principle in such a way that would bar this kind of cost sharing strategy. However, what is clear is that such a network would go a long way to putting competitive pressure on the cost of broadband access. Regardless of the FCC's final rules on the open internet, the FCC should approve the M2Z proposal and others like it which could help lower the cost of broadband access and eliminate the digital divide.

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.

The League of United Latin American Citizens reiterates its call on the FCC to proceed cautiously when considering the non-discrimination principle. 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,

A handwritten signature in black ink that reads "Brent Wilkes". The signature is written in a cursive style with a large initial 'B' and a distinct 'W'.

Brent Wilkes

*National Executive Director
League of United Latin American Citizens*

