

January 20, 2015

Coalition of
economic groups supporting draft

Senator John Thune
Chairman, Senate Commerce Committee
Russell Senate Office Building, Room 254
Washington, DC 20002

Congressman Fred Upton
Chairman, House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Senator Bill Nelson
Ranking Member, Senate Commerce Committee
Dirksen Senate Office Building, Room 560
Washington, DC 20002

Congressman Frank Pallone
Ranking Member, House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

Dear Messrs. Chairmen and Ranking Members:

Congress, not three unelected officials, should decide the future of the Internet.

The Federal Communications Commission (FCC) has twice tried to regulate the Internet in the name of "Net Neutrality" — and twice failed in court. Lawmakers of both parties have proposed legislation that would avoid the need for the FCC to try again — yet FCC Chairman Tom Wheeler seems intent on issuing new rules. Worse, he plans to break with two decades of bipartisan consensus that the Internet should not be subject to 1930s public utility regulation.

We worry about the unintended consequences of *any* form of regulation — but also recognize that legislation appears to be the only way to stop the FCC from trying to impose Title II of the Communications Act on the Internet and thus prevent years of ensuing litigation. To prevent a slippery slope towards broader regulation of the Internet, any legislative compromise must tightly constrain the FCC's authority and discretion. At a minimum, that means three things:

1. Congress must bar the FCC from imposing Title II on the Internet. Title II was developed for the telephone monopoly of the 1930s; it is utterly inappropriate for the dynamic Internet ecosystem. Invoking Title II threatens both to impose billions of dollars of taxes and fees on consumers, undermine broadband investment, and drag "edge" companies into a regulatory morass.
2. Congress must clarify that it did not intend the 1996 Telecom Act to give the FCC a blank check to regulate the Internet. In its *Verizon* decision, the D.C. Circuit mistakenly upheld the FCC's 2010 re-interpretation of Section 706 of that Act as allowing it to regulate any form of "communications" in any way the agency claims would promote broadband deployment or adoption — not just broadband companies or net neutrality.
3. If Congress gives the FCC clear rules and the power to enforce them, the Commission will not need the power to write additional rules. Congress, not the FCC, should decide whether additional rules become necessary. (Case-by-case enforcement is how the FCC's 2010 Open Internet Order and its 2014 proposed rules would have worked anyway.)

We urge you to proceed with dispatch, but also with the utmost caution and through regular order in the normal legislative process. Only Congress can craft a solution that is appropriately narrow, avoids endless legal challenges, and puts this divisive issue behind us. Only then can we move on to many long-overdue reforms — such as opening up more spectrum for mobile broadband, clearing actual regulatory barriers to broadband deployment and competition, and updating the Communications Act for the Digital Age.

Sincerely,

ORGANIZATIONS

- **TechFreedom**
- **Americans for Tax Reform**
- **Americans for Prosperity**
- **Center for Individual Freedom**
- **Competitive Enterprise Institute**
- **Council for Citizens Against Government Waste**
- **Information Technology and Innovation Foundation**
- **Institute for Liberty**
- **Institute for Policy Innovation**
- **International Center for Law & Economics**
- **Lincoln Labs**
- **Taxpayers Protection Alliance**

INDIVIDUALS (*Organizations listed here are for identification only*)

- **Daniel Berninger**, founder, VCXC
- **Fred Campbell**, Executive Director, Center for Boundless Innovation in Technology
- **Bartlett D Cleland**, Madery Bridge
- **Scott Cleland**, Chairman NetCompetition
- **Alton E. Drew**, Managing Director, Alton Drew Consulting LLC
- **Hance Haney**, Program Director, Technology and Democracy Project
- **Gene Hoffman**, Co-founder, eMusic & Vindicia
- **J. Bradley Jansen**, Director, Center for Financial Privacy & Human Rights
- **Roslyn Layton**, Visiting Fellow, American Enterprise Institute
- **Stan Liebowitz**, Ashbel Smith Professor of Economics, University of Texas, Dallas
- **Katie McAuliffe**, Executive Director, Digital Liberty
- **Seton Motley**, President, Less Government
- **Glen O. Robinson**, Former FCC Commissioner (1974-76) and David and Mary Harrison Distinguished Professor of Law Emeritus, University of Virginia
- **Paul H. Rubin**, Dobbs Professor of Economics, Emory University
- **Mike Wendy**, President, MediaFreedom.org

