

March 23, 2015

Rep. Robert Goodlatte  
Chair  
Judiciary Committee  
2138 Rayburn HOB  
Washington, DC 20515

Rep. John Conyers  
Ranking Member  
Judiciary Committee  
2138 Rayburn HOB  
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

As racial justice and civil rights organizations, we write to express our support of the recent Federal Communications Commission decision to enact strong and enforceable Net Neutrality rules.

Our organizations are among the more than 100 racial justice and civil rights groups that have called on the FCC to pass strong Net Neutrality rules using its Title II authority. It is critical that the FCC have the legal authority to protect the online digital rights of communities that historically have been marginalized in our society. With such protections, our communities have been able to better participate in our democracy, tell our own stories, strive towards educational excellence and pursue economic success.

We are deeply troubled by Congressional efforts to overturn the Net Neutrality order and to strip the Commission of its legal authority to enforce its Net Neutrality protections under Title II of the Communications Act. This includes efforts to prevent the Commission from enforcing Net Neutrality by defunding the agency.

The Net Neutrality debate has centered on whether the Commission has the authority to enforce Net Neutrality rules that prevent Internet service providers (ISPs) from blocking or discriminating against online content. A federal court ruled last year that the Commission could not ban such online discrimination without reclassifying ISPs as common carriers under Title II. Therefore, the FCC cannot protect Internet users from ISP practices such as blocking, throttling and other types of discriminatory conduct that could arise as the marketplace and technology evolves, without asserting its authority under Title II.

This is why more than four million people have called on the FCC to use its Title II authority to adopt strong and enforceable Net Neutrality rules over the past year.

Accordingly, we respectfully request that you join the millions of digital equality champions and support the FCC's historic decision, and reject any efforts to overturn or weaken the decision. You will be in good company, on the right side of public opinion and history.

Sincerely,

Alliance for a Just Society  
Black Alliance for Just Immigration  
Black Lives Matter  
Center for Community Change  
Center for Media Justice

Center for Popular Democracy  
Center for Rural Strategies  
Center for Social Inclusion  
ColorOfChange.org  
Community Justice Network for Youth  
Demos  
Dream Defenders  
18 Million Rising  
Ella Baker Center  
Forward Together  
Free Press  
Hispanic Association of Colleges and Universities  
Latino Rebels  
Media Action Grassroots Network  
Mexican American Opportunity Foundation  
Million Hoodies Movement for Justice  
Movement Strategy Center  
National Domestic Workers Alliance (NDWA)  
National Association of Hispanic Journalists  
National Association of Latino Independent Producers  
National Economic & Social Rights Initiative  
National Guestworker Alliance  
National Hispanic Media Coalition  
National Institute for Latino Policy  
National Latina Institute for Reproductive Health  
National LGBTQ Task Force Action Fund  
National People's Action  
News Taco  
Nuestra Palabra: Latino Writers Having Their Say  
Our Walmart  
Philanthropic Initiative for Racial Equity  
Presente.org  
Radio Bilingüe  
Race Forward  
Right to the City Alliance  
Roosevelt Institute Campus Network  
The Librotraficante Movement  
The Praxis Project  
United Church of Christ, OC Inc.  
United We Dream  
Voices for Internet Freedom

# ConsumersUnion®

## POLICY & ACTION FROM CONSUMER REPORTS

The Honorable Bob Goodlatte  
Chairman  
House Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers, Jr.  
Ranking Member  
House Committee on the Judiciary  
2426 Rayburn House Office Building  
Washington, DC 20510

Dear Chairman Goodlatte and Ranking Member Conyers:

Consumers Union, the policy and advocacy arm of Consumer Reports, appreciates the Committee's decision to hold a hearing to examine the Federal Communications Commission's ongoing efforts to protect consumers and promote competition in the telecommunications and broadband marketplace.

We strongly support the Commission's recent network neutrality decision to reclassify broadband as a telecommunications service. We believe reclassification is the most effective way to hold broadband providers accountable and ensure that all consumers have access to the content of their choice on nondiscriminatory terms. We commend the Commission for the thorough, deliberative process under which it reached this pro-consumer result. The rules will be of significant benefit in protecting the Internet against discriminatory broadband provider practices that can lead to slower and more expensive Web access for consumers.

