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I make these comments to join with those submitted earlier today by the Writers Guild of America. I am not a member of the guild, but rather a Private Attorney currently practicing in the state of Arizona.

Along with being an attorney, I am a musician and recording engineer trained at Berklee College of Music. Some of my work involves engagement with and support to independent musicians and small record labels and recording studios who make extensive use of the Internet in their livelihoods.

The Internet to date has served as a leveling of the playing field for independent distributors of content and has provided an opportunity for people like myself, my friends, and my clients to reach an audience that a generation ago had been captured and controlled by large media conglomerates and a corporate dominated FM bandwidth where corruption in access and control has been well documented.

Some of these gatekeepers are now seeking to establish the same sort of control over the Internet that they previously held over radio and television broadcasting. The danger here is of allowing ISPs to consider the interests and scope of those wishing to use their data transmission services, and give preference to those with the ability to pay for that privilege.

As any cultural observer or media critic will aver, the effects of this sort of preferential treatment has always been anti-competitive and disastrous for content providers who, in order to pursue their livelihoods, are forced to sell their services and discretion to the gatekeepers with access to distribution. The internet changed that and it would be a shame if the FCC continued down the path it has already begun in ending that shift in power.

To be clear, while the FCC should be lauded for adopting a stance in favor of an open internet, as the recent Verizon decision made clear, the FCC is hamstringing itself by its dogged refusal to reclassify ISPs under Title II like the common carriers that they are.

While the Chairman Wheeler in his recent statement dated April 24 rightly points out that much of the criticism of the proposed rules has been hyperbolic and exaggerated, what his statement fails to recognize is that the signal sent from the DC Circuit in Verizon was clear: if these ISPs are not Common Carriers then the FCC is extremely limited in its ability to regulate them as if they were. I believe the proposed rules continue in that vein and even if successful in controlling the excesses of ISPs such as those described in the WGA's comment, without recognizing that ISPs are IN FACT common carriers and continuing to treat them as such without reclassification, any new rule set will remain vulnerable to attacks such as the one Verizon made which the Circuit, apparently reluctantly, was forced to agree was correct.

Common carrier policy is what it is for a reason. When a business holds itself out to the public at common rates for all comers, it should not be allowed to discriminate and favor certain customers over others. That is a paramount principle of interstate trade that is a cornerstone of our national economy. Frankly, if it was good enough for the railroads and interstate trucking, it should be good enough for their 21st century digital descendants in the Internet Backbone and last mile provisioning from commercial ISPs.

The FCC's continued reluctance to recognize this truth that numerous commentators have been criticizing the commission for over the last decade is the reason why the public and watchdog organizations don't trust the FCC to do right by network neutrality. The decision not to regulate under Title II has even been criticized by persons who were involved in that original ruling, as former Commissioner Michael Copps has recently also joined the call for common carrier regulation of ISPs.

In the end, this is a practical matter of political will. It's difficult to know as a member of the public why some decisions that seem to be obvious are never-the-less avoided like the plague by policy makers. Such action appears craven and undermines

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our faith in government because, even when it isn't the case, it appears as though policy makers are more interested in appeasing large corporate interests rather than doing what is right by the American public.

Obviously that can't be the case here, else the Commission would not have been engaged as long and vociferously as it has been in the fights it has had with various ISPs over these issues. Which means that it doesn't appear logical for the FCC to continue to avoid playing its trump card. The ISPs are clearly not interested in working toward an open internet, and the FCC should no longer hamstring itself by attempting to mollify an industry that will not be mollified. Your job is not to work with industry to make them happy, but make sure that they do right by the public goods entrusted to them. By regulating them as common carriers, you will do that job. Anything that falls short of that will only prolong this fight, cost more money than need be, and ultimately establish a swiss cheese of loophole ridden legislation that will only benefit those with enough capital to hire lawyers able to help them navigate it. Don't go down that route, please. Keep the internet open.