

**Before the
Federal Communications Commission**

In the Matter of

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**Protecting and Promoting the
Open Internet**

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GN Docket 14-28

Reply Comments of Imgur, Inc.

August 12, 2014

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Imgur, Inc. submits this comment in regards to GN Docket 14-28 (“In the Matter of Protecting and Promoting the Open Internet”). Imgur was made possible by the availability of the open Internet, and it depends on a network that continues to uphold those principles.

To that end, we respectfully oppose the Chairman’s proposed rules, and disagree with the comments submitted by AT&T, Verizon, and Comcast. We join the voices of millions of Americans, investors, nonprofits, and small businesses that have also brought their opposition to the Commission during this rulemaking proceeding. We oppose the two-tiered access contemplated by the proposed rules, and support the classification of ISPs under Title II of the Communications Act in prohibiting discrimination.

I. About Imgur

Founded in 2009, Imgur is a passionate community that consumes, creates, and shares tomorrow's viral content, today.

Every day, more than 1.5 million images and animated GIFs are uploaded by users to the Imgur platform, where they are voted on, commented on, and distilled by the Imgur community into a curated, continuously updating stream of the best visual content the web has to offer.

As it has grown, Imgur has become a critical infrastructure for sharing and spreading images online. Our top images are viewed 1.3 million times on average, and our most popular image of all time has been viewed more than 9.9 million times.

Currently, Imgur is ranked as the 22nd largest site in the United States by Alexa, and the 49th biggest site worldwide. Our site is host to over 130 million unique users per month, and serves over 5 billion pageviews. At present, Imgur generates revenue through a combination of advertising, paid premium accounts, and merchandise. The *Wall Street Journal* opined that

“Imgur’s platform and functions bring new organization to the once-vooodoo world of viral image-sharing, which has been uncharted territory for businesses.”¹

We believe that the presence of Imgur has contributed immensely to the rise of a culture of communication through widely shared images—“memes”—online. As one commentator from *The Atlantic Monthly* wrote, Imgur is “the best example yet of how a new generation of Internet users prefers to express itself.”² Imgur is home to an incredible diversity of human expression: users share opinions, discuss popular culture, debate current events, share personal dilemmas, and everything in between.³

Imgur was profitable from day one. It benefitted from quick adoption as a depended-upon image host for a number of prominent communities online including Reddit. Imgur was honored with the Best Bootstrapped Startup award in 2012 and 2014 at the annual TechCrunch “Crunchies”.⁴

Imgur secured a venture round of \$40 million from Andreessen Horowitz in early 2014 as it positioned itself to grow into a global platform. We look to expand considerably in the coming five years, growing our small twenty-person team into a business that can support the thriving community and the rich flow of content that passes through our platform.

¹ Jeff Elder, *Imgur: From Reddit ‘Gift’ to \$40 Million in Venture Capital*, WALL STREET JOURNAL DIGITS (Apr. 3, 2014), <http://blogs.wsj.com/digits/2014/04/03/imgur-raises-40-million/>.

² Megan Garber, *Imgur: The Biggest Little Site in the World*, THE ATLANTIC (Dec. 4, 2013), <http://www.theatlantic.com/technology/archive/2013/12/imgur-the-biggest-little-site-in-the-world/281872/>

³ See e.g., *Imgur, So I Work In Kitchens*, <http://imgur.com/gallery/N5sQX> (photo essay from an Imgur user who works in restaurant kitchens); *Imgur, An Explanation of What’s Currently Happening in Ukraine*, <http://imgur.com/gallery/lxkbH> (extensive user generated coverage of the geopolitical context of the crisis in Ukraine from an Imgur user); *Imgur, I’m Sorry Imgur, But I Could Use Some Help*, <http://imgur.com/gallery/X0ROE> (crowdfunding appeal from an Imgur user around a medical emergency).

⁴ Sarah Perez, *Imgur Wins Best Bootstrapped Startup*, TECHCRUNCH (Feb 2, 2012), <http://techcrunch.com/2012/02/01/imgur-wins-best-bootstrapped-startup-sees-1-billion-pageviews-per-month/>; TechCrunch, *Best Bootstrapped Startup: Imgur*, <http://techcrunch.com/video/best-bootstrapped-startup-imgur-crunchies-awards-2013/518118965/>.

Imgur continues to focus on discoverability, launching a tool this summer that allows users to create tags and more easily browse the massive influx of images reaching the platform.⁵ As Imgur grows, we envision it will not only be a community platform, but a place where journalists, content creators, and the web at large comes to explore the visual dimension of the Internet at large.

II. Under the FCC's Proposal, Our Company Would Never Have Been Possible

Imgur was launched from a college dorm room while our founder Alan Schaaf was an undergraduate attending Ohio University.

The concept of Imgur was simple: at the time, many free image hosts required burdensome user account creation processes, or would cap access to an image once it had hit certain bandwidth limits. Imgur reversed this formula, allowing anyone to easily and anonymously upload an image, at any time and with no limits on access.

