

United States Senate

WASHINGTON, DC 20510

December 15, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Genachowski:

You recently announced your intent to have the Federal Communications Commission impose new regulations on broadband access services at the Commission's meeting later this month. We write today to express our continued opposition to any so-called "Open Internet" rules. The Internet as an open platform for innovation is not an aspiration, it is a reality—the United States does not need new burdensome regulations to make it so. This is an unjustified and unnecessary expansion of government control over private enterprise. We strongly urge you to abandon your decision to impose new restrictions on this important and dynamic segment of our economy.

Last year when you began the Open Internet rulemaking you promised that the process would be "transparent, fact-based, and data-driven," yet the Commission to date has provided scant evidence to justify the need for your proposed intrusion into the broadband marketplace. Consumers today use and have access to more Internet services than ever before. Even during this economic downturn, tens of billions of dollars have been invested in new broadband infrastructure. Every day, Internet entrepreneurs offer new services, applications, devices, and content to users of broadband Internet networks. There is no evidence of the sort of market failure in broadband that might require expansive new powers for the Commission.

While the rules that you are proposing will have little, if any, positive impact for consumers, they will likely reduce the potential for innovation and investment in broadband networks. Your proposal would establish the Commission as the central arbiter of which new network practices are and are not reasonable, making the Commission the gatekeeper for any future broadband innovations. This will dramatically slow the pace of that innovation and jeopardize billions of dollars of future investment into broadband networks.

You and the Commission's general counsel have admitted in published statements that the legal justification for imposing these new regulations is questionable and "has a serious risk of failure in court." It is very clear that Congress has not granted the Commission the specific statutory authority to do what you are proposing. Whether and how the Internet should be regulated is something that America's elected representatives in Congress, not the Commission, should determine.

The Internet has flourished over the last twenty years because of, not despite, a lack of government control and involvement. If the Commission does adopt your plan to impose new regulations on the Internet, the cost of that action will be measured in investments forgone, innovations stifled, and most

importantly, jobs lost. With America's economy in such a fragile state, the last thing the government needs to do is burden the private sector with more ill-advised regulatory red tape. Again, we implore you to reconsider your decision to regulate broadband services.

Sincerely,

John Eriqson

John McCain

J. Thune

Mark McClellan

Jan E. Rinal

Mike Johanns

Ray Whitmer

Gov. J. Bennett

Kay Bailey Hutchison

Kit Bond

Michael B. Enzi

Jon DeMint

John Thune

Sayby Chaubkin

Lamar Alexander

John Barrasso

Mike Crayon

Sam Brumby

Jon Kyl

John Cornyn
Chris G. Hatch

David Vitter

Tom Coburn

Pat Roberts

Jeff Flake

Markwayne Mullins

Jim Rumsfeld

Paul Ryan

Chuck Grassley

Cc: Michael J. Copps
Robert M. McDowell
Mignon Clyburn
Meredith Attwell Baker