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CEA Applauds House, Senate Draft Legislation on Open Internet

Arlington, VA -- 01/16/2015 -- The following statement is attributed to Gary Shapiro, president and CEO of the Consumer Electronics Association (CEA)[®], regarding the House Energy and Commerce Committee and Senate Committee on Commerce, Science, and Transportation draft legislation providing clear rules for open and unfettered access to the Internet:

"We thank Chairman Upton and Chairman Thune for drafting clear, simple, non-bureaucratic legislation that would preserve an open Internet, while encouraging competition among Internet Service Providers and investment in the Internet. There is a need for a reasonable and balanced approach, and at first glance it appears this draft contains thoughtful provisions and is a welcome contribution to this important national discussion. We will review the proposal in detail and look forward to learning more at next week's committee hearings."

About CEA

The Consumer Electronics Association (CEA) is the technology trade association representing the \$223 billion U.S. consumer electronics industry. More than 2,000 companies enjoy the benefits of CEA membership, including legislative and regulatory advocacy, market research, technical training and education, industry promotion, standards development and the fostering of business and strategic relationships. CEA also owns and produces the International CES -- The Global Stage for Innovation. All profits from CES are reinvested into CEA's industry services. Find CEA online at www.CE.org, www.DeclareInnovation.com and through social media.

Press Contacts:

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isanta@ce.org

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January 15, 2015

VIA ELECTRONIC FILING

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

Re: Protecting and Promoting the Open Internet, GN Docket No. 14-28;
Framework for Broadband Internet Service, GN Docket No. 10-127

Dear Mr. Chairman and Commissioners:

Innovation in mobile health¹ and the dynamic transparent measurement of mobile health products and services in the real world empowers consumers and improves outcomes and efficiencies in health care delivery. The undersigned representatives of companies and organizations serving the public in relation to health care are concerned that potential changes to

¹ Note on terminology. Multiple terms are used to describe the influence of technology on healthcare. Commonly used adjectives include "mobile" or "m," "digital," "wireless" and "electronic." Wireless connectivity is the key technology enabler for this field. "Connected health" is the term which best describes the source of value derived from the full convergence of technology and healthcare, including mobile communications infrastructure, digitized information, big data, cloud-based systems and behavioral economics.

the Open Internet framework may adversely affect this opportunity. Mobile health products and services and other digital health services continue to grow and flourish under the Open Internet framework. We submit this letter to caution the Commission against the unnecessary application of additional open Internet requirements, or of antiquated Title II common carrier regulations, to the vibrant wireless ecosystem.

Under the current regulatory approach for wireless providers, the connected health sector has been extraordinarily innovative and vibrant. Crucial for underserved populations and affordability, tech-enabled connected health solutions will democratize medical knowledge, reaching underserved populations in an efficient and personal way, improving health care and making it more accessible. The Commonwealth Fund described the opportunity “to transform health care by making it more responsive to consumers’ needs, convenient for patients to access, and efficient and satisfying for providers to deliver.”²

We are very early in the development of connected health solutions. This is a time when experimentation, fast innovation and investment are critically important. The opportunity represented by connected health will flourish in the open innovation environment that is currently represented by the wireless Internet. Conversely, the addition of limitations on wireless networks will inhibit connected health investment and innovation.