The platform took off almost instantly, reaching a million total pageviews in the first five months. This trend has continued, with Imgur seeing an exponential rate of growth over the past five years.

It is important to emphasize that Imgur did not begin as a business or a formal startup, it started as the side project of a student. To that end, net neutrality enabled Imgur to launch and to thrive. As a college student, Alan lacked the financial means to pay for fast lanes to provide his service to other users online. He was able to launch the service as a low-cost experiment, and build on its success as it grew organically.

⁵ See Jack Smith IV, *Imgur Reveals Redesign, Announces Plans for a Convention*, BETABEAT (Jul 17, 2014), <http://betabeat.com/2014/07/inside-look-imgur-reveals-redesign-announces-plans-for-a-convention/>.

Net neutrality also enabled fair competition between Imgur and existing products in the space. Imgur was able to grow quickly because it was a fast, easily accessible, and simple option that competed on the same footing as other image uploading services. As an experimental side project, Alan would not have been able to afford the speed of access necessary to compete with other established businesses in the space.

By enabling all participants to have equal access to the network, net neutrality enables non-traditional innovators and small businesses to offer services to users on a level playing field with long-standing incumbents. Lacking formal support or financial resources, Imgur would not have been possible without this access.

III. The FCC's Proposal Threatens Our Company's Future

Our concerns surrounding the proposed rules are not simply retrospective. Net neutrality was a key factor in allowing Imgur to emerge as the platform it is today. But it remains a critical characteristic of the web that our platform relies upon as it grows. The proposed rules would threaten the future of our company.

Two-tiered access to the Internet would leave Imgur with two options: either to pay for “fast lane” access in order to compete on the same footing as other competitors, or to opt not to do so. In both cases, Imgur would be significantly harmed.

Paying for “fast lane” access would consume valuable resources that would otherwise be spent on product development and growth. Given the scale of Imgur and its rate of growth, the cost to obtain equal access to our competitors would likely be considerable, forcing us to defer hiring sales and software development staff to continue innovating on the Imgur platform.

This would raise serious doubts as to our ability to grow the capabilities of our team to contend with the rapid, exponential growth of the user base and content on the site, and to compete effectively with more established incumbents in the space. It would also hinder or entirely halt our current efforts to develop the platform as an ever-more powerful engine for journalists and others to access the visual culture of the web.

Opting to not pay for “fast lane” access would have similarly negative impacts on the company. Imgur initially succeeded and continues to succeed because it is a streamlined, easily accessed means of hosting and linking to images online. Slowing access to content undermines the entire core offering of Imgur as an image host.

This is the case even if not paying for “fast lane” access only reduces speed slightly. Imgur is visited by users from around the world at all times, every day. Accordingly, our users respond nearly instantaneously when the site sees even minute changes in performance or speed. Our users expect and we depend on being able to provide content at a rate comparable to other platforms online. The usefulness of Imgur as a tool would be deeply impacted by slower access arrangements, even if the differences were small in absolute terms.

IV. Our Company Does Not Have The Resources To Negotiate With or Sue ISPs

We are aware that the proposed rules permit legal challenge to ISPs under a “minimum service” requirement or discrimination for violation of a “commercial reasonableness” standard. These provisions do not provide Imgur with a workable option if the proposed rules are implemented.

As a preliminary matter, the Imgur team does not have the legal expertise to exercise these rights to challenge discrimination on the part of ISPs, and to do so would impose a heavy

burden. At present, Imgur has no in-house counsel, and works with a small outside practitioner with no telecommunications experience. As a small startup, the company simply lacks the resources to expend on developing a sophisticated in-house team to negotiate with ISPs within the United States and abroad.

Even if Imgur could build the needed legal team, there are practical limitations on the speed and cost of bringing challenges in the event that an agreement cannot be negotiated. Imgur relies on the ability to quickly deliver service to users everyday at the same speeds as its larger, more well-resourced competitors. It cannot afford to engage in a months or years-long challenge against considerably larger ISPs with legal teams experienced in telecommunications law to simply achieve equal access. Imgur could well go out of business before such a challenge could be resolved.

Simply put, the proposed rules are vague. Terms like “minimum service” or “commercial reasonableness” will take years of legal challenges to fully define. This leaves small companies like Imgur vulnerable in the interim, since we cannot afford to enter into the protracted legal battles necessary to receive clear guidance on the scope of the regulations. In practical terms, the proposed rules leave Imgur without options in challenging even outright violations.

Our preference is for clarity: Imgur can only operate with confidence in the presence of a bright-line rule. We would support rules that clearly prohibit blocking, application-specific discrimination, and access fees. To do so, we believe that the FCC should classify ISPs under Title II of the Communications Act as common carriers.

Respectfully submitted,

\s\ Tim Hwang

Tim Hwang

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