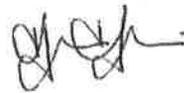
While the antitrust laws also have an important role to play in promoting competition and openness on the Internet, we fully support the Federal Communications Commission's appropriately vigorous use of its broader public interest authority in this area.

Hand in hand with the FCC's strong net neutrality rules, competition is essential to ensuring that consumers receive the full benefit of the various video and broadband options available today, and to spurring the development of new options in the future. Unfortunately, a handful of dominant broadband providers already have undue ability and incentive to leverage market power in ways that are harmful to competition and consumers. And some now seek to increase their dominance even further.

For this reason, we have been urging the FCC and the Justice Department to reject the proposed Comcast-Time Warner Cable merger. If approved, this merger would give Comcast control over sixty percent of cable and more than half of the high speed broadband in the U.S. We have submitted statements to both agencies explaining in detail the severe harms we believe this merger would cause competition and consumers. More than 800,000 consumers have written to the FCC to express their concern about the proposed merger, and according to our own public opinion polls at Consumer Reports, only 11 percent of the public supports the merger.

We hope these observations will assist the Committee in its continuing consideration of many important telecommunications policy issues.

Sincerely,



Delara Derakhshani  
Policy Counsel  
Consumers Union

CC: Members of the House Judiciary Committee

# National Rural Assembly

## BROADBAND

March 24, 2015

The Honorable Bob Goodlatte  
Chairman  
House Judiciary Committee  
2309 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers, Jr.  
Ranking Member  
House Judiciary Committee  
2426 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

We are writing to ask you to support the fair treatment of rural and Native communities online. We are entrepreneurs, artists, educators, advocates, and devoted community members, and we strongly believe network neutrality rules provide us with a level playing field online. The open Internet has given us the opportunity to revitalize rural America's local economies, share our culture with global audiences, and amplify rural voices in debates shaping our society.

The Federal Communications Commission (FCC) recently voted in favor of strong net neutrality rules, a decision that ensures Broadband Internet Access Services (BIAS) treat all information equally – no one receives preferential treatment, no one is slowed down, and no one is blocked, regardless of where they live. The rules prevent service providers from choosing digital winners and losers, a practice that could disproportionately hurt rural Americans. In brief, net neutrality rules keep Broadband Internet Access Services honest. Indeed, the FCC decision is a great victory for rural America.

**We need your help as a Rural Champion: Support the Net Neutrality rules and maintain a level playing field for rural Americans.**

Your support for the FCC's net neutrality rules ensures that rural Americans don't get stuck in the slow lane and are able to access the power of the open Internet to transform our communities.

Today, residents of rural and Native communities constitute the majority of Americans who are unable to access telecommunications services. According to the FCC, 53% of rural Americans (22 million) and 63% of Americans living in Tribal lands do not have access to broadband speeds that enable full participation in our society.<sup>1</sup> This persistent digital divide keeps rural communities from better education, health care, economic development, and from full civic participation.

The open Internet helps bridge the isolation and neglect our communities experience. But getting online is not sufficient. In order for rural people to obtain the full benefits of the open Internet, our voices, stories, and ideas cannot be downgraded to the slow lane. Net neutrality helps rural communities get the same exposure as those with power and wealth. It creates a level playing field unlike we have ever seen.

As our economy, culture, and civic engagement become increasingly tied to our presence online, rural communities depend on network neutrality to get a fair shake. Here are some examples:

#### **Rural Entrepreneurs**

Broadband provides rural businesses and innovators access to global customers. Net neutrality allows rural entrepreneurs and large corporations to compete for these customers on a level playing field. Allowing Broadband Internet Access Services to sell fast lanes to those who can afford them leaves rural businesses stuck in the digital dirt road. Net neutrality maintains the digital road to economic progress open for rural entrepreneurs.

#### **Rural Artists**

The Internet exposes global audiences to rural art, music, stories, and culture. And rural musicians, filmmakers, journalists, and artists use the Internet to be our cultural ambassadors. While rural artists face many obstacles to reach mainstream stages, the Internet is their most accessible venue. Net neutrality rules help rural talent reach the global stage.