Fortunately, the investment community and both the health care and non-health care business sectors agree on the need for connected health innovation and the business opportunity that it represents. PWC points out that the *Fortune 50* list includes 24 “healthcare new entrants” (including 8 “technology and telecommunications” companies).³ By 2017, global mobile health revenues are expected to increase nearly six-fold to \$23 billion, with the U.S. market commanding \$5.9 billion of the revenues.⁴

The U.S. health system faces considerable challenges, and mobile health innovations can play an essential role in cost reduction and improved outcomes. Today, as the Commission considers a revised net neutrality framework, we urge the Commission to consider the effects on the nascent connected health industry that such changes may represent. Rather than inserting new regulatory uncertainty, the undersigned instead ask the Commission to maintain the structure for wireless services adopted in the 2010 net neutrality rules that has allowed the burgeoning mobile health industry to grow and succeed. Further, the country has made significant investments on the creation of a nationwide health information network through the creation of regional health information exchanges laid out in the HITECH Act. This health information network is further enabled by the work carried out by the FCC Connect America Fund.

The U.S. has been at the forefront of connected health deployments worldwide.⁵ These deployments include sophisticated solutions to monitor and treat patients, as well as applications

² Hostetter et al, *Taking Digital Health to the Next Level*, Commonwealth Fund, October 2014. Available at: <http://www.commonwealthfund.org/~media/files/publications/fund-report-2014/oct-1777-hostetter-taking-digital-htl-next-level-v2.pdf?la=en>.

³ <http://www.pwc.com/us/en/health-industries/healthcare-new-entrants/index.jhtml>.

⁴ PWC, *Touching Lives Through Mobile Health* at 14 (Feb. 2012), at http://www.pwc.in/assets/pdfs/telecom/gsm-pwc_mhealth_report.pdf.

⁵ *Touching Lives Through Mobile Health* at 14.

allowing individuals to manage wellness and fitness.⁶ Indeed, connected health is heading into a transformative stage of development. Remote monitoring of patients can help reduce costs significantly by decreasing the amount of time required to spend in a hospital and the need for readmissions. Mobile-connected pill bottles allow for connectivity between patients, doctors and pharmacies and provide reminders to users to take medication, adherence reports to caregivers, and automatic prescription refills to pharmacies.⁷

Additionally, Kantar Media found that 78% of physicians use smartphones and 51% use tablets for professional purposes, with smartphones favored for “tasks such as researching specific clinical situations and reading professional news.”⁸ Smartphone and tablet use by healthcare professionals continues to grow. A 2013 Epocrates survey of primary care doctors, cardiologists, oncologists, psychiatrists, physician assistants, and nurse practitioners revealed that 86% of these clinicians used smartphones in their professional activities, up 78% from the previous year.⁹ By June 2014, 94 percent of respondents expected that they would use smartphones for professional activities, while 85% anticipated using tablets.¹⁰ As for individuals, more than 40,000 healthcare apps are available to mobile users, and almost 247 million mobile users have downloaded a healthcare app for personal use.¹¹

In the four years since the Commission adopted its 2010 Open Internet framework, mobile wireless – and mobile health in particular – has flourished, with incredible growth, investment and innovation. This was due, in large part, to the sensible mobile-specific regulatory treatment afforded to the wireless industry. The undersigned parties would suggest that the Commission should continue this successful path and avoid changes to the framework that provided a policy foundation for the health information systems innovations described here.

Regulatory and economic factors dictate against the imposition of a one-size-fits-all Title II common carrier regime on competitive and diverse mobile broadband services. An arcane utility-style regulatory approach is inconsistent with and harmful to innovation in mobile health. Economists estimate that an application of Title II regulation on wired and mobile broadband services would reduce network investment by 12.8-20.8%.¹² We are concerned that the wrong regulatory rules could inhibit or greatly delay needed network investment and innovation that will be critical to next-generation health solutions. We should not put at risk advancements that could reduce latency, improve quality of service, and help unlock 5G and machine-to-machine opportunities

⁶ *Id.*

⁷ *Id.*

⁸ Helen Gregg, “Top Physician Uses of Smartphones, Tablets,” *Becker's Hospital Review* (Jan. 28, 2014), available at <http://www.beckershospitalreview.com/healthcare-information-technology/top-physician-uses-of-smartphones-tablets.html>.

