



September 16, 2010

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

Re: Preserving the Open Internet, GN Docket No. 09-191; Framework for Broadband Internet Service, GN Docket No. 10-127

Dear Chairman Genachowski:

As the Internet enters its third decade of widespread use, our nation must make some significant choices. We must decide whether public access to information through the Internet is a fundamental right or a privilege. Likewise, we must determine if future growth and innovation using the Internet is best served by preserving the universal access model, where all content producers have equal access to the broadband “pipes” that make up the Internet, or opting for a stratified model, where Internet Service Providers (ISPs) are able to exert more control over the content they carry and offer differentiated services to consumers and content producers.

What is abundantly clear is that an “open” Internet has fueled exponential growth and rampant innovation. This model allowed for start-up businesses with names like YouTube and Facebook to gain entry to a worldwide market, despite that they had little capital, and to grow rapidly along with demand. It has also allowed public service media organizations like American Public Media to offer content to a worldwide audience and simultaneously better serve our local audiences with highly relevant digital content at speeds equivalent to those available to commercial media. The Internet is playing an increasing role in content distribution; it too must accommodate public service media through a “set-aside” for digital content as the current FCC broadcast licensing system does for public broadcasting.

As bandwidth-hungry Internet applications become more prolific, so will the need for a scalable network architecture that can grow rapidly to accommodate demand. Building this infrastructure will require a significant capital investment on the part of ISPs. It is crucial that actions taken by the FCC preserve the ISPs ability to deliver a strong return for their investors and create new innovations of their own. It is possible for the FCC to create an environment that encourages private investment and innovation while ensuring that the publicly-accessible Internet continues to thrive.

480 Cedar Street
Saint Paul, MN 55101
Phone 651.290.1500
Toll Free 877.276.8400
Fax 651.290.1243
americanpublicmedia.org

Just as the FCC acted decisively in 1945 to set aside a major portion of the broadcast spectrum for non-commercial public service use, effectively creating America's public broadcasting system, it can now ensure that America's broadband infrastructure affordably addresses the needs of the public. The FCC and Congress should carefully and creatively explore options that allow the telecom and Internet giants to succeed while at the same time assuring that the public benefits equally from the continued evolution of the Internet. Not doing so would be a huge blow to the free flow of information in America and mean both the Internet and public media's best years are behind us.

I. Creating differentiated commercial online services, exempt from net neutrality rules, could severely limit the diversity of content available on those services. One need only to look at the ownership structure of cable program content to see the outcome of a "pay to play" system.

The Internet has grown so rapidly because no one entity controls access to the network. Like a freeway with infinite on-ramps, the Internet allows millions of individuals, businesses, non-profits and government agencies to communicate, access and post content seamlessly. Differentiated online services – or private broadband networks – are a very different model. These private networks could create ultra high-speed connections for gaming, entertainment, healthcare or other uses. At first blush, this sounds attractive and could lead to immediate increased investment by the ISPs. However, these new networks could also create a disincentive for ISP's to invest in the open Internet's infrastructure and create "mini-monopolies" in delivering certain broadband services.

Take, for example, streaming video. An ISP and group of media companies could decide to create a private broadband network that specializes in streaming HD video content. This network would be attractive to consumers because the video quality is higher than what is currently available on traditional broadband networks and it may be designed to work seamlessly with new mobile devices. The problem is that the "owners" of the private network, exempt from any net neutrality rules, could choose which content providers are allowed to distribute over that network based on what is marketable and generates the greatest profit. If enough consumers opted to pay for only one service and chose such a service, it could diminish or effectively shut down investment and innovation in streaming video in the open Internet. Consumers would be left with a few providers of HD video over private networks that only carry content from a limited number of producers, something that looks more like our existing cable networks than our existing Internet.

II. If differentiated online services are allowed, they must be narrowly defined to ensure they are a complement to the publicly accessible Internet. Rules could be fashioned to assure equal access, leading to a diversity of programming options for consumers.

We strongly recommend that the FCC follow the precedent it established in 1945 with the creation of the non-commercial band in FM radio and in 2008 with the requirement for non-commercial channels as part of the Sirius XM satellite radio merger and set aside a portion of the "capacity" of current and future broadband networks for public service media. Unlike terrestrial

or satellite broadcasting, broadband has no fixed “spectrum” to divide. Rather it is the overall capacity of the network that is the limiting factor. User demand governs the capacity being used for a specific application or program and thus the cost to the producer. Therefore, whether wireless or wireline, the FCC should require ISPs that develop private broadband networks carry all relevant applications and programming from Corporation for Public Broadcasting (CPB) qualified public service media organizations at no cost to the content producer. This will allow consumer preference to determine what fraction of network capacity is set aside for public service content.

For example, proprietary digital audio networks would be required to carry programming and applications from American Public Media, National Public Radio and Public Radio International as well as content and programming from local public radio stations. On-demand HD video services would be required to carry PBS applications serving content from such programs as *Frontline*, *Masterpiece* and PBS Kids as well as local public television content. Even private gaming networks could benefit from the non-commercial games developed by or for public service media organizations.

