

June 27, 2014

Ms. Marlene H. Dortch
Secretary, Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* presentation in: Protecting and Promoting the Open Internet, GN Docket No. 14-28; Framework for Broadband Internet Service, GN Docket No 10-127; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Technology Transitions, GN Docket No. 13-5; A National Broadband Plan for Our Future, GN Docket No. 09-51; State of Wireless Competition, WT Docket No. 13-135; Broadband Industry Practices, WC Docket No. 07-52.

Dear Ms. Dortch:

On June 25, 2014, FCC Chairman Tom Wheeler and his advisors, Special Counsel for External Affairs, Gigi Sohn and Special Assistant, Sagar Doshi, met with the following people: Jessica J. González of National Hispanic Media Coalition; Regina Costa and Ana Montes of TURN; Tracy Rosenberg of Media Alliance; Stephanie Chen of Greenlining Institute; James Rucker of Color of Change; Malkia Cyril of Center for Media Justice; Arturo Carmona of Presente.org; Yolanda Hippensteele of Media and Democracy Fund; Chris Conley of ACLU of Northern California; and Cindy Cohn, Mitch Stoltz, Peter Eckersley, Jeremy Gillula and April Glaser of Electronic Frontier Foundation (collectively, “Public Interest Advocates”). The meeting took place at Electronic Frontier Foundation’s office in San Francisco, California.

The Public Interest Advocates expressed the following key points regarding the FCC’s open Internet docket: (1) the FCC must adopt strong open Internet rules that prohibit paid prioritization, blocking and discrimination on the Internet; (2) the FCC must enact stricter downstream and upstream transparency rules; (3) open Internet rules should be the same for fixed and mobile connections; (4) reclassifying Internet service providers as Title II “common carriers” is the soundest legal theory on which to base open Internet rules; (5) a legal theory that rests on Section 706 of the Act requires a level of enforcement that seems to exceed the FCC’s capacity, making it unlikely to adequately prevent blocking, paid prioritization and other unreasonable discrimination; and (6) the FCC should expand its public process in the open Internet proceeding to include engagement of underrepresented end users.

Mr. Rucker, Co-Founder of Color of Change, which uses the Internet to organize the African American community on civil rights issues, emphasized that the organization’s campaigns to advance the well-being of African Americans would not have been possible without an open Internet. As a software developer and an advocate, Mr. Rucker emphasized that paid prioritization would be bad for innovation and advocacy and that the vast majority of Americans, with the exception of Internet service providers, are opposed paid prioritization. Mr. Rucker encouraged the Chairman to adopt open Internet rules that ban paid prioritization, noting that such a move would preserve the status quo and bring certainty to this industry.

Mr. Eckersley of the Electronic Frontier Foundation expressed concern about paid prioritization, noting that it is already happening via peering and colocation contracts, among other things. He urged the FCC to strengthen transparency rules to require disclosure of the details of paid prioritization contracts in addition to network management practices, in order to better identify harmful practices. Also, Mr. Eckersley supported mobile parity and urged the Chairman to assess whether the recently announced T-Mobile music deal, in which T-Mobile will exempt certain streaming music providers from counting against a customer's data usage, is reasonable and non-discriminatory.

Ms. González of the National Hispanic Media Coalition underscored the importance of mobile parity for people of color, many of whom rely exclusively on mobile devices to access the Internet.

Ms. Costa of TURN discussed the lack of competition in Internet service provision. She noted that the mere existence of four mobile carriers is insufficient competition for the fixed carriers, and that wireline service remains far more robust and reliable than wireless. She urged the Chairman that a nationwide, public, reliable, affordable and universal communications network remains a vital American goal. She urged the need for Title II reclassification, and that a case-by-case approach is an unworkable way to prevent discrimination.

Ms. Cohn of Electronic Frontier Foundation stated that the easiest legal path for the FCC is to reclassify and forebear as appropriate, and advised the Chairman against pursuing the same Section 706 legal theory that the D.C. Circuit has twice rejected.

Ms. Cyril pressed the Chairman to consider expanding its public process in the open Internet proceeding to include more engagement of underrepresented end users. She pointed out that open Internet rules relying on Section 706 authority would require a level of enforcement that seems to exceed the FCC's capacity, and that the "presumption" standard is insufficient to prevent discrimination via commercial prioritization. Finally, she observed that a 21st century Title II can do everything Section 706 can do, but better, and that there is widespread support to classify as a common carrier, but only narrow yet forceful support for Section 706.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any further questions, please contact me at (626) 792-6462.

Respectfully submitted,

/s/ Jessica J. González

Executive Vice President & General Counsel
National Hispanic Media Coalition

cc:
Tom Wheeler
Gigi Sohn
Sagar Doshi