⁹ Epocrates, “*Epocrates 2013 Mobile Trends Report: Maximizing Multi-Screen Engagement Among Clinicians*” at 5 (2013) (“*Epocrates Mobile Trends Report*”), available at http://www.epocrates.com/oldsite/statistics/2013%20Epocrates%20Mobile%20Trends%20Report_FINAL.pdf.

¹⁰ *Id.*

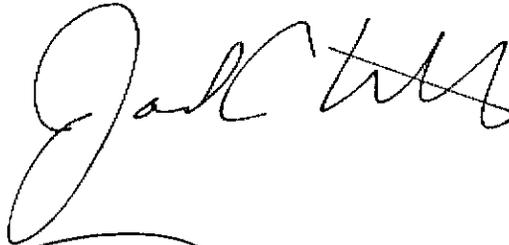
¹¹ Scott Rupp, “mHealth Stats: Mobile Apps, Devices and Solutions,” *Electronic Health Reporter* (Dec. 10, 2013), at <http://electronichealthreporter.com/mhealth-stats-mobile-apps-devices-and-solutions/>.

¹² See Sonecon, *The Impact of Title II Regulation of Internet Providers On Their Capital Investments*, November 2014, available at: http://www.sonecon.com/docs/studies/Impact_of_Title_II_Reg_on_Investment-Hassett-Shapiro-Nov-14-2014.pdf.

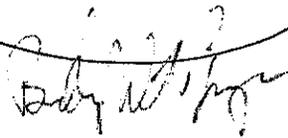
The public benefits from timely low-cost access to digital information regarding health. These services are immeasurable and demand a regulatory environment that facilitates, not disrupts, innovation and investment.

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, a copy of this letter is being filed in ECFS.

Sincerely,

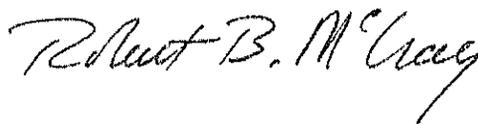


Joel White
Executive Director
Health IT Now Coalition



Bradley Merrill Thompson
General Counsel
M-Health Regulatory Coalition

Opposing
Title II



Robert B. McCray
President & CEO
Wireless-Life Sciences Alliance

ROLL CALL

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Net Neutrality Is Low-Hanging Fruit for Congress | Commentary

By Rick Boucher

Jan. 12, 2015, 2:12 p.m.

As is normal, the start of a new Congress resonated with pledges of bipartisan intention as legislative leaders expressed a determination to work across the aisle in addressing the nation's challenges.

All too often, the opening week's bipartisan good feeling devolves into partisan bickering. But, this year can be different. The tech arena is yielding a promising legislative opportunity with ample incentive for Democrats and Republicans to cooperate in the early passage of a bill that resolves one of the most contentious policy debates of 2015.

The issue is net neutrality, which has dominated the debate in tech policy circles since the U.S. Court of Appeals for the District of Columbia Circuit invalidated the Federal Communications Commission's 2010 open Internet rule and tossed the matter back to the FCC. The rhetoric has sharpened and the partisan divide has widened as the time for FCC resolution of the matter approaches.

The nation's broadband providers are concerned that during the FCC's Feb. 26 public meeting, as a prelude to adopting a new set of net-neutrality rules, the agency will decide to treat broadband Internet access service as a public utility under Title II of the Communications Act. With justification, they claim that imposing monopoly rules from the era of rotary telephones on broadband services would stifle investment at the very time when we have a national goal to extend high-speed Internet service to 98 percent of the nation. Both Republicans and Democrats have echoed those arguments.

On the other side of the debate are claims of potential consumer harm that would result if the commission fails to reclassify broadband under Title II. Without Title II, they argue that the FCC lacks authority to prevent actions such as the blocking of websites, the slowing down of competitors' content or the creation of Internet fast lanes that harm consumers or potentially benefit some content providers to the disadvantage of others.

