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AUG 2 6 2010

Federal Communications Commission
Office of the Secretary

Docket 07-52

REMEDY E-MAIL 10-R2739058

7/30/2010 9:56:29 PM - Email Acknowledgement sent to jhbode@cccomm.net.

jhbode@cccomm.net wrote on 7/30/2010 9:56:06 PM :

First Name : JON
Last Name : BODE
Address 1 : 3740 MEDALLION LANE
Address 2 :
City : FALLON
State : NV
Zip : 89406
E-Mail : jhbode@cccomm.net
Daytime Phone :
letter : To: The Federal Communications Commission

I am submitting the following reply comment regarding the matter of preserving the open Internet. GN Docket No. 09-191, WC Docket No. 07-52:

I am an American, deeply concerned about continued government interference in our economy. With the economy sputtering along, we need government policies that will free-up the time and the resources of America's entrepreneurs. One particular area in which the government ought not interfere is the internet—a highly successful and competitive marketplace.

The internet cannot be treated like a public utility. Phone, cable, wireless, satellite and even power companies are engaged in fierce competition to win Internet customers, producing tremendous advances in technology, customer services, and driving prices down. Were the government to attempt to control these businesses through regulation, as some are proposing here, the American people would lose a tremendous opportunity.

When it comes to the Internet, competitive forces, investments and innovation ought to not only to be preserved, but promoted and encouraged. In the last 15 years, America has gone from weak dial-up, difficult-to-use internet applications to blindingly fast broadband speeds where services are only limited by the boundaries of their own creativity.

In their initial comments, Free Press made a number of claims, without substantiating those claims. Before it seriously considers regulating, the Commission must place the burden of proof on those arguing for the regulations, and not on those arguing for restraint. If a clear case cannot be made that a problem actually exists, and that the proposed regulations are necessary and beneficial to address that existing problem, the Commission should show restraint.

Free Press offers an interesting argument in the form of a litany of "Doomsday scenarios" offered by broadband providers, claiming that no such scenarios have occurred as a result of the Commission's neutrality guidelines.

"Appendix A: The Doomsday Predictions Made by Internet Service Providers Concerning Net Neutrality Which Have Failed to Materialize In order to highlight the reality that many of the doomsday predictions that will likely be made by open Internet opponents in this proceeding are nothing more than unfounded scare tactics, we have compiled for the Commission a sampling of similar such doomsday predictions that failed to materialize. (p 159)"

If Free Press considers Doomsday predictions failing to materialize relevant, surely the Commission should take notice of the fact that none of Free Press's "Doomsday predictions" absent regulations have come true either.

Free Press proudly points out that "public interest groups ... have been advocating for net neutrality rules for more than a decade." (p157) And Free Press'as web site offers the following warning:

"The consequences of a world without Net Neutrality would be devastating. Innovation would be stifled, competition limited, and access to information restricted. Consumer choice and the free market would be sacrificed to the interests of a few corporations."

[http://www.freepress.net/policy/internet/net_neutrality]

The failure of Free Press's own "doomsday predictions" to materialize over the entire decade it and other "public interest" groups have been making such predictions would also seem to be relevant to the Commission. By Free Press's own standards, their dire predictions as to the "devastating" consequences of a world without network

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neutrality regulations should be viewed as "nothing more than unfounded scare tactics." Broadband Internet is not presently subject to any nondiscrimination rule, so it is Free Press that is arguing for a major change in policy and that therefore should have the burden of proving the purported harms in the presently unregulated market.

Regulation should only be promulgated based on a clearly definable market failure or harm. Free Press has demonstrated no such market failure or harm, and continues to posit mere hypotheticals.

We also offer the following comments in response:

1) Network neutrality regulations would harm investment and advancement of Internet Services, and Free Press has offered no evidence to the contrary.

2) Willing investors and willing purchasers have fanded the information revolution that has added to Americans' freedom, knowledge, and economic well-being.

3) The Commission cannot regulate its way to more and better internet connections

4) Network neutrality regulations cannot be used to favor one industry sector over another.

5) As an agency of the federal government, its decisions should be based on empirical evidence, not alarmism.

In their misleading calls to "preserve" network neutrality, Free Press and other proponents of Internet regulations are asking the Commission to regulate the Internet for the first time.

My concerns with that FCC's initial proposal are as follows:

1) A burden of proof requiring network management practices is restrictive and unreasonable. It will hamper the implementation of potentially successful business models Greater uncertainty will undoubtedly create increase legal liabilities, as well as reduce the potential gains made from network-capacity investments. Why invest when you can't realize any returns on your investment?

2) Hampering network management would severely cripple the Internet, which would in turn lead to even greater government intervention. Increasing government control would politicize the 'net in such a way as to stymie those competitive and innovative forces on which it has relied for its impressive growth. One need only look to the onerous taxation and regulation of electric power generation in America today as a primary example of what happens when the government interferes—yet this is exactly what leftist proponents of Network Neutrality regulations such as Robert McChesney and Susan Crawford have claimed as their ultimate goal

3) It should not be the purview of an independent federal agency to regulate such a broad and vital sector of the American economy on its own. Congress has the duly-designated constitutional authority to make such decisions, and as such, ought to be the initial body for such a debate. They make the law, the FCC can only interpret and enforce it. As far as I am concerned, this is a clear over-extension of the FCC's delegated powers.

4) Finally, I am deeply concerned that the FCC is taking a step here that will result in content control restrictions on the Internet, as evidenced by paragraph 77 of the NPRM that the Commission may ultimately be the arbiter of which competing interests should be prioritized. I do not want government bureaucrats in Washington DC telling me what information I can and cannot get from the internet.

Those trying to implement "net neutrality" have been attempting to raise the specter of a crisis for nearly a decade. There is no crisis. There is no rationale for regulating the Internet. We need to be putting people to work, stimulating the economy, and helping small businesses and entrepreneurs. Regulating the Internet will do just the opposite, stifling innovation and creativity, and severely damaging perhaps the most successful sector of the American economy.

Neither Free Press nor other organizations petitioning for Internet regulations have offered evidence of a market failure or a pattern of abuses.

Free Press has been arguing for nearly a decade that the Internet will face devastating harms unless the government regulates it. And for nearly a decade, exactly the opposite has unfolded. Free Press's hypothetical crisis is merely that, and the Commission has neither the obligation nor the ability to promulgate regulations aimed at alleviating a problem for which it can find no evidence.

Free Press and other proponents of Internet regulations have offered ideology in the place of evidence, and fear in the place of facts I ask that the Commission to vote against regulating the Internet, and instead allow it to grow unfettered.

First Name : JON
Last Name : BOOE

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July 30, 2010 - 9:56 pm