

# CIRCULATION DRAFT

October 21, 2009

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, D.C. 20554

Dear Chairman Genachowski:

We are writing in support of your initiation of a network neutrality rulemaking to assure baseline rules that allow consumers to access the lawful internet content of their choice, run applications and services of their choice, connect to their choice of legal devices, and ensure competition among network providers and content/service/application providers.

We praise your efforts to include a non-discrimination principle that would prevent internet service providers (ISPs) from discriminating against any legal content or applications and a transparency principle that would require ISPs to disclose their policies. With the growth of wireless access, we also agree that the same network neutrality laws should apply to all providers regardless of whether they are wireline or wireless. Your efforts in ensuring net neutrality will allow a free and competitive market for internet content.

Our regulatory system is being asked to define the marketplace. The most efficient market-based approach is one that empowers hundreds of millions of American consumers to determine the success or failure of a website, application, or service, rather than a handful of internet access providers acting as gatekeepers and deciding whether or how quickly users have access to lawful content. Rather than obliging internet users to purchase or use the content, service, or application favored by access providers (through ownership or deals that lock out or restrict the competition), free and unfettered access to all legal content is critical to fostering the progression of a free marketplace of ideas and services.

The intense competition and level playing field among providers of online content, services and applications and the low-barriers to entry that have allowed the garage start-ups of one year to be the multi-billion dollar companies of the next, have made the internet a great success. The Federal Communications Commission (FCC) should preserve the ability of free content to be created and delivered through the internet unhindered; to do otherwise stands in the way of the continual evolution of the internet and its value to humanity.

We believe that consideration of the potential consequences that the proposed regulations would have on network investment will support rules enshrining the principles mentioned above. A recent [Harvard study](#) examining the critical role played by private and public investment and competition throughout the world found that open access policy is “playing a central role...

throughout the highest performing countries.” The extensive Harvard study looks at the regulatory approach of our international peers, and found that “in Japan and South Korea, the two countries that are half a generation ahead of the next best performers, this has taken the form of opening up not only the fiber infrastructure but also requiring mobile broadband access providers to open up their networks to competitors.” The study concludes that “the positive impact of such [open access] policies is strongly supported by the evidence of the first generation broadband transition.”

As part of a transparent, data-driven process, the evidence presented in the Harvard study clearly and unambiguously shows that an open access approach will not only foster the development of content and applications, but is also consistent with the development of the next generation of broadband infrastructure.

We recognize that it is the freedom of the internet itself and the diversity of applications and content that drive increasing demand for broadband access. Tiered access could not only hurt the ability of new content and service providers to enter the market, but could also reduce the demand for, and value of broadband services.

We believe that the proposed rules enhance the FCC’s historic commitment to competition and innovation, and are necessary to ensure that internet users can go to any legal web site and access any legal online service that they choose.

The internet is one of humanity’s greatest cultural achievements and the most powerful infrastructure for free speech and innovation. We hope that you will join us in our efforts to ensure that it remains an open access network.

Yours truly,

Congressman Jared Polis