The coming month, before the FCC acts presents a timely opportunity for Congress to step in and resolve the debate on terms that would seemingly be agreeable to Democrats and Republicans, broadband providers and consumers seeking continued access to robust high-speed Internet services. The FCC promulgated its open Internet rule in 2010 against a backdrop of consensus that had been reached through lengthy discussions among the stakeholders. While not all of the parties were in agreement, a critical mass of consumer groups, broadband providers and policymakers created the consensus that resulted in the FCC's open Internet framework. It's notable that among broadband providers, AT&T publicly expressed support for the rule, and it was ultimately approved with the FCC's Democratic members voting affirmatively. Even more noteworthy is that in the four years since the open Internet rule was adopted, broadband providers have integrated its requirements into daily operations, and high-speed Internet access service has expanded absent consumer complaints of violations.

Narrow legislation that specifically empowers the FCC to re-promulgate the 2010 open Internet rule would simultaneously cure the D.C. Circuit's objection that the FCC lacked the statutory authority to act, maintain the existing classification of broadband, avoid imposing new barriers to investment associated with reclassification, and assure that rules are in place that maintain Internet openness. While enabling the FCC to adopt the 2010 rule, the legislation would circumscribe the agency's authority to impose onerous Title II regulations on broadband.

This approach would allow parties on both sides of the debate to claim victory and secure for each its major objective. It's a rare opportunity for Congress to act in a bipartisan fashion while a substantial measure of bipartisan good intention remains. Let's not let the moment pass.

Rick Boucher is a former Democratic congressman from Virginia who chaired the Energy and Commerce Subcommittee on Communications and the Internet. He heads the government strategies practice at Sidley Austin LLP and is honorary chairman of the Internet Innovation Alliance.

Senator Asks Comcast To Forswear Fast Lanes On The Internet

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Melissa • 8 days ago

People are so focused on slow lanes, but something equally as terrifying are data caps. Who cares if you get 1gbps, if you only have a 300gb data cap, with excessive overage fees for going over that limit, in a day in age where media streaming startups is a bastion of opportunity for our economy, and many of us have turned online for our entertainment and news. Looming data caps should be mentioned in conjunction with slow lanes, as much as Comcast is horrified by the notion.

Furthermore, Congress needs to step up, because Wheeler is just double-speaking like he always has. He wants to prevent slow lanes, but he doesn't think that expedited data is bad in all cases. He uses the emergency system example, fine, but I'm sure he has a broader vision for such a system, which can only be harmful for internet users, and would obviously be to the benefit of his ex(current telecom) employers.. His CES statements didn't convince me he had changed his ideology at all. He's about to give the keys to the kingdom to his corporate masters, unless someone above his head sees his intention and acts now. The problem stands, are there any congressman left who haven't taken a big telecom payout.

The internet needs to be reclassified to protect it. ISPs argue about over-regulation, but the regulation they're afraid of is having the abuse of their power ebb, which would only benefit society at large. ISPs should have one job and one alone, provide the speed at which they're selling without restricting via caps or deprioritization. Any move to not protect us from such practices is not the right move. Title II would also open infrastructure for competitive net services, so that we can actually have some competition in our market. I hope google, amazon, netflix, and online media providers are putting their money where their mouths are, because they stand to be hurt the most by deprioritization and data caps. Also, we the people will have our choice stolen, and the once great equal and open internet will be a corporate buffet solely existing to gouge the customers.

With that said, Congress will be more apt to act if continue to tell them how we feel. Do not trust ex-telecom lobbyist Tom Wheeler to make a decision that's to our benefit.

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James Jackson • 8 days ago

The US Government is at a crossroads with this ruling. Do they control the internet through the companies that all ready control The US Government? -or- Do they listen to the people and give them what they want (no slow lanes, etc) eventhough the internet makes us look bad?