#### **Rural Ideas**

The Internet is a platform where rural people can speak for themselves and on the behalf of their communities to wider audiences. Net neutrality grants every idea equal opportunity to reach a global audience, thus ensuring that rural communities are not excluded and do not experience the same lack of representation they face on other communications platforms. Net neutrality rules ensure rural voices get the same megaphone as everyone else.

The FCC listened to our requests to establish Net neutrality rules that help rural Americans obtain the full benefits of the open Internet, and now you can help us by protecting those rules.

The stakeholders endorsing this letter respectfully request your help establishing fairness for rural communities, entrepreneurs, and artists online by supporting the FCC's network neutrality rules.

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<sup>1</sup> *Tenth Broadband Progress Report*, Federal Communications Commission. January 29, 2015

Sincerely,

Sean McLaughlin  
*Executive Director*  
**Access Humboldt**  
Eureka, California

Michael Nicholls  
*Co-Chair*  
**Access Sonoma Broadband**  
Cazadero, California

Jay April  
*President & CEO*  
**Akaku Maui Community Media**  
Kahului, Hawai'i

Amelia Kirby  
*Development Director*  
**Appalachian Citizens Law Center**  
Whitesburg, Kentucky

Mimi Pickering  
*Community Media Initiative Director*  
**Appalshop**  
Whitesburg, Kentucky

Matt L. Barron  
**Bluegrass Rural**  
Melber, Kentucky

Trish Steel  
*Chairman*  
**Broadband Alliance of Mendocino County**  
Laytonville, California

Connie Stewart  
*Executive Director*  
**California Center for Rural Policy**  
Arcata, California

Laurie Ezzell Brown  
*Editor*  
**The Canadian Record**  
Canadian, Texas

Lucas Nelsen  
*Energy Policy Associate*  
**Center for Rural Affairs**  
Lyons, Nebraska

Dee Davis  
*President*  
**Center for Rural Strategies**  
Whitesburg, Kentucky

Elandria Williams  
*Education Team Coordinator*  
**Highlander Research and Education Center**  
New Market, Tennessee

Ben Lilliston  
*VP of Programs*  
**Institute for Agriculture Trade and Policy**  
Minneapolis, Minnesota

Christopher Mitchell  
*Community Broadband Networks Initiative Director*  
**Institute for Local Self Reliance**  
Minneapolis, Minnesota

Jana M. Linderman  
*President*  
**Iowa Farmers Union**  
Des Moines, Iowa

Karen Fasimpaur  
*President*  
**K12 Handhelds, Inc.**  
Portal, Arizona

Donn Teske  
*President*  
**Kansas Farmers Union**  
Wheaton, Kansas

Tom Fitzgerald

*Director*

**Kentucky Resources Council**

Frankfort, Kentucky

Alfredo Lopez

*Member, Leadership Committee*

**May First / Peoples Link**

New York

Andrea Quijada

*Executive Director*

**Media Literacy Project**

Albuquerque, New Mexico

Richard R. Oswald

*President*

**Missouri Farmers Union**

Langdon, Missouri

Vivian Stockman

*Project Coordinator*

**Ohio Valley Environmental Coalition**

Huntington, West Virginia

Rachel Reynolds Luster

*Founder & Project Steward*

**Oregon County Food Producers and  
Artisans Co-Op**

Alton, Missouri

Cindy Gomez-Schempp

*Co-founder*

**People's Press Project**

Moorhead, Minnesota

Edyael Casaperalta

*Coordinator*

**Rural Broadband Policy Group**

Whitesburg, Kentucky

Colin Donohue

*President*

**Root Deeper Marketing**

Athens, Ohio

Becky McCray

*Founder & Publisher*

**Small Biz Survival**

Hopeton, Oklahoma

Julia Oxarango-Ingram

*Director*

**Southern Idaho Rural Development**

Shoshone, Idaho

Jenny Lancaster

*Partner/Client Director*

**Terzetto Creative, LLC**

Huntington, West Virginia

Matthew Rantanen

*Director of Technology*

**Tribal Digital Village Network**

Pala, California

Ana Montes

*Organizing Director*

**The Utility Reform Network**

San Francisco, California

Beth O'Connor

*Executive Director*

**Virginia Rural Health Association**

Blacksburg, Virginia

Lynn Jungwirth

*Senior Fellow for Policy and Development*

**The Watershed Center**

Hayfork, California

CC: Members of the House Judiciary Committee

March 24, 2015

The Honorable Bob Goodlatte, Chairman  
Judiciary Committee  
House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Conyers, Ranking Member  
Judiciary Committee  
House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

