

Chairman Genachowski and whomever this may concern at the FCC,

Use statutory legal authority to protect the Open Internet and implement The National Broadband Plan to promote universal access. That starts by reclassifying broadband a telecommunications service under Title II of the 1996 Telecommunications Act. Again statutory authority not weaker ancillary authority that the Bush FCC used to punish Comcast for deceptively trying to block Bit Torrent. As you know Comcast responded with a lawsuit against the agency. The ruling by the U.S. Court of Appeals in Comcast v. FCC favored Comcast and said that the FCC had no sufficient ancillary authority to protect the Open Internet. If you try to use ancillary authority you'll open the agency up to more lawsuits that the agency will easily lose.

If you do reclassify there is no doubt now that the incumbents will try to fight back against any attempt by the agency to use statutory authority also but you'll be on firmer footing and have stronger legal ground to use to protect the Open Internet and implement the universal access policies of The National Broadband Plan calling for a more competitive, affordable Internet access market. If you reclassify consumers and consumer rights groups will support you but if you side with the lobbyists you'll be siding with corporations and letting us all down.

President Obama promised he would support Net Neutrality and have called on him to maintain his commitment in light of the unfortunate and recent news the FCC might not reclassify. On Net Neutrality the FCC cannot be passive or neutral. Do not abandon your agency's promise to protect the Open Internet. Do not abandon users who you asked to comment on Net Neutrality and who said yes.

Keep your commitment to an Open Internet and expanding broadband universally and we'll support you and stand by your agency.