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Net Neutrality: President Obama's Plan for a Free and Open Internet

More than any other invention of our time, the Internet has unlocked possibilities we could just barely imagine a generation ago. And here's a big reason we've seen such incredible growth and innovation: Most Internet providers have treated Internet traffic equally. That's a principle known as "net neutrality" — and it says that an entrepreneur's fledgling company should have the same chance to succeed as established corporations, and that access to a high school student's blog shouldn't be unfairly slowed down to make way for advertisers with more money.

That's what President Obama believes, and what he means when he says there should be no gatekeepers between you and your favorite online sites and services.

And as the Federal Communications Commission (FCC) considers new rules for how to safeguard competition and user choice, we cannot take that principle of net neutrality for granted. Ensuring a free and open Internet is the only way we can preserve the Internet's power to connect our world. That's why the President has laid out a plan to do it, and is asking the FCC to implement it.

Watch President Obama explain his plan, then read his statement and forward it on.





TELECOMMUNICATIONS
INDUSTRY ASSOCIATION

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January 20, 2015

The Honorable John Thune
U.S. Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Fred Upton
U.S. House of Representatives
2183 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Thune and Chairman Upton:

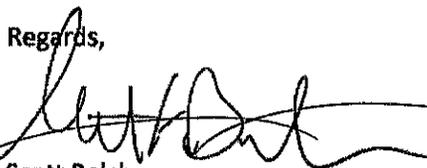
The Telecommunications Industry Association (TIA), the leading trade association for global manufacturers, vendors, and suppliers of information and communications technology, applauds your leadership in releasing draft legislation and conducting hearings on "Protecting the Internet and Consumers through Congressional Action." We particularly appreciate your scheduling each Committee's inaugural hearings of the 114th Congress on this important issue.

There is a clear consensus that consumers should be assured of unfettered access to their choice of content or services, as well as connectivity of devices to the Internet. Determining the appropriate FCC legal authority to achieve these goals has been challenging. TIA believes strongly that reclassifying broadband internet access under Title II has significant adverse consequences. Using Title II to achieve net neutrality attempts to put a round peg into a square hole.

Congress is uniquely qualified to resolve the net neutrality issue by directing the FCC to assure an Open Internet without applying regulatory excesses that would cripple continued investment.

We look forward to working with you on these important issues.

Regards,


Scott Belcher
Chief Executive Officer
Telecommunications Industry Association

*D opposing title II and
Supporting legislative
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App Developers Alliance Supports Open Internet; Welcomes Legislative Option

January 21, 2015

Statement from Jon Potter, President, Application Developers Alliance:

"The Applications Developers Alliance supports developers as creators, innovators and entrepreneurs. Developers need an Internet – wired and wireless – that is open, competitive, stable, fast, and fair to all who use it – and that continues to grow in size, scale and speed.

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Press Contact

Sarah Elliott,

Communications

sarah@appalliance.org

(650) 477-6585

“An open Internet protects consumer choice, enables startups to compete fairly with incumbents, is transparent, and prohibits blocking and throttling content, paid prioritization and discrimination. The open Internet must be ensured permanently; three more years of litigation creates uncertainty that undermines small innovators.

“The open Internet can be guaranteed through legislation or regulation – but either must be drafted narrowly and carefully. The bills introduced by Chairmen Thune and Upton, with some improvements, could guarantee the open Internet that stakeholders have been discussing for more than a decade, and could guarantee opportunity for generations of innovators and app developers. We welcome the legislative debate.”

###

The Application Developers Alliance is a non-profit global membership

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organization that supports developers as creators, innovators, and entrepreneurs. We promote industry growth and advocate on public policy and industry issues. The Apps Alliance, which now includes more than 200 corporate members and a 50,000-strong developer network, launched in January of 2012 and Initiated European services in early 2014. Membership includes app publishers, developer agencies, platforms, wireless carriers, hardware manufacturers, ad networks, enterprise tools and service providers.

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