In the recent debate around net neutrality, there has been substantial confusion as to the relationship between regulations and antitrust law in crafting policies to ensure continued access to an open internet. We are writing to clarify that these two tools are complementary to promoting competition, consumer protection, and the virtuous cycle of a healthy open internet. However, while both occupy important roles, neither is sufficient on its own to address all of the critical policy considerations in the broadband age.

As a general matter, antitrust and regulation occupy complementary positions in policymaking. Both the Federal Trade Commission (FTC) and Federal Communications Commission (FCC) are vitally and equally necessary to protect consumer welfare and promote competition in the digital arena. But antitrust is specifically tailored to protect competition in markets by preventing conditions that weaken or undermine competition. In this regard, it operates in an *ex post* manner, after abuses have already occurred to competition and consumers, with the hope that corrective action will dissuade future bad behavior.<sup>1</sup>

In contrast, the FCC is designed not just to ameliorate harms that have occurred, but to prevent harms to competition and consumers before they take place. To this end, it operates in an *ex ante* fashion, making it much more prophylactic. It is the cop on the beat to the FTC's firehose. Furthermore, the FCC serves another, even more important function - it can implement positive, forward-thinking policies that actively promote network deployment, competition, and innovation. One classic example is the responsibility to "ensure the active deployment of broadband" - something that might not happen if the FCC does not provide incentives for private companies to do so.

The instant debate over net neutrality rules exemplifies this tension well. The FCC's recent rulemaking was an important step in restoring its ability to adopt flexible consumer protection and pro-competition policies that had been stripped from it in the *Verizon* decision. The FTC can play an important role. But the type of protective rules the FCC can

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<sup>1</sup> The exception to this is the merger review process, which allows the DOJ and FTC to block mergers before they take place if they are deemed likely to result in harmful reduction in competition.

implement are particularly important in an ecosystem like the internet, which depends on the continuing “virtuous cycle” for its success. Absent *ex ante* protections, it might not be apparent what harms might have been prevented in retrospect - where, for example, barriers to entry prevent disruptive new technologies or content creators from ever seeing the light of day. Consumers can’t miss what they never knew was possible. While some anticompetitive actions could sometimes trigger antitrust concerns, a law predicated first and foremost on market analyses is not well-suited to the balancing of social and economic factors that impact the virtuous cycle.

In addition, the FCC’s jurisdiction over broadband also extends to many important policies that go beyond pure net neutrality, which the FTC is similarly ill-suited to address. Universal service funding, consumer privacy, emergency services, and accessibility for those with disabilities are but a few of the issues that rely on the FCC as the expert agency for direction in the rapidly developing broadband marketplace.

As Congress continues its review of the new open internet rules in the larger debate over a possible Communications Act update, we urge you to keep in mind this broader picture. It is not an exaggeration to say that the ongoing success of modern communications has rested on this dual oversight of the industry. Antitrust is no doubt important to ensure healthy marketplaces in many sectors of our economy. But the FCC is specifically charged with the central goals of communications policy: achieving universal service, protecting consumers, promoting competition and innovation, ensuring a communications platform that supports a diversity of viewpoints. Only combined market oversight will ensure digital communications platforms capable of promoting social and economic empowerment necessary to support a robust democracy.

Sincerely,

Common Cause

Color of Change

Daily Kos

Engine Advocacy

Fight for the Future

Internet Freedom Business Alliance

National Hispanic Media Coalition

Open Technology Institute

Public Knowledge

March 18, 2015

The Honorable Tom Wheeler  
The Honorable Mignon Clyburn  
The Honorable Jessica Rosenworcel  
Federal Communications Commission  
445 12<sup>th</sup> St., SW  
Washington, DC 20554

Dear Chairman Wheeler, Commissioner Clyburn, and Commissioner Rosenworcel,

We, the undersigned organizations and companies, thank you for your vote on February 26<sup>th</sup> to protect Internet communications from discrimination by reclassifying broadband access under Title II of the Communications Act.

