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[grayson.house.gov](http://grayson.house.gov)

February 6, 2014

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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Dear Chairman Wheeler:

I join millions of Americans in expressing my disappointment with the ruling by the United States Court of Appeals for the District of Columbia Circuit in *Verizon v. Federal Communications Commission*. Without regulations protecting the permission-less architecture of the internet, the internet may become yet another pay-to-play communications channel. I encourage you to reclassify broadband as a Title II communications service, so that broadband is treated as a basic common carrier.

Already we are seeing anti-competitive and discriminatory behavior from incumbent telecommunications providers. Just this week, a Verizon customer service representative told customers it is slowing down traffic from Amazon cloud services, a business provider of cloud infrastructure for small businesses such as iScan Online, large businesses such as Netflix, and government agencies such as the Central Intelligence Agency. Not coincidentally, Verizon has a cloud platform that competes with that of Amazon's. This is consistent with anti-competitive behavior in the mobile space, which has a weaker regulatory regime than wireline broadband. As just one example, AT&T has attempted to block products that compete with its phone service, such as the iPhone App Facetime, from using its network.

This is the world without net neutrality, in which the market power of those who own broadband lines or telecommunications networks can be used to force the adoption of an inferior product or service.

Removing legal protections over telecommunications networks, as the court did, also jeopardizes political speech. For example, in 2007, Verizon Wireless blocked a bulk text message from NARAL Pro-Choice America to its members, contending that it had the right to censor such "controversial or unsavory" content on its own network.

Without action from your agency, we will enter a world in which large telecommunications entities determine, at their own discretion, whether Americans enjoy universal phone service, free expression, and market competition. Unless the FCC takes action, this ruling may effectively reorganize the architecture of the internet, from a network in which all can speak, to one in which only those with power and money can speak.

Despite the court's ruling, there is clear authority for the FCC to promulgate strong rules protecting broadband users and the basic right of Americans to access an open internet.

Americans depend on broadband service for many purposes, including traditional voice communication. Consequently, there is no reason the FCC should treat broadband Internet differently from any other regulated telephone service under Title II of the Communications Act of 1934. Millions of Americans have demanded the Internet remain open, and called on the FCC to save Net Neutrality. I join them now by urging you to use your authority to reclassify broadband Internet as a Title II common carrier telecommunications service.

The concept of common carriage goes back to Roman times, and is the backbone of our market economy. It says that any entity who controls infrastructure that has clear public calling (such as roads, phone lines, pipelines) cannot refuse service or discriminate against someone willing to pay prevailing rates. Allowing anyone to become the gatekeeper of the Internet, and creating "pay to play" fee structures is simply unacceptable.

Thank you for your attention to this matter.

Sincerely,



ALAN GRAYSON  
Member of Congress



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

April 18, 2014

The Honorable Alan Grayson  
U.S. House of Representatives  
430 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Grayson:

Thank you for your letter expressing concern about the effect of the recent D.C. Circuit Court of Appeals decision in *Verizon v. FCC*. I share your view that the Internet must remain an open platform for innovation, entrepreneurship, and free speech.

In its opinion, the D.C. Circuit ruled that the Commission has the legal authority to issue enforceable rules of the road to preserve Internet freedom and openness, and it invited the Commission to act to preserve a free and open Internet. I intend to accept that invitation by proposing rules that will meet the court's test for preventing improper blocking of and discrimination among Internet traffic, ensuring genuine transparency in how Internet service providers manage traffic, and enhancing competition.

We are taking several actions toward that end. First, we have established a new docket – “Protecting and Promoting the Open Internet” (GN Docket No. 14-28) – that solicits public comment on issues raised in the court's opinion. I am enclosing a copy of the Public Notice establishing the new docket for your information.

Additionally, I will recommend to my fellow Commissioners that the FCC seek comment through a formal rulemaking on the specific rules for preserving and protecting the open Internet. First, we need to enforce and enhance the transparency rule that the court affirmed. The transparency rules require that network operators disclose how they manage Internet traffic, which gives edge providers the technical information they need to create and maintain their products and services.

Second, we need to fulfill the “no blocking” goal. Consistent with the court opinion, we will carefully consider how we can ensure that edge providers are not unfairly blocked, explicitly or implicitly, from reaching consumers, and that consumers can continue to access any lawful content and services they choose. Third, we need to fulfill the goals of the nondiscrimination rule by considering how Section 706 might be used to protect and promote an open Internet consistent with the D.C. Circuit's opinion and its earlier affirmance of the Commission's *Data Roaming Order*.

I also intend to keep on the table the Commission's option of addressing these issues under Title II of the Communications Act. As the court noted, as long as Title II – with the ability to reclassify Internet access service as a telecommunications service – remains a part of the Communications Act, the Commission has the ability to utilize it if warranted. In light of the D.C. Circuit's finding that the Commission has authority to issue new rules under Section 706 and the ongoing availability of Title II, the Commission will not seek judicial review of the *Verizon* decision.

I am pleased that major Internet service providers have indicated that they will continue to honor the safeguards articulated in the *Open Internet Order*, and that Verizon does not intend to appeal the D.C. Circuit's decision. Abiding by these safeguards is the right and responsible thing to do, and will continue to provide protection for the open Internet until new rules are put in place.

I also want to look for opportunities to enhance Internet access competition. As I have stated, one obvious candidate for close examination (which was raised in Judge Silberman's separate opinion in the *Verizon* case) is legal restrictions on the ability of cities and towns to offer broadband services to consumers in their communities.

Preserving the Internet as an open platform for innovation and expression while providing certainty and predictability in the marketplace is an important FCC responsibility. I appreciate your recognition of this fact and your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler

Enclosure