

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
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Protecting and Promoting the Open Internet)	GN Docket No. 14-28
)	
Framework for Broadband Internet Service)	GN Docket No. 10-127

COMMENTS OF [COLOROFCHANGE.ORG](http://colorofchange.org)

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Introduction

ColorOfChange.org is the largest Black online civil rights group in the country, with 900,000 members. Our mission is to provide a pathway for Black Americans and others to use the Internet to engage in creating political and social change. We respectfully submit these comments to urge the Federal Communications Commission (FCC) to support strong network neutrality protections.

Without an open Internet free from corporate discrimination, our mission of using the Internet to empower African Americans to fight for racial and social justice would not be possible.

This is why we are troubled that the Commission has proposed rules that will destroy net neutrality and the open Internet by allowing ISPs to create fast and slow lanes online.

We call on the Commission to adopt rules that would ban ISPs from blocking and discriminating against websites and web traffic. We also call on the Commission to reestablish its authority to enforce strong net neutrality rules by treating ISPs as common carriers.

ColorOfChange.org members care deeply about net neutrality

Our members care deeply about this issue, and since 2007 have taken action many times in support of strong net neutrality protections.

In January of this year, more than 47,000 ColorOfChange.org members signed the following statement to Chairman Wheeler:

Dear Chairman Wheeler,

The free and open Internet is critical to our communities' ability to access and share information without a corporate filter, and to effectively organize for racial and social justice. And as the FCC's National Broadband Plan acknowledges, high-speed Internet is an essential service that all Americans need in order to perform basic tasks, from applying for a job, to doing schoolwork, finding a home, and running a business.

With the DC Circuit Court's dismantling of your agency's 2010 Open Internet Order, which provided imperfect but vital protections for web users against discrimination by our Internet service providers (ISPs), it is urgent that the FCC take immediate and decisive action to protect the public from these corporations' predatory business practices.

The FCC exists to serve the public, not the corporate bottom line, and the court in *Verizon v. FCC* made clear that your agency has the authority to regulate interstate communications. I urge you to act on that authority now to reverse the Bush Administration's deeply flawed decision to deregulate cable broadband, which made the Open Internet Order unsustainable from the start and just handed Verizon a major victory in its fight to privatize the web.

The ball is squarely in the FCC's court: please take action to reclassify broadband as a telecommunications service now.

Earlier this month, our members began taking action to demand accountability from members of the Congressional Black Caucus (CBC) who have sided with the telecommunications lobby in attempting to undermine net neutrality and efforts to protect it. More than 41,000 ColorOfChange members signed the following statement to members of the CBC who have publicly opposed reclassification of broadband as a telecommunications service:

Dear Representative,

Net neutrality has made the Internet a level playing field for all voices, allowing Black bloggers, activists, and entrepreneurs to flourish online despite being blocked out of ownership and participation in traditional media. Black communities benefit greatly from a free and open Internet, and it is imperative that it stays that way.

By signing a letter attacking the FCC's proposal to protect net neutrality by reclassifying Internet service as a public utility, you are assisting big phone and cable companies in threatening the Internet as we know it. You have taken thousands of dollars in campaign contributions from the telecom industry, and now you are putting the telecom lobby's agenda above the interests of your constituents and of Black America. Your actions threaten both the Black voice in national and international discourse, and the moral authority of the Congressional Black Caucus as an advocate for Black America.

We demand that you stop doing the telecom industry's dirty work, and support reclassification of broadband as a common carrier.

Our members understand how critical the open Internet is to our efforts fight for racial justice. Many of the recent victories that address injustice in our society would not have been possible without an open Internet.

African-Americans, the Internet, and network neutrality

For African-Americans and several other communities, the Internet offers a transformative opportunity to participate in a media system where we can truly control our own voice and image, and at the same time reach the largest number of people possible — all to the degree that our messages and actions resonate. The medium in its current state allows all Americans to speak for themselves without having to convince large media companies that their voices are worthy of being heard. It has become a tool that affords truly unique and broad communication and expression for everyone, is democratic in nature, and clearly serves the public interest.

Black Americans are increasingly a part of the Internet and are using it actively in large numbers as a platform for business, communication, exchange of ideas, and entertainment. Black entrepreneurs have taken advantage of the openness of the platform and low barriers to entry; thriving online communities of African-Americans have formed; news and media outlets which cater to the Black community have found a large audience; and public interest groups which serve a Black constituency have leveraged the Internet as a tool for grassroots activism and civic participation. It is clear to us that both the openness of Internet infrastructure and the separation of the transport layer from content — both aspects of net neutrality — are defining characteristics of the Internet that has enabled it to become a medium that serves the Black community in several unique ways.

Without network neutrality, broadband providers would have every incentive to increase costs to users, or to prioritize at the content layer, which represents a break with the core

design of the Internet. Should their wishes be granted, we would almost certainly see profound changes in the ecosystem that has thrived since the Internet's inception. If broadband providers get their way, we believe it would have dire consequences for those who are often marginalized by our nation's mainstream media system.

Barriers to entry

Part of what has enabled growing Black entrepreneurship online is the low barrier to entry afforded by the current characteristics of the Internet. When it comes to the basic technical ability of website operators to reach Internet users, net neutrality provides a level playing field.

This is not the case in other media—far from it. High barriers to entry and a consolidated media landscape have led to a situation in which African-Americans and other people of color have a minuscule and decreasing stake in traditional media. The broadcast television industry is a prime example. African-Americans represent 12.3% of the U.S. population. When we wrote this commission in 2010, only 8 full-power broadcast television stations — 0.6% of all stations — were owned by African-Americans. Last year, that number declined to zero.

