July 17, 2014

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: *Protecting and Promoting the Open Internet*, GN Docket No. 14-28

Dear Ms. Dortch:

On July 15, 2014, Chad Dickerson and Jordan Breslow of Etsy, David Karp and Ari Shahdadi of Tumblr, Jamie Wilkinson of VHX, Yancey Strickler of Kickstarter, Brian Chase of Foursquare, Scott Heiferman and David Pashman of Meetup, Brad Hargreaves of General Assembly, Mark Silverstein of Spotify, Kathy Leo of Gilt, Anjali Kumar of Warby Parker, Jordan Lampe of Dwolla, Zach Sims of Codecademy, Eli Pariser of Upworthy, Allison Lucas of BuzzFeed, Erik Martin of Reddit, Kerry Trainor of Vimeo and Nick Grossman of Union Square Ventures (the "participants") met with Chairman Tom Wheeler, FCC General Counsel Jonathan Sallet and the undersigned.

The participants spoke generally of the need for start-up companies to be able to continue to innovate on the Internet without having to ask for permission from broadband Internet access providers. They discussed how an open Internet and rules to protect it redounded to their companies' benefit and to the benefit of those that use their companies' content and services. An open Internet allowed their users to, among other things, share, get jobs, create new businesses, learn job skills, raise money for new and diverse ideas and participate in democratic discourse.

The participants universally opposed paid prioritization and technical discrimination by Internet access providers. The participants explained that for the past 30 years, application and content providers have not been charged fees to transport content over their users' access networks. They explained that the Internet's architecture and a mix of formal and informal network-neutrality actions by the FCC ensured that the network remained application-agnostic and could not discriminate among applications or classes of applications. Several participants explained had paid prioritization been the norm in the past, many companies would never have succeeded.

To that end, many participants called for the adoption of "bright line rules" that would ban access fees (including fees merely for access to users and for enhanced or preferred treatment for particular applications such as paid prioritization or zero-rating) and for the adoption of a "bright line" non-discrimination rule that bans "application-specific" discrimination. The participants explained that bright line rules would give them and their investors certainty. They also pointed out that the adoption of rules based on vague multi-factor tests or rebuttable presumption would effectively leave start-ups without protection, since start-ups do not have the resources to navigate case-by-case adjudications based on vague standards or rebuttable presumptions.

Ms. Leo urged that new open Internet rules treat mobile broadband Internet access providers no differently than fixed Internet access providers. Mr. Trainor urged the Commission to consider last-mile traffic exchange (i.e., interconnection) issues as part of its open Internet proceeding, and other participants agreed.

The participants argued that to have other than a bright line rule against discrimination would require their companies to, in Mr. Pariser's words "negotiate complex deals" with ISPs, which would cost start-ups time and resources that they simply do not have. Mr. Pashman stated that start-ups would prefer to "compete on product, not on negotiating leverage." Mr. Trainor pointed out that "the cycle of litigation outlives the cycle of innovation" which works to the detriment of small start-ups.

The participants were united in their belief that the only way that the FCC can draw that bright line is for the agency to reclassify broadband Internet access service as a telecommunications service under Title II of the Communications Act. Mr. Grossman stated that the recent DC Circuit decision in *Verizon v. FCC* interpreted Section 706 of the Telecommunications Act in such a way as to prohibit the FCC from either banning paid prioritization or adopting a rebuttable presumption against the practice. Mr. Pariser stated that the FCC had the discretion to declare paid prioritization to be "unjust and unreasonable" discrimination under Title II.

Furthermore, Mr. Grossman emphasized the importance of the "virtuous cycle" of innovation, where an open Internet allows for a diversity of applications, which creates user growth, which creates demand for broadband service, which drives investment in infrastructure. He also noted that the *Verizon v. FCC* decision found that justification for its Open Internet rules to be reasonable and supported by evidence.

The participants emphasized that the importance of the current proceeding to them and their communities. Mr. Dickerson noted that the current rules would not only hurt Etsy, but the sellers who depend on the platform to pay their bills and support their families. Many participants said they considered the FCC's current proposal to be a major threat to online businesses and to millions of users, and they argued that bright line rules under Title II against application-specific discrimination and access fees are essential and of the highest priority for online businesses and their communities.

Finally, the participants noted that user bases, consisting millions of people across the US and worldwide, had already begun organizing against the Commission's proposed rules.

This letter is being filed in accordance with Section 1.1206(b) of the Commission's rules.

Sincerely,
/s/
Gigi B. Sohn
Special Counsel for External Affairs
Office of Chairman Tom Wheeler

cc. Chairman Wheeler
Jonathan Sallet