Public Comment on FCC Notice of Proposed Rulemaking
WC Docket No. 14–28, FCC 14–61
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Protecting and Promoting the Open Internet

Rather than commenting in a detailed way on the specifics of WC Docket No. 14–28, I elaborate below the basic principles that I believe should govern protection by the FCC of "Net Neutrality".

1. The FCC should recognize that "Internet dial-tone"[1] is separable from Internet services providing content.

2. It is fundamental to the design of the Internet that data is divided into small units called packets; these packets are ***communicated*** between two parties. There is no "circuit" which connects the two parties. Just as a company may provide automated information over the telephone, the packets communicated over the Internet may in many cases establish an information service. As in the case of telephony, the nature of the service is distinct from the means of connection. As in the case of telephony, provision of information across a connection does not refute the fact that the connection itself is a telecommunications service.

3. The FCC should use its existing authority to find that provision of "Internet dial-tone" is a telecommunications service, rather than an information service, and "Internet dial-tone" should be regulated as a telecommunications service. The FCC should recognize that telecommunications is a crucial service of the Internet, and the fact that information services can be mounted on top of "Internet dial-tone" does not refute this.

4. There should be ***no exemptions*** from the regulation of "Internet dial-tone" based on the technological means by which it is delivered. In particular, there should be no distinction between the way "wired" connections and "wireless" connections are regulated.

5. The FCC must recognize that for certain broad classes of consumers, such as those in rural locations, only a single broadband provider of "Internet dial-tone" may be available. In such cases the provider of "Internet dial-tone" is acting exactly like a public utility, and should be regulated as such.

6. A provider of both "Internet dial-tone" and content services must not be allowed to discriminate in favor of its own content services ***in any way***.

7. Providers of "Internet dial-tone" should only be allowed to differentiate themselves based on proximate-end behavior. This means in particular:

- Receiving-end content should never be dropped based on the identity of the sender.
- Content should never receive favorable routing decisions compared to other traffic based on the identity of the sender.
- Receiving-end content should never receive favorable bandwidth compared to other traffic based on the identity of the sender.

8. It must be practically feasible for the provider of "Internet dial-tone" to be a different company from the provider of proximate-end services not integral to provision of "Internet dial-tone". It must be practically

1 In today's environment this means basic barebones TCP/IP connectivity.

feasible for a multiplicity of providers to provide proximate-to-consumer services, such as E-mail[2]. I.e.: Providers of “Internet dial-tone” must be required to ***share their lines*** with multiple proximate-end service providers.

9. Providers of “Internet dial-tone” should only be allowed to restrict traffic to consumers based on published metrics, such as connections per second or maximum number of concurrent connections.

10. Providers of “Internet dial-tone” should not be allowed to prohibit consumers from receiving their own information by acting as “private servers” only to themselves. Providers of “Internet dial-tone” must not be able to restrict what software runs on a consumer’s computer, provided that software is not causing harm to other users or the network itself. In particular, providers of “Internet dial-tone” should not be allowed to prohibit consumers from running servers (in the technical sense) so long as such “home servers” are not providing service to the Internet at large.

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2 Certain carefully constrained technical services, such as DHCP and connection-initial authentication, may be necessary for the initial setup of a TCP/IP connection; in such cases it may not be feasible to support a multiplicity of such providers, and such services will need to be considered integral to provision of “Internet dial-tone”.