While ownership consolidation and the high cost of purchasing a television station or buying ad time present high barriers to minority communities, some voices are blocked from television because they run counter to the political interests or beliefs of established network operators. If Internet service providers are allowed to act as gatekeepers for content on the Internet, some voices will be excluded in the same way.

Black-oriented content on the Internet

In its current state, the Internet is friendlier than any other communications medium for businesses and organizations that provide content and services aimed at minority audiences. This is because the content available on the Internet is not limited by commercial relationships with network operators – as is the case with broadcast media like radio and television.

Websites that serve a Black audience can establish themselves cheaply, and their growth and viewership is based largely on the value of what they provide, rather than the amount of money they can spend on advertisements, or the relationships they have with established media outlets.

Because the Internet, unlike broadcast media, allows for a limitless diversity of content, it provides content and services that serve minority communities in unique ways. As Black people continue to connect to the Internet in larger numbers, content and services on the Internet will continue to develop organically to suit their needs, provided the Internet continues to operate as it has since its inception. But if Internet service providers are allowed to leverage their control of Internet access to position themselves as regulators of content, erecting greater barriers to entry, that process will be hindered and controlled by large corporate interests, rather than driven by demand, entrepreneurship, and innovation.

Grassroots organizing and civic participation

Net neutrality makes the Internet a unique platform for grassroots political activism and organizing. Because websites succeed in direct proportion to the demand for what they

provide, not the money they can spend, nonprofits and political advocacy groups have been able to thrive online and develop innovative and relatively cheap ways to reach their constituency and galvanize large numbers of people into timely, unified political action. Without net neutrality, grassroots public interest organizations would, at best, be on unequal footing with big businesses and the political establishment. At worst, they could be subject to corporate censorship if their message or their work were seen as a threat or a nuisance to the companies that control Internet access, or their partners.

African-Americans and other under-represented groups have long fought for a more diverse and inclusive media system. Discrimination and segregation prevented people of color from obtaining radio or TV licenses when these media were first created. Cable TV promised to be a real alternative for those seeking more diverse programming; it didn't happen that way. Now, many of these very same companies want to control Internet users by serving as a gatekeeper for the online content, applications and services they can access.

Expanding access and closing the digital divide, while preventing discrimination and protecting openness

One argument originating from the telecom industry claims that net neutrality regulations would be an obstacle to further investment in broadband deployment, and therefore hinder closing the digital divide that exists along racial, geographical, and class lines. Several civil rights organizations have echoed this argument.

The rationale of this argument is that if broadband providers can't make greater profits than they're already making (by disrupting net neutrality and creating a tiered access system), their incentive to roll out broadband will be hampered. But whether the

broadband companies can make more money by acting as toll-takers on the Internet has little to do with whether they will invest in increased deployment of broadband. For-profit businesses make investments that represent a return on investment. If they think investing in low-income communities makes good business sense, they will make the investment. If they don't, they won't.

And if providers are able to extract increased revenues through tiering, it won't change that equation at all. There is nothing that would create an incentive for providers to use that money to reach low-income communities, versus simply offering a higher return for their investors or investing in other areas that promise a return.

We support the goal of universal broadband access and recognize the urgent need to invest in broadband infrastructure and close the digital divide. We believe it is critical for African-Americans and other under-represented groups to achieve full access to the tools that are increasingly necessary for full citizenship in our democracy and our economy. And we believe that a universal service fund is desperately needed for accomplishing this goal.

To believe that corporations will simply be benevolent—that they will choose to forgo potential profits and invest them in our communities, under circumstances where it doesn't otherwise make sense for their bottom line—is naive. This assumption doesn't make intuitive sense—more importantly, history shows that this is not how things have played out in the past with the telecommunications industry.

Even if the dynamics that broadband providers describe were true—if gutting net neutrality would actually create a greater incentive for broadband providers to expand

access—the trade-off doesn't make sense. To have increased access to an Internet that has been compromised in terms of its value for self-expression, organizing, advocacy, and entrepreneurship, equates to a net loss for our communities and for consumers on the whole.

In reality, there is no conflict between expanding access and preserving that which makes the Internet a medium that can serve our communities in unique and powerful ways. This argument is a red herring. We can, and must, both increase access to broadband and institute strong regulations that will maintain a free and open Internet.

Conclusion

Net neutrality is what makes the Internet a revolutionary and equalizing platform for communication, entrepreneurship, and innovation. It is how the Internet has always operated, and allowing it to be disrupted would negatively alter the fundamental nature of the Internet. It would have profound and far-reaching consequences for the future of our economy, our democracy, and our society.

Unfortunately, the Commission's proposed rules would not protect net neutrality, instead opening the door for broadband providers to begin discriminating online by creating fast and slow lanes which prioritize some websites and Internet content over others, based on commercial relationships. The "commercially reasonable" standard proposed by the Commission would not protect Internet users or the public interest. In fact, it would fundamentally alter the Internet by allowing broadband providers to exercise unprecedented control over what Internet users, see, do and say online.

ColorOfChange.org urges the Commission to classify the transmission component of Internet access service as a Title II telecommunications service, and to adopt rules that make clear that Internet users are able to access, free from discrimination, the content, applications, services and devices of their choice; and that require ISPs to clearly disclose how and when they are engaging in network management practices. We further urge the Commission to extend these rules to wireless networks since it may be the only way for low-income, immigrant, and minority communities to fully realize the potential of the Internet.

This is an issue of vital and urgent concern to ColorOfChange.org and our members. We urge you to join with us to protect this fundamental Internet freedom that helps amplify the voices of African-Americans and other under-represented groups.