



Sept. 15, 2014

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

RE: Protecting and Preserving the Open Internet, WC Docket No. 14-28

Dear Mr. Chairman and Commissioners:

Our organizations appreciate your efforts to protect and promote an open Internet. We believe that the Internet should be preserved as a decentralized platform for free speech, innovation, education, learning and research.

We believe that Title II and Section 706 both provide legal authority for the Commission to adopt strong open Internet protections that respect judicial precedents and that are flexible enough to accommodate the dynamic nature of the broadband marketplace. Classifying public broadband Internet access service as a Title II "common carrier" service would ensure the broader public interest goals of an open Internet are met, while providing the FCC with the flexibility to adapt and tailor its regulations to fit the market. Treating broadband Internet access service as common carriage is a legally sustainable approach that would ensure that providers will not be able to block Internet traffic or engage in unreasonable discrimination against or in favor of any particular content, application or service.

We also submit that the Commission could implement a strong standard under its Section 706 authority that focuses on preserving the culture and tradition of the Internet as an open platform without discrimination or degradation. The "commercially reasonable" standard, however, is not strong enough to accomplish this objective, as this approach could reflect only the commercial interests of the contracting parties rather than the interest of all Internet users and edge providers (the public interest).

A better approach would be to adopt a standard under Section 706 that requires broadband providers to act "consistent with Internet openness" or prohibit practices that would "undermine Internet openness." ALA and a host of other library and higher education organizations have suggested the term

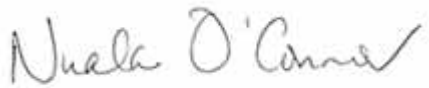
"Internet reasonable", but the terminology is not as important as the concept – the FCC should adopt enforceable policies to ensure that the Internet remains open and available for all members of the general public on equitable terms and conditions, without paid prioritization and without degradation of service to anyone.

Libraries, educational institutions, innovators and consumers increasingly operate as both consumers and edge providers, and the Commission's rules must protect both "sides" of the Internet access market. The Commission must preserve the traditional and practical ability of subscribers to access and use the lawful Internet content, applications, services, and devices of their choice without interference from their provider of broadband Internet access services. The Commission must also ensure that providers of online content, services, equipment and applications are able to make their services and devices available to interested Internet users everywhere without having to negotiate for or obtain any kind of permission or agreement from broadband Internet access providers.

A clearly articulated and strong public interest standard under Section 706 that is focused on preserving the existing Internet would set expectations and provide guidance to the market. The Commission could consider and adjudicate complaints case-by-case to determine whether or not they are consistent with the openness standard. Broadband providers would have adequate notice of the rule in advance, but would still have the opportunity to make their case that the public would benefit from its proposed practice. Thus, the rules could adapt to changes in the broadband marketplace, while still allowing the Commission to proscribe specific behavior (such as paid prioritization or intentional degradation) that would violate the principles of Internet openness.

We hope the Commission will move swiftly to restore network neutrality protections. If the Commission decides not to pursue reclassification at this time, it should adopt Section 706 authority with a strong standard that focuses on preserving the culture and tradition of the Internet.

Sincerely,



Nuala O'Connor

**President & CEO
Center for Democracy & Technology (CDT)**



Emily Sheketoff

**Executive Director, Washington Office
American Library Association (ALA)**