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The Federal Communications Commission
445 12th Street SW,
Washington, DC 20554
Mr. Tom Wheeler, Chair
Ms. Mignon Clyburn, Commissioner
Ms. Jessica Rosenworcel, Commissioner
Mr. Ajit Pai, Commissioner
Mr. Michael O'Rielly, Commissioner

Regarding: Proceeding Number 14-28: Protecting and Promoting the Open Internet

Dear Chairman Wheeler and Federal Communications Commissioners,

I am writing to you regarding the above-noted proceeding to urge the commission to abandon the proposed rule which would permit paid prioritization, or internet 'fast lanes'. As someone who is old enough to remember the days when there was no internet, I have witnessed the full range of economic growth which has occurred in conjunction with the rapid innovation and deployment of these telecommunications technologies. All this innovation and growth occurred in an entirely open economic and legal environment, largely free from significant regulation, both public and private. The new proposed rule now stands to threaten this tradition and set dangerous and stifling precedents that will hinder future innovation and growth.

The commission understands the trade-offs and potential pitfalls involved in the public regulation of any private enterprise, especially those which utilize new technologies. Free and open competition is often the best mechanism to achieve a degree of market regulation. But for the majority of consumers across the US, there is no real competition in broadband internet services. Instead we have a collection of regional cable companies functioning as terminating monopolies, some of which have become media conglomerates. These cable-ISPs function as lightly-regulated telecommunication utilities, most of whom have horrible reputations for customer service and no real incentive to improve. In this economic environment we now find a new kind of insidious regulation occurring, the private regulation by these cable utilities of internet traffic according to origination and information density. This new practice instituted by the cable-media conglomerates, in particular Comcast, of charging fees to certain providers of streaming video services to allow those providers' content to reach their customers at the proper data rate, is an anticompetitive abuse of monopoly power. The industry has now in effect instituted a private regulation which it is lobbying for the FCC to adopt as an official public regulation.

Broadband internet access has become the dominate mechanism by which Americans communicate with each other, how we obtain news and public information, and how we conduct commerce. This range of economic activity is more than just "information services", rather it encompasses almost everything that a modern society does in the digital communications domain. In this context, the most dangerous kind of regulation that could

occur is one that creates incentives for the private ISPs to discriminate according to content and or origination of internet traffic. The new proposed rule would do exactly that. ISPs would have an incentive to deliberately slow down any untaxed traffic in order to favor content which originates from businesses under common ownership with the ISP. This is exactly what is already happening with Comcast and Netflix. Comcast, as a media conglomerate, has services which compete with Netflix. Therefore, Comcast, the ISP, erects tolls for Netflix traffic which competing business units operated by NBS-Universal do not pay. Comcast can really only get away with this practice due to their monopoly power as the largest regional broadband ISP. This is an anticompetitive practice and an abuse of Comcast's monopoly power.

The current trend in the cable industry is to further consolidate its monopoly powers. Only a full unbundling of these private cable networks which serve as exclusive gatekeepers to the consumer will break the stranglehold they have on access to telecommunication services and allow true competition in wire-line broadband. As such, true competition in broadband internet access will only be achieved through application of FCC authority under Title II. Utilities which are inherently monopolistic need to be regulated and the cable industry's exclusive control of internet access in communities across the US is exactly equivalent to that of such utilities. Therefore, the commission should abandon the misclassification of ISPs as "Information Services" and reclassify them according to the way they actually operate, that of monopolistic utilities which are providers of "Telecommunications Services".

Some arguments have been forth by the cable industry that the FCCs adoption of Title II authority is somehow akin to the government trying to 'regulate the internet'. This is an absurd distortion of reality. An ISP, even a giant conglomerated one like Comcast, is not one and the same as 'the internet'. And the internet is far more than just those ISPs which mainly only control the last mile or so between the NSP internet backbone and the termination points of residential and business consumers. Rather, it is these very ISPs, functioning as terminating monopolies, and their abusive practices, that are being insulated from real competition. It is only through new regulatory action that promotes real competition in broadband access that this situation can be improved.

The Commission must ask themselves how does allowing an artificial bifurcation of internet telecommunications, which in effect creates perverse incentives (e.g. "monetizes congestion"), serve to achieve the Commission's stated mission of "promoting competition, innovation and investment in broadband services"? The answer is that it doesn't, and in fact it achieves the opposite result. This proposed 'fast lane' rule encourages anticompetitive practices, suppresses innovation, increases costs to consumers and should be abandoned. Furthermore, I urge the Commission to exercise its authority under Title II and classify the cable (or all fixed wire-line) ISPs according to their real business function, as 'common carrier' utilities who provide telecommunications services.

Sincerely,

Weston L. Tew, Jr.