

November 7, 2014

The Honorable Tom Wheeler
Federal Communications Commission
445 Twelfth St. SW
Washington, D.C. 20554

Chairman Wheeler:

This year millions of people have written to the FCC with one request: protect the open Internet.

Individuals, companies, policymakers at all levels and public interest organizations working on everything from environmental protection to reproductive rights have called on you to establish every Internet user's right to connect with any person or website of their choosing without discrimination, censorship or any other interference with their communications by their Internet service provider (ISP).

Yet recent press reports indicate the agency is considering a convoluted proposal for new rules that jeopardizes the agency's ability to protect all Internet users. A diverse set of leading public interest groups, represented by this letter, oppose this untested "sender-side" approach.

So-called sender-side proposals are highly questionable and could fundamentally threaten the open Internet. These proposals would split the Internet in two, creating divisions in Internet access and enshrining the notion that people or companies sending information have protections against discrimination, while users have none against their own ISP.

They would make every website and application in the world into a customer of every ISP in the United States. This would be a radical departure from established law, and it would not solve the fundamental problem of online discrimination or the ability of ISPs to create Internet slow lanes.

Additionally, according to the Wall Street Journal¹, the plan on the table has loopholes that "would still allow broadband providers to cut deals with content companies for special access to customers."

This is not what the public wants or what President Obama promised the American public. Even the original authors of some of these approaches have said that full Title II reclassification is the better way forward, and ISPs like Verizon have already threatened lawsuits.

While a sender-side approach may seem novel, we believe the FCC is in danger of failing its duty to protect the public if it's contemplating an experimental legal theory that's unlikely to survive litigation.

Previous FCC's have made this same mistake. In 2005 and 2010 the agency also put forward novel theories and promised they would protect Internet users instead of reclassifying Internet users' access

¹ Gautham Nagesh, "FCC 'Net Neutrality' Plan Calls for More Power Over Broadband, October 30, 2014.

under Title II. The courts rejected these attempts because no matter how “strong” a rule the FCC may construct, it will collapse without clear authority.

Strong rules with no authority to enforce them threaten the agency’s capacity to protect all Internet users, including communities of color and low-income Americans. The agency must apply rules equally to fixed and mobile services -- but those rules won’t last if they rest on a shaky legal foundation.

Millions of Americans and thousands of companies and entrepreneurs have asked you for real net neutrality that would protect an open Internet. This requires reclassifying broadband Internet access as a Title II service under the Communications Act -- the simplest, most legally sound approach -- combined with forbearance from regulation beyond specific and narrow “rules of the road.”

The future of the open Internet is in the hands of the Federal Communications Commission. Please do everything in your power to protect it.

Respectfully,

18MillionRising.org (18MR.org)

ACCESS

Access Humbolt

Alliance for a Just Society

Allied Media Projects

AlternateROOTs

Appalshop

Arts and Democracy Project

Black Alliance for Just Immigration

Brown Paper Tickets

BrownBoi Project

Center for Social Inclusion

ColorOfChange.org

Common Cause

Community Justice Project

CREDO

Daily Kos

Demand Progress

Dignity and Power Now

EFF

Engine

Families for Freedom

Fight for the Future

Free Press

Future of Music Coalition

Greenpeace

Harry Potter Alliance

Hispanic Association of Colleges and Universities

Human Rights Defense Center

Institute for Local Self Reliance

Iraq Veterans Against the War

KGNU FM Denver
Linebreak Media
Making Contact
Martinez Street Women's Center
Mayfirst/People Link
Media Action Center
Media Action Grassroots Network
Media Alliance
Media Desk NM
Media Literacy Project
Media Mobilizing Project
Million Hoodies
Movement Strategy Center
MoveOn.org
Nation Inside
National Hispanic Media Coalition
National Organization for Women Foundation
National People's Action
New Sanctuary Coalition of NYC
Open Media Foundation
Open Technology Institute
OpenMedia International
People's Press Project
PEN American Center
Presente.org
Progressives United
Prometheus Radio Project
Quote/Unquote
Race Forward
Racial Justice Action Center
Radio Bilingue
Southwest Organizing Project
St. Paul Neighborhood Network (SPNN)
SumOfUs
The Greenlining Institute
The Utility Reform Network (TURN)
Transgender Resource Center of NM
Truthout.org
United Church of Christ, OC Inc.
Urbana-Champaign Independent Media Center
Voices for Racial Justice
Women Donors Network
Women's Institute for Freedom of the Press
Working Films