Over the last year, nearly seven million Americans have contacted the Federal Communications Commission on this issue, with the overwhelming majority in favor of Title II reclassification. In addition, hundreds of advocates, civil rights groups, companies, entrepreneurs, and legal experts have spoken out in favor of Net Neutrality.

The FCC followed the letter of the law by voting for reclassification, and it heeded the calls of millions of Americans. You proved that sound policy that benefits the public interest can carry the day in Washington. Your vote will help keep the Internet open for years to come, free from slow lanes and gatekeeping, which will enable future generations to enjoy the greatest platform for free expression, democracy, and innovation the world has ever known. If Congress acts, it should consider the FCC's rule the floor, and not the ceiling, when it comes to the protections afforded Americans.

Those that support Net Neutrality and Title II represent a wide range of interests and political affiliations. What we have in common is an unwavering belief in the power of the Internet and the need to keep it open for the benefit of the public. This is not a partisan idea. Independents, Republicans and Democrats alike favor Net Neutrality by overwhelming margins.

Thank you for standing with the organizations and individuals across this country that defend and benefit from the open Internet.

Sincerely,

18MillionRising.org  
Access  
American Civil Liberties Union  
Addy  
Agile Learning Labs  
AirHelp  
American Library Association  
Amicus  
AppRebates  
Appar  
Apptology  
Association of Research Libraries  
Augur  
Authentise  
Automatic  
Badger Maps  
betaworks  
Bitnami  
Blu Zone  
Boing Boing  
BuzzFeed  
Center for Democracy & Technology  
The Center for Media Justice  
Cheezburger  
Codecademy  
CodeScience  
ColorOfChange  
Common Cause  
Consumers Union  
Contextly  
CREDO Action  
Daily Kos  
Demand Progress  
Digg  
Duffy, Inc.  
Distinc.tt  
DuckDuckGo  
Dwolla  
DynaOptics  
Earbits  
Electronic Frontier Foundation  
Embedly  
Engine  
Etsy  
Faithful Internet  
Fandor

Kongregate  
LawGives  
LeafLad  
LendUp  
Linknovate  
Media Democracy Fund  
MediaFire  
Media Literacy Project  
Media Mobilizing Project  
Medium  
Meetup  
MixRank  
Motionry  
MoveOn.org  
Mozart Medical  
Mozilla  
National Hispanic Media Coalition  
New America's Open Technology Institute  
Next Big Sound  
NOTCOT  
OfficeNinjas  
OpenDNS  
OpenMedia.org  
Opera Software  
PadMapper  
Pixoto  
Poll Everywhere  
Popular Resistance  
Presente.org  
Public Knowledge  
Publitas.com  
Rallyware  
ReadMe.io  
Recrout  
reddit  
ReplySend  
Reylabs  
RootsAction.org  
Savvy System Designs  
Shapeways  
SketchDeck  
Sonic  
SpoonRocket  
Statwing  
Stripe  
SumOfUs

Fight for the Future  
Flytenow  
Floor64  
Foundry Group  
Foursquare  
Free Press  
Future of Music Coalition  
Gawker Media  
General Assembly  
GitHub  
Global Accelerator Network  
Grid  
HayStack TV  
HelloSign  
Heyzap  
Hire an Esquire  
Imgur  
Inside Social  
Instapaper  
Internet Freedom Business Alliance  
inXile  
Kaltura  
Kickstarter

Techstars  
TerrAvion  
The Nation  
TheNextWeb.com  
ThoughtWorks  
Tilt  
TouchCast  
Tumblr  
Twilio  
Union Square Ventures  
United Church of Christ, OC Inc.  
Upworthy  
VHX  
Vidcaster  
Vimeo  
Vox Media  
Warby Parker  
Women's Institute for Freedom of the Press  
Women's Media Center  
Worldly  
Xola  
Yanomo  
Yelp  
Zentail.com  
Zynga

**THE HILL**

March 25, 2015, 07:30 am

## **The FCC: Cop on the beat to the FTC's firehose**

By Gene Kimmelman and Allen Grunes

This afternoon, Congress will once again take aim at the FCC's ability to do its job as the expert agency in the communications sector. At issue this time is whether another agency with three initials—the FTC—should take over authority from the FCC. Behind the debate is the question of whether antitrust law is sufficient on its own to prevent big Internet providers from taking advantage of consumers. We think the answer is “no.”