III. The cost of broadband migration is a growing burden on public service media providers. The continued development of our nation’s broadband infrastructure must lead to lower costs.

Public radio’s audience continues to grow. Over 30 million people tune in to their local public radio station each week, a 15% increase since 2006. Concurrently, the audience for public radio content via the Internet is growing even more rapidly. Since 2006, Minnesota Public Radio’s requests for streaming audio grew by 200% to over 1.2 million requests per month.

Terrestrial radio broadcasts supplied by FM transmitters are infinitely scalable at zero additional cost – it costs the same to reach 10,000 people with one transmitter as it does to reach 10 million people. Broadband is a very different matter. Each audio stream delivered via the Internet amounts to a "collect call" to the radio station. Last year, Southern California Public Radio's KPCC in Los Angeles spent only \$3,000 to power its transmitter that has the capacity to reach 14 million people throughout Los Angeles County. Today, more than 600,000 people tune into KPCC each week, making it the leading non-commercial news station in Southern California. Reaching that same 600,000 people via wireless or wireline broadband would cost \$300,000 a year, one hundred times the cost of terrestrial broadcasts. If a radio station doubles its broadcast audience, the electric bill remains the same. But if it doubles its Internet audience, the broadband costs double.

As the 2011 model cars emerge with mobile Internet "radios", ISPs and device manufacturers are moving demand from broadcast to wireless broadband. While much of this is being done in the name of greater service options and opportunities, it is also creating a circumstance where the cost of bandwidth could become an untenable burden for public media. The FCC should create a non-commercial rate structure for delivering broadband content that differentiates between commercial and non-commercial content. This coding or “striping” would not change the speed at which non-commercial content is delivered, but it would allow for a separate "tolling" rate structure that the ISPs charge to deliver that content. This non-commercial

broadband rate is as critical to the future of public service media as the 1945 “reserved” public television and radio channels that built the foundation of today’s public media. Creating separate tolling would ensure that public service media’s diverse, innovative and high-quality programming continues to play a major role in America to the benefit of all citizens.

IV. Excluding mobile networks from open-Internet rules would disregard the fact that more and more Americans access the Internet primarily from mobile devices. They deserve a neutral network as much as wireline broadband consumers.

Delivering broadband content via mobile devices presents a host of challenges, not the least of which is building the infrastructure and securing the spectrum needed to support millions of people simultaneously using bandwidth-hungry applications. The FCC should use its authority to support rapid innovation in this space, including spectrum auctions. However, this innovation cannot come at the cost of the open Internet. The rules that ensure a diversity of voices, ongoing innovation, and competition in wireline broadband must extend to mobile networks as well. Public media's largest audiences in ten years will be in automobiles with mobile Internet "radios". Those audiences must have access to the same diversity of programming, with a manageable cost structure, as they now have available as broadcast and wireline broadband users.

V. The FCC should require the inclusion of an activated FM radio receiver, preferably a Hybrid Digital (HD) receiver with a built-in antenna, in all new mobile devices.

There is a simple solution for delivering more content to mobile devices given the limitations of wireless infrastructure and spectrum: the FM radio tuner. Requiring an active FM receiver would serve an important purpose during severe weather and times of emergency as well as providing access to locally originated programming with zero impact on the capacity of mobile data networks. Requiring an HD receiver would greatly increase the programming available, thanks to the multicast abilities of HD, and open the door for innovative applications that draw on both terrestrial HD broadcasts and content from mobile data networks.

The great popularity of FM tuners in mobile devices elsewhere in the world and recent national poll results prove there is overwhelming demand for such functionality. It is apparent that ISPs prefer to push mobile content through data networks they control and can monetize, even if those data networks are already stretched to meet current demand. With mergers such as that of Quest and CenturyLink in the offing, it becomes even more important to ensure a diversity of content feeds to mobile devices. Further concentration of control is not good public policy, is not good for public safety, and is not consumer friendly.

VI. The FCC should remove obstacles for continued investment in public broadband infrastructure.

Through public and non-profit universities, research centers, and other Community Anchors the public already owns a significant portion of the infrastructure that makes up the Internet. The FCC should remove obstacles to the continued development of public broadband infrastructure and redirect Universal Service Fund proceeds toward investment and innovation in

this area. Public service media organizations should be given low-cost access to networks supported by this public infrastructure.

The Internet creates extraordinary opportunities for public media to deliver the highest quality news, information and cultural programming to every American and, more importantly, to engage them as co-creators of that content. If the cost of bandwidth impedes that innovation – or access to exclusive, high-speed broadband services is limited to fewer players – it will threaten the ability of organizations like American Public Media to successfully deliver digital programming and fulfill our public service mission.

Sincerely



William H Kling
President and CEO

cc: Commissioner Michael J. Copps
Commissioner Robert M. McDowell
Commissioner Mignon Clyburn
Commissioner Meredith Attwell Baker