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Congress of the United States
House of Representatives

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VICE CHAIR

June 6, 2014

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

Dear Chairman Wheeler,

Like many Americans, I have been closely following your efforts to protect an open Internet. Several weeks ago, I joined 35 of my colleagues in the House of Representatives on a letter urging you, and the rest of the Federal Communications Commission (FCC), to consider using Title II of the Telecommunications Act to reclassify Internet service providers as common carriers, thus giving the FCC the ability to protect the open Internet. I joined with businesses, investors, nonprofit organizations, and individuals who contacted the FCC to express concerns about your proposal, and to encourage enforceable Net Neutrality rules. As the Representative for Silicon Valley, the innovation heart of the Internet, I invite you and the other FCC commissioners to visit my district and engage with the tech community as you consider how best to protect an open and free Internet.

Companies ranging from small start-ups to established corporations have cautioned you and the other commissioners that the proposal under consideration at the FCC could have significant negative impacts on their businesses. I share these concerns. The creation of any type of priority Internet fast lane, monitored only by a new and complex regulatory standard that the Commission has yet to develop, would stifle innovation and create a tiered, privileged Internet. Additionally, I share the concerns raised by nonprofits and advocacy groups about the impact your current proposal could have on free speech rights and online organizing.

During the May 15th Open Commission Meeting, Commissioners Clyburn and Rosenworcel encouraged direct engagement with the public in light of the importance of this issue and the great interest in an open and free Internet. I strongly support their sentiments, and encourage you to visit Silicon Valley and meet with the businesses, entrepreneurs, and Internet users who will be impacted by any rules you ultimately put in place. The decisions facing the Commission are too important to our economy and civil society, to be informed only by those who have regular access to the FCC. I look forward to working with your office to arrange a public meeting between you, your fellow Commissioners, and my constituents. Your staff may contact Dr. Mark Mozena in my office at mark.mozena@mail.house.gov or (202) 225-2631 to discuss the details.

Sincerely,

Mike Honda
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable Michael Honda
U.S. House of Representatives
1713 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Honda:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve an open Internet for all Americans. I share your sense of urgency on this matter. For this reason, I moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* (“*Notice*”) adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission’s review.

The Commission has struggled for over a decade with how best to protect and promote an open Internet. While there has been bipartisan consensus, starting under the Bush Administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation, we find ourselves today faced with the worst case scenario: we have no Open Internet rules in place to stop broadband providers from limiting Internet openness. The *status quo* is unacceptable. The Commission has already found, and the court has agreed, that broadband providers have economic incentives and technological tools to engage in behavior that can limit Internet openness and harm consumers and competition. As such, the Commission must craft meaningful rules to protect the open Internet, and it must do so promptly. I can assure you that I will utilize the best tools available to me to ensure the Commission adopts effective and resilient open Internet rules. Unless and until the Commission adopts new rules, as you point out, broadband providers will be free to block, degrade, or otherwise disadvantage innovative services on the Internet without threat of sanction by the FCC.

With respect to the legal foundation of the rules, I believe that the Section 706 framework set forth by the court provides us with the tools we need to adopt and implement robust and enforceable Open Internet rules. Nevertheless, as you specifically urge in your letter, the Commission is also seriously considering moving forward to adopt rules using Title II of the Communications Act as the foundation for our legal authority. The *Notice* seeks comment on the benefits of both Section 706 and Title II, including the benefits of one approach over the other, to ensure the Internet remains an open platform for innovation and expression.

With respect to the substance of the rules, the proposals and questions in the *Notice* are designed to elicit a record that will give us a foundation to adopt strong, enforceable rules to protect the open Internet and prevent broadband providers from harming consumers or competition. I am especially sensitive to your concerns about arrangements that would prioritize certain traffic and allow ISPs to discriminate against other traffic. Let me be crystal clear: there must only be one Internet. It must be fast, robust and open for everyone. The *Notice* addresses this issue head-on, even asking if paid prioritization should be banned outright. It also proposes clear rules of the road and aggressive enforcement to prevent unfair treatment of consumers, edge providers and innovators. Small companies and startups must be able to reach consumers with their innovative products and services, and they must be protected against harmful conduct by broadband providers.

The *Notice also* includes a number of proposals designed to empower consumers and small businesses who may find themselves subject to harmful behavior by a broadband provider. For example, the Court of Appeals did uphold our existing transparency rule, and the *Notice* proposes to strengthen that rule to require that networks disclose *any* practices that could change a consumer's or a content provider's relationship with the network. The *Notice* proposes the creation of an ombudsperson to serve as a watchdog and advocate for start-ups, small businesses and consumers. And the *Notice* seeks comment on how to ensure that all parties, and especially small businesses and start-ups, have effective access to the Commission's dispute resolution and enforcement processes.

This *Notice* is the first step in the process, and I look forward to comments from all interested stakeholders, including members of the general public, as we develop a fulsome record on the many questions raised in the *Notice*. To that end, in an effort to maximize public participation in this proceeding, we have established an Open Internet email address – openinternet@fcc.gov – to ensure that Americans who may not otherwise have the opportunity to participate in an FCC proceeding can make their voices heard. In addition, to ensure sufficient opportunity for broad public comment, we have provided a lengthy comment and reply period through September 10, 2014, that will allow everyone an opportunity to participate.

Again, I appreciate your deep interest in this matter and look forward to continued engagement with you as the proceeding moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", written in a cursive style.

Tom Wheeler