



BOSTON COLLEGE

LAW SCHOOL

18 Sept 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St SW
Washington, DC 20554

Re: Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Ms. Dortch:

On September 11, 2014, I presented a draft of an academic paper at the Regulating the Evolving Broadband Ecosystem Workshop co-hosted by the University of Nebraska School of Law, the American Enterprise Institute, and the Federal Communications Commission. The following Commission employees attended all or part of the Workshop:

Amanda Burkette
Antonio Sweet
Daniel Shiman
Ena Decanic
Gigi Sohn
Irene Wu
Jon Chambers
Jon Sallet
Jonathan Levy
Judith Dempsey
Kate Matraves
Kristine Fargotstein
Martin Doczkat
Matthew Collins
Matthew DelNero
Nick Degani
Pramesh Jobanputra
Sarah Weeks
Scott Jordan
Tim Brennan
Walt Strack

The Workshop focused upon the ongoing evolution of the broadband ecosystem and the ways those changes are, and should, shape the ways we think about regulating this space. It consisted of three keynote presentations and discussions of five academic works-in-progress, including my own. Attached to this letter is a copy of my presentation slides and a draft of my paper, tentatively titled "The Perils of Mandatory Disclosure of Private Interconnection Agreements Between Internet Networks."

Earlier this year, Netflix announced that it had entered into direct interconnection agreements with Internet service providers Comcast and Verizon. These announcements piqued public interest in the little-understood interconnection market, the lattice of agreements governing the exchange of traffic among the network of networks that is the Internet. Since then, the Federal Communications Commission has shown an increased interest in investigating (and potentially regulating) this area. Some commentators have gone further, calling upon the Commission to promulgate a rule mandating that all such interconnection agreements be filed with the agency and opened for public inspection, in the interests of promoting greater transparency.

My draft paper explores the dynamics of the interconnection market in general and discusses in particular the risks of a public disclosure regime. It concludes that the interconnection market is robust and highly competitive, and that traditional antitrust oversight, not public disclosure, is the best way to ensure competition in this marketplace. While transparency is often a laudatory policy goal, in this case the proposal to mandate public disclosure of interconnection agreements is misguided and may ultimately harm the very competition that proponents seek to protect. Requiring ISPs to disclose the terms upon which they sell broadband access to consumers, as the net neutrality rules do, is very different from mandating detailed disclosure of specific, confidential business-to-business agreements negotiated between sophisticated parties in a highly competitive market. It is a basic tenet of economic and industrial organization literature that sharing competitively sensitive information among rivals can facilitate tacit collusion.

The Supreme Court, antitrust authorities, and even the Commission have stressed that disclosure of price and cost information can be harmful to competition, especially in markets marked by significant barriers to entry. Because of this potential effect on competition, the Commission should reject calls to mandate the public disclosure of interconnection agreements and instead limit itself to investigating actual instances of suspected consumer harm.

Respectfully submitted,



Daniel Lyons
Associate Professor of Law