

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 Sidecar Technologies

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Sidecar is an innovative new company that is disrupting a long-established industry -- taxi cabs. We have experienced firsthand the long term effects of marketplaces that are regulated to favor entrenched players. No matter how well-intentioned the regulators, incumbents leverage their vast resources and their political, regulatory influence to make it harder and harder for innovative new companies like ours to start and grow. We strongly support net neutrality because innovation demands a fair, open, accessible Internet.

We harbor grave concerns about the Chairman's Open Internet proposal. We agree with the comments of the startup community, investors, nonprofits, and millions of Americans calling for rules against unreasonable discrimination (particularly upstream discrimination) and reasonably priced access fees, for both fixed and mobile content, under Title II. We specifically disagree with the comments of AT&T, Verizon, Comcast and other cable interests in favor of the Chairman's proposal, which would allow ISPs to offer some fast lanes in some cases.

I. Sidecar is Building the World's Most Convenient and Affordable Transportation Network Created for Everyday People.

Sidecar provides ride-share services through a convenient smartphone app. The Sidecar app allows someone who needs a ride to connect with people who use their own cars for shared rides. Since our founding three years ago, we have facilitated more than a million rides. We recently updated our app to allow people to further customize their ride experience by letting them choose the vehicle, the driver and the best price. We also help people with spare seats in their cars to earn extra money on their own schedules. We do this while taking steps to ensure safety. Pursuant to regulation by the California PUC, all Sidecar drivers are pre-vetted for safety and Sidecar's safety system includes driver background checks, driver and rider rating systems,

GPS tracking features, vehicle inspections, and the ability to share details of one's trip in real-time. Our vision is to build the largest social transportation network in the world.

Sidecar was founded in San Francisco in 2012 and currently operates in ten cities including San Francisco, San Jose, Los Angeles, Long Beach, San Diego, Seattle, Chicago, Boston, Charlotte, and Washington, D.C. We currently have just under 50 employees, with plans to hire more employees. We have received \$22 million in funding from numerous investors including Lightspeed Venture Partners, Union Square Ventures, Avalon Ventures, Lerer Ventures, Huron River Ventures, and Google Ventures, among others.

Startups such as Sidecar, which offer app-based ride-share services, are a relatively recent innovation, energized by the Internet's capacity to create social networks. Other startups with similar services include Uber and Lyft, founded in 2009 and 2012, respectively. Sidecar's model is unique because we require destinations to be put by our riders, and our drivers now have the ability to set their own prices. This allows drivers to compete for a rider's business by lowering their rates and offering riders some of the cheapest rides in town. In recent months we began testing the option of increased savings for riders who share rides with other riders, a kind of next-generation carpooling. We developed the technology necessary to match passengers with others going the same way. We plan to continue to improve our model and app features to offer people the most convenient and affordable transportation options.

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

I became an entrepreneur to tackle problems by coming up with responsible and sustainable solutions that benefit lots of people. When I founded Sidecar with Jahan Khanna in the fall of 2011, I was interested in "Cleanweb," or using information technology to address constrained resources and optimize resource use. Transportation is a great example of resource inefficiency. In the U.S., we buy almost two cars per adult and then leave them idle for about 90 percent of the time. Through Sidecar, we have been able to leverage the capabilities

of the Internet, social media, and mobile technologies to address the knotty problems of transportation, congestion and pollution. Ultimately, we hope that within ten years, car ownership can be cut in half and that the next “car” for millions of people will be accessible only via their cell phone.

We may have never founded Sidecar under the FCC’s proposal. The FCC’s proposal has no rules against discrimination based on content on mobile devices. We are a mobile-based innovation, and we were among the first to explore smartphone-powered, peer-to-peer transportation. If our mobile content had been subject to discrimination, discriminatory access or prioritization fees, our entire model would have been jeopardized.

In the first place, I could not have afforded to put Sidecar in a fast lane myself. I would have had two choices: either secure the investment necessary to pay excessive fees to ISPs, or muddle along in the slow lane, saddled with yet another disadvantage compared to incumbent taxi cabs or our deep pocketed ride-share competitors.

