

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
Protecting and Promoting the Open Internet) GN Docket No. 14-28

COMMENTS OF MLB ADVANCED MEDIA, L.P.

The undersigned organization respectfully submits these comments in response to the May 15, 2014 Notice of Proposed Rulemaking (the “NPRM”) from the Federal Communications Commission (the “Commission”) in the above captioned matter.

Background

MLB Advanced Media, L.P. (“MLBAM”) is Major League Baseball’s Internet and interactive media company. MLBAM is the nation’s leading Internet distributor of Major League Baseball (“MLB”) content. Each year fans consume billions of pages of content and video streams from MLBAM’s sites, apps and services.

We began distributing live MLB game telecasts on the Internet in 2003. Today our MLB.TV subscription service is the most comprehensive live video streaming service of its kind, distributing thousands of live MLB game telecasts to a global audience of baseball fans on personal computers, tablets, smartphones and Internet-connected devices. We also provide services enabling other leading sports and entertainment content providers to stream more than 25,000 live events each year, making us the nation’s largest distributor of live event video on broadband networks. Our businesses illustrate how broadband networks can be utilized in ways that benefit consumers and Internet content distributors alike.

Comments

With this statement of introduction, we wish to express the following comments in response to the NPRM:

The Commission’s stated goal is to determine “the right public policy to ensure that the Internet remains open.” The stakes are high because, as the Commission has stated, “[b]roadband has gone from being a luxury to a necessity for full participation in our economy

and society – for all Americans.” We agree with the Commission: broadband connectivity is becoming essential to the meaningful exercise of First Amendment rights.

We urge the Commission to deal with the nexus between open Internet policy and, as Chairman Wheeler recently observed, the “shortfall in adequate broadband competition.” Today, many Americans do not have a meaningful choice for reliable high-speed Internet service other than from their local cable provider. The current lack of consumer choice makes open Internet policy all the more important.

This point is further magnified by the recently-announced proposed mega-mergers between Comcast and Time Warner Cable, and AT&T and DirecTV. Comcast, AT&T and Time Warner Cable are the nation’s first, second and third largest residential high-speed Internet service providers (“Broadband ISPs”), respectively. By their own estimates submitted to the Commission, a combined Comcast/Time Warner Cable will have 40% national residential broadband service market share. By our estimates, the combined entity would actually have more than 55% market share for true high-speed service. Furthermore, the Commission has already expressed concerns that Comcast’s 2011 acquisition of NBC Universal posed a threat to net neutrality. Irrespective of the merit or outcome of either proposed merger, open Internet policy should be informed by the current shortfall in adequate broadband competition.

In response to a central issue raised in the NPRM, we urge the Commission to prohibit Broadband ISPs from charging Internet content distributors (“Edge Providers”) for faster or otherwise preferential delivery of content to American consumers.

Fast lanes would serve only one purpose: for Broadband ISPs to receive an economic windfall. American consumers would be worse off as the costs of fast lanes are passed along to them in new fees or charges where there were none, or higher fees or charges where they existed.

Fast lanes would create new economic barriers for start-up entrepreneurs and innovators that have been critical to the growth of the Internet economy. As bad, since fast lanes would necessarily mean there are slow lanes, they would amount to “picking winners and losers online,” with Broadband ISPs acting as fast lane “gatekeepers,” precisely the opposite of the Commission’s past policy.

The assertion that fast lanes are needed so that Broadband ISPs can invest in broadband infrastructure is unsupported by the facts. Broadband ISPs already generate tens of billions of dollars in revenue annually, with margins in excess of 60%, from their cable broadband services. They already have ample capital to invest in their systems. There can be no assurance that any fast lane revenue would be invested to improve or expand broadband service.

The Commission would be rolling the dice by allowing “commercially reasonable” fast lane deals, subject to amorphous regulations and limited oversight capability. We are equally as concerned about how fast/slow lane regulations could be adequately enforced. Broadband ISP misuse of fast/slow lanes could cause immediate and irreparable harm to consumers as well as

Edge Providers. As the nation's largest Edge Provider of live event video, we fail to see how the proposed regulatory scheme could provide the type of timely enforcement that would be needed to adequately protect against such harms.

Respectfully submitted,

MLB Advanced Media, L.P.

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