In the recent hot debate around net neutrality, there has been continued confusion as to the relationship between regulation and antitrust law in crafting policies to ensure the continuation of an open internet. As two people who have worked extensively on antitrust policy and enforcement in our careers, we are here to clarify: these two tools are complementary to promote competition, consumer protection, and the virtuous cycle of a healthy open internet. However, while both occupy important roles, neither is sufficient on its own to address all of the critical policy considerations in the broadband age.

### **ADVERTISEMENT**

As a general matter, antitrust and regulation occupy complementary positions in policymaking. Both the Federal Trade Commission (FTC) and Federal Communications Commission (FCC) are vitally and equally necessary to protect consumer welfare and promote competition in the digital arena. But the role of antitrust agencies (both FTC and DOJ) is to

*enforce* the laws—to prevent anticompetitive mergers from taking place, to prevent monopolization, and to investigate claims of collusion or exclusionary conduct. And the agencies are set up to do this one case at a time, and generally in an *ex post* fashion. That is their mandate.

In contrast, the FCC has a broader mandate. It looks at the bigger picture. It doesn't just ask whether competition has been harmed; it asks how competition can be helped. Moreover, it is legislatively charged with taking into account factors other than competition, such as diversity of voices and localism. To this end, it operates in an *ex ante* fashion, making it much more prophylactic. The FCC is the cop on the beat, keeping an eye out for trouble but also helping to make the neighborhood a better and safer place. The FTC is a bit more like a firehose—it is there to put out the fire after it has started.

The instant debate over net neutrality rules exemplifies this tension well. The FCC's recent rulemaking was an important step in restoring its ability to adopt flexible consumer protection and pro-competition policies that had been stripped from it in the *Verizon* decision. The FTC (and DOJ) can also play an important role. But the type of protective rules the FCC can implement are particularly important in an ecosystem like the internet, which depends on the continuing "virtuous cycle" for its success. Absent *ex ante* protections, it might not be apparent what harms might have been prevented in retrospect - where, for example, barriers to entry prevent disruptive new technologies or content creators from ever seeing the light of day. Consumers can't miss what they never knew was possible. While some anticompetitive actions could sometimes trigger antitrust concerns, a law predicated first and foremost on market analyses is not well suited to the balancing of social and economic factors that impact the virtuous cycle.

In addition, the FCC's jurisdiction over broadband also extends to many important policies that go beyond pure net neutrality, which the FTC is similarly ill suited to address. Universal service funding, emergency services, and accessibility for those with disabilities are but a few of the issues that rely on the FCC as the expert agency for direction in the rapidly developing broadband marketplace.

With its recent open Internet rulemaking, the Commission has finally done the right thing for the American people and restored its authority to address myriad broadband policies going forward. Now it moves forward on those issues as well. Now that it has, it is time to start looking forward at all that can now be accomplished with solid legal authority. As Congress continues its review of the new open internet rules in the larger debate over a possible much-talked-about Communications Act update, we urge policymakers to keep in mind this broader picture. Congress must do no harm to the FCC's ability to stand as lookout for the American people *before* harm befalls them.

It is not an exaggeration to say that the ongoing success of modern communications has rested on this dual FCC/antitrust agency oversight of the industry. Antitrust is no doubt important to ensure healthy marketplaces in many sectors of our economy. But the FCC is specifically charged with the central goals of communications policy: achieving universal service, protecting consumers, promoting competition and innovation, ensuring a communications platform that supports a diversity of viewpoints. Only combined market oversight will ensure digital communications platforms capable of promoting social and economic justice necessary to support a robust democracy.

*Kimmelman is CEO of Public Knowledge, a public interest research and advocacy organization. Grunes is an antitrust attorney.*