As great as Sidecar is, we would have had difficulty attracting investments if the FCC’s Proposal had been law at the time of our founding. Speaking from my experience as an investor in clean tech companies, I know that the FCC’s proposal would have discouraged investment in web and mobile-based startups. Potential investors in Sidecar would have had to accept additional risk, regardless of whether they invested enough money for us to pay for access to the fast lane. If they didn’t invest enough money, they would have been exposed to the risk that users would become frustrated with Sidecar’s slower service. If they did invest enough money, they would have taken on a greater financial commitment—a greater risk of loss if Sidecar did not get off the ground.

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

The FCC’s proposal harms innovative companies like ours—and threatens our very existence. The proposal allows Internet Service Providers (ISPs) to require companies pay more to get faster access to their content, while others who can’t afford it will automatically be

less competitive. This system will stifle innovation in business and technology. For example, Cleanweb ideas have generated new business models based on a growing “sharing economy” which can disrupt established industries. Think of like Airbnb, which is disrupting the hotel industry, as well as ours, which is disrupting taxi service and the traditional auto industry. We know firsthand that entrenched industries already have several advantages—and with more they will only continue to try to impose their one way of doing things and stunt the diversity of ideas in a free and fair marketplace. This will ultimately harm everyone.

Our company is especially at risk. We are a mobile-based innovation. Without any rules that cover mobile content, we are deeply concerned that ISPs could discriminate against us for any reason - even an unreasonable or malicious one. We are also concerned that every ISP could price gouge us, because we need to be as technically fast as our competitors. Fast service is critical for our company because our users want to schedule a ride as quickly as possible, drivers need to accept the ride and arrive quickly, and we are pitching convenience. Our competitors would have a huge competitive edge if their apps had faster loading and response times. Even a minute difference in load times -- several milliseconds -- would seriously hurt us. And if we are forced to pay every ISP for the same treatment as our competitors, we would have to divert valuable funds and resources from productive purposes, such as developing new technology, marketing, and hiring more employees, to simply pay ransom to ISPs. This scenario doesn't help anyone except ISPs. The Internet as an engine for innovation and national economic growth is too important to jeopardize to benefit a few large companies.

IV. We Do Not Have an Army of Lawyers to Negotiate With or Sue ISPs

Startups already face a thicket of regulatory, tax and labor issues, among others. Negotiating with every ISP or suing ISPs under ambiguous standards is an additional unnecessary cost that only would further drain resources otherwise used for productive purposes. We are also well aware that major ISPs like the large telephone and cable companies

can fund an army of FCC and telecommunications lawyers, while we stretch our single lawyer and slim legal budget across our many legal needs. We need the protection of bright-line rules.

I urge the FCC to adopt bright-line rules about blocking, application-specific discrimination, and access fees (such as paid prioritization) that are applicable to fixed and mobile connections. Enacting these rules requires reclassifying broadband providers under Title II of the Communications Act, with appropriate forbearance, and recasting rules as appropriate for today's Internet realities. After the *Verizon v. FCC* decision, we doubt that the FCC can adopt rules against discrimination or against access fees. The DC Circuit specifically held that, "given the Commission's still-binding decision to classify broadband providers not as providers of 'telecommunications services' [under Title II] but instead as providers of 'information services,'" the FCC must permit "substantial room for individualized bargaining and discrimination in terms" by ISPs. It was for this reason that the Court struck down the FCC's 2010 rule, which banned unreasonable discrimination by ISPs, including considering whether the discrimination was application-specific or application-neutral. The Court also held that a ban on access fees would enable "no room at all for" individualized bargaining. As a result, we believe it far too legally risky to attempt to ensure nondiscrimination and a ban on access fees without reclassifying the transmission component of broadband Internet access to be a telecommunications service subject to Title II of the Act. We agree with the recent *ex parte* filing by other startups such as Tumblr, Kickstarter, and Gilt Groupe that this component is indeed a "telecommunications service," and that the FCC can classify it as such.¹ We believe, however, that the FCC should not assert outdated, unneeded authorities found in Title II and should immediately forbear from much of Title II of the Act. Specifically, we encourage the FCC not to forbear from sections 201, 202, and 208, to ensure that the Commission has the solid authority to stop a "two-tiered Internet" with slow lanes and ISPs having the power to pick winners and losers in our economy.

¹ <http://apps.fcc.gov/ecfs/document/view?id=7521750560>.

Respectfully submitted,

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