

**Before
The Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

**Notice of Inquiry:
Framework for Broadband Internet Service**

GN Docket No. 10-127

**COMMENT OF
Open Media and Information Companies Initiative (Open MIC) and
Trillium Asset Management Corporation**

Submitted by:

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This comment is offered by a group of institutional investors in support of what Chairman Julius Genachowski has called the “pro-investment, pro-innovation, pro-competition, pro-consumer policies” of the Commission toward broadband Internet policy.

It also endorses implementation of a “third way” approach to Commission policy on broadband Internet by classifying broadband Internet access as a telecommunications service subject to Title II of the Communications Act while eliminating most of the regulatory requirements through the forbearance process.

The comment is offered by the Open Media and Information Companies Initiative (Open MIC), a non-profit group which organizes shareholders of media and information companies in support of responsible management policies, and Trillium Asset Management Corp., an independent investment management firm dedicated to socially responsible investing.

Members of the Open MIC coalition are investors, investment advisory and mutual fund companies, foundations, shareholder advocacy groups and pension funds with a combined total of more than \$130 billion in assets under management.

Open MIC coalition members are widely diversified investors with fiduciary interests in a broad range of other industries and businesses for which a healthy and robust Internet environment is an economic necessity.

As diversified investors, we believe open Internet principles have a major positive impact on the economy by virtue of the fact that they promote free speech, civic participation, democratic engagement, technological innovation and marketplace competition, as well as robust broadband adoption and participation in the Internet community by minorities and other socially and economically disadvantaged groups.

Members of the Open MIC coalition collectively are also significant shareholders in most, if not all, of the Internet Service Providers (ISPs) involved in this proceeding.

Starting in 2009 and continuing into the 2010 proxy season, the Open MIC coalition and Trillium have introduced multiple shareholder resolutions at publicly-held ISPs seeking reports from their boards regarding open Internet issues. These proposals have been consistently and strenuously opposed by the ISP industry.

Based on our experience with the major ISPs, we wholeheartedly agree with the statement regarding this inquiry by Commissioner Mignon Clyburn that “there are efforts underway designed to stifle at all costs our ability to engage in reasonable and productive discussion about these pressing issues. Indeed, it appears that we are a long way from a sincere debate on the merits of these proposals.”

As investors, we also agree with Commissioner Clyburn that the argument being put forth by the industry that “proceeding with this inquiry – let alone a change in classification – would freeze investment in the networks” is, indeed, “specious.”

We believe the opposition of the industry to reasoned and reasonable regulation with regard to open Internet principles reflects a short-term perspective that could weaken consumer confidence in the companies and their Internet services, damage brand reputation and harm shareholder value.

We agree with Commissioner Michael Copps when he says he is “worried about relying only on the good will of a few powerful companies to achieve this country’s broadband hopes and dreams. We see what price can be paid when critical industries operate with unfettered control and without reasonable and meaningful oversight.”

Indeed, risk management requires careful and constant attention and a long-term perspective that accommodates multiple stakeholder views.

In that context, we believe that maintaining a policy of regulation of broadband Internet access under Title I of the Communications Act would be untenable. That course would provide neither the consumer protections required for a healthy Internet economy nor a regulatory environment conducive to more transparent and accountable corporate policies and practices.

Uncertainty regarding the FCC’s authority, stemming from the Court of Appeals decision in the *Comcast* case, also jeopardizes implementation of the Commission’s National Broadband Plan, which seeks to bring Internet capability to the more than 100 million Americans who do not now have broadband access at home.

However, we also conclude that application of all Title II provisions of the Act presents a danger, as the Commission suggests, of “overregulation of a service that has undergone rapid and generally beneficial development” under the Commission’s deregulatory approach.

Accordingly, as investors, we endorse the “third way” approach described by the Commission, which would classify the Internet connectivity portion of broadband Internet service as a telecommunications service under Title II but would simultaneously forbear from all but a small handful of provisions necessary for effective implementation of universal service, competition and small business opportunity, and consumer protection policies.

It is imperative that there be prohibitions on the ability of Internet service providers to block legal content and to discriminate based on types of content. As we have also previously highlighted in our shareholder proposals to the major service providers, greater transparency regarding Internet network management practices (without disclosure of confidential technical detail) would provide important and valuable benchmarks for investors to assess the impact of the companies’ policies on customers, communities, and society.

We also strongly believe that these open Internet rules extend to wireless broadband services.

With this notice of inquiry, the Commission is addressing matters of extreme importance to our economy, with impact on both widely diversified investors as well as shareholders in individual companies. We thank the Commission for this opportunity to comment and look forward to participating in the ongoing discussion regarding these proceedings.

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