Before the
Federal Communications Commission

In the Matter of	**)**	
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Open Internet Remand	**)**	**GN Docket 14-28**
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	)	
Framework for Broadband	**)**	
Internet Service	**)**	**GN Docket 10-127**
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Comments of Heyzap, Inc.

July 10, 2014

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I. Heyzap Matches Users with Apps

Heyzap uses complex algorithms and machine learning to predict what users will want, and tor recommend apps on the basis of those predictions. Heyzap has raised over $10 million from investors including Y Combinator, Union Square Ventures, Ashton Kutcher, Naval Ravikant, and Qualcomm. In the first year of the launch of our mobile app we were able to produce in $2.2 million in revenue. Currently we are on a revenue run rate of $16 million. Growth is expanding so fast that we are targeting a run rate of $50 million or more.

In 2009, Jude Gomila and Immad Akhund built Heyzap out of a mutual love of video games established in their childhood. Gomila and Akhund soon realized the mobile gaming trend was not a passing fad and redirected their efforts towards helping users find games and apps that they will enjoy. In 2011, Heyzap turned off its Flash-based gaming platform and set its sights on mobile platforms. Since the redirection, Heyzap has constantly sought to create a better product and user experience.

Our mission is to pair awesome design and intelligent targeting to create the biggest ecosystem for apps. Proudly based out of San Francisco, our mission is supported by 23 dedicated employees. Currently, with our rate of growth we are seeking to hire for five to six new positions. Heyzap’s 23 employees support over 3000 distinct developers, touching millions of users on iPhone and Android smartphones.

Our business model is based on Cost-Per-Install (CPI) advertising. Developers hire us to get users to install their apps. Our recommendation engine curates Apple’s App Store and Google Play for our users and only shows users apps they are likely to want. By looking into usage habits, Heyzap is able to suggest which apps and games the user may want to try from over 200,000 apps on the app stores.

We use machine learning and sophisticated algorithms to predict what users want. The app shows users image-based or video interstitial ads for other apps that the user might like.

Every time Heyzap recommends an app to a user, we ping back to our machine learning engine to work out what to show. We take into account a multitude of contextual data, including how the impact of the filesize of an app relates to the probability of installation given a particular mobile connection speed that the user is on. Through the billions of recommendations and data points we are collecting, we build correlations in a giant data set, and our algorithm learns over time what it should recommend.

McKinsey and Co. estimates that the global digital advertising market will be $212 billion by 2017. This estimate is bolstered by an estimated 6.8 billion worldwide mobile phone subscriptions. Governments and major companies alike have joined the mobile gaming/apps market, producing games and apps ranging from some based on developing cross-cultural understanding to others based on popular movies. With this abundance of choices, Heyzap plays an important role as an intermediary to consumers. Heyzap helps consumer find apps not just based on the advertising dollars spent by the developer but rather on the preferences of the user.

II. We Could Have Never Founded this Company Under the FCC's Proposal

We could not have become the company we are today under the rules proposed by the FCC. We provide real-time recommendations of apps based on data gathered from users. This requires gathering a lot of data, bringing it to our computers, processing it, and sending recommendations and ads back to our users—all in fractions of a second. We need to process a lot of data, quickly. Any limitations in speed or consistency of our service would be noticeable to our users.

Meanwhile, under the Chairman's proposed rules, broadband providers have strong incentives to make the differences between their standard and premium access options noticeable. If there were no noticeable differences, then no edge provider would feel the need to pay for premium access.

Furthermore, even small difference in loading times—mere milliseconds—have been shown to frustrate and turn away Internet users. Our incumbent competitors, who have sizeable amounts of money at their disposal, could have afforded to put themselves in a "fast lane." Thus, if they paid for premium access and we did not, we would have entered the market at a significant disadvantage.

When we founded Heyzap, we had negative bank balances. We could not have afforded to pay to put ourselves in a fast lane. To get premium access to the Internet, our only other option would have been to rely upon our investors. But attracting investors is hard for start-ups to do in the best of circumstances; it would have been even harder if they realized that they would have had to sink enough money into Heyzap to pay for a fast lane, or else risk putting us at a significant competitive disadvantage.

III. The FCC's Proposal Harms us Now

If we had pay a special fee to each phone company to get the same treatment as our competitors, we would have to slow our growth and our hiring. Our recommendations are based on constant access to huge quantities of user data. Under the Chairman's proposal, we'd have to face the hard choice between paying for premium access, or risk being at a competitive disadvantage. We're happy to pay for access to the Internet, as we do today. But being pressured into paying new fees for *premium* access, to individual consumer ISPs, is an unnecessary expense, and only takes money away from creating better services and more jobs.

IV. The Right to Sue under a "Commercial Reasonableness" Standard would not Help Us

If broadband providers treat us unfairly, we won't be able to avail ourselves of the Chairman's proposed standard of "commercial reasonableness." We currently have no in-house attorneys. If we want to sue a broadband provider, we would be required to hire a team of outside lawyers. Even with such a team, though, if we imagine relying on a vague and nebulous "commercial reasonableness" standard, we don't fancy our chances against broadband providers' armies of lawyers.

Under the FCC's proposed rules, we anticipate having to fight these battles at home as well as abroad, as Foreign ISPs and mobile service providers will likely seek the same right to discriminate that the FCC Chairman is proposing to grant to American ISPs.

We need net neutrality. We need *per se* rules which prohibit blocking, discrimination, and access fees—on both fixed and mobile connections. To impose such those rules, the FCC must reclassify broadband providers under Title II of the Communications Act. We urge the FCC to reconsider its disruptive proposal and guarantee that the American spirit of entrepreneurship is not extinguished by the disparate impact of tolls to a better world wide web.

Respectfully submitted,

\s\ Jude Gomila
Co-founder and President, Heyzap