

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Open Internet Remand, GN Docket No. 14-28

Filed via ECFS

May 6, 2014

Dear Ms. Dortch:

On April 24, 2014, I met with Commissioner Jessica Rosenworcel and Priscilla Argeris of her office, and Adonis Hoffman and Rebekah Goodheart of Commissioner Clyburn's office to express my strong support for network neutrality and my opposition to permitting paid prioritization, discriminatory exemptions from bandwidth caps, and application-specific technical discrimination.

I am a founding partner of Union Square Ventures, a New York-based venture capital firm with over \$900,000,000 under management. We were early investors in applications layer web services like Twitter, Zynga, Tumblr, Skillshare, SoundCloud, Coinbase, Foursquare, Kickstarter, Hailo, Stack Exchange, Dwolla, Kik Messenger, Twilio, and others. Collectively, the web services of our portfolio companies have become a valued part of the lives of hundreds of millions of people. None of these companies existed ten years ago. None would have been possible except for two characteristics of the open Internet. First, because the Internet separates the network layer from the application layer, these applications could be built with no knowledge of the underlying network. This radically simplified the development of these applications, lowering the costs and opening this market to a more diverse group of creators, entrepreneurs and small businesses. Second, because consumers have already paid for access to the Internet and because, until now, broadband access providers have treated all bits equally, these start-up companies were able to reach a global audience simply by making their applications available on the Internet.

These characteristics allowed Foursquare to get to 100,000 users on \$25,000, and Tumblr to reach millions of users before they hired their tenth employee. The ability to reach consumers without paying for prioritization also made it possible for these companies to pioneer novel and fabulously efficient viral marketing techniques where the service is offered to all comers for free, and then a business is built on top of an established network. This allowed these companies to challenge well-funded,

entrenched competitors before convincing anyone, including investors, that they had a good idea. By lowering the cost of creating and distributing new applications, the open Internet has enabled permissionless innovation. That, in turn, is directly responsible for the explosion of innovation that we have seen over the last ten years.

The Chairman's proposal to permit paid prioritization and discrimination will change the relationship between creators and investors. Creators will no longer be able to launch first, prove they have an audience, and then raise capital to support their growth. Investors like us will need to extract a risk premium before supporting an unproven service, which will hurt the creators who are ultimately responsible for innovation. Worse, investors like us will decide not to risk our partners' capital at all to back an applications layer start-up, because an incumbent could easily copy the basic elements of a new service and beat them in the market by paying for a faster connection to consumers. We will also be very reluctant to fund companies building services that compete with current or future offerings of the cable or telecommunications companies that can directly impact a consumer's experience of a new service. Once the FCC opens the door to allow access providers to discriminate between applications layer services for the purpose of provisioning and billing for fast lanes, there are just too many ways for access providers to subtly discriminate against applications layer services for the FCC to effectively ensure a level playing field. I lived this in the late 1990s as an investor in Competitive Local Exchange Carriers (CLECS) and Data Local Exchange Carriers (DLECS), so I know that I will find it very hard to invest in services like video delivery, security, cloud storage, or payment systems that the carriers are also likely to offer.

If this seems like I am overstating the case, I will point out that at Union Square Ventures, we have enthusiastically invested in applications on the open Internet, while at the same time explicitly avoiding markets with entrenched gatekeepers. We have, for example, turned down the vast majority of proposals we have seen in music, where the need to make expensive licensing deals with entrenched middlemen has slowed innovation. We did not invest in applications for smartphones prior to the iPhone because, until then, carriers controlled access to consumers by limiting what was available on deck. So I can't imagine that we will risk our investors' capital in companies that will now be vulnerable to the whims of a gatekeeper that has the technology and incentive to discriminate against our companies' services.

I argued that the only way to efficiently regulate the market power of the access providers is to reclassify that portion (and only that portion) of their business that is in fact a telecommunications service—providing access to the Internet. I urged everyone I met with to keep reclassification on the table as a viable alternative in the notice of proposed rulemaking to ensure that we can have a healthy debate through the summer about the importance of an open Internet to the innovation ecosystem.

I apologize for not filing this *ex parte* earlier. I am not an expert in FCC practice and, though I was aware that a filing of some sort was expected, I mistakenly assumed that someone like me, who is not a paid lobbyist, would have more than two days to file this letter. Nonetheless, I sincerely thank you for the opportunity to make my concerns known on the record and publicly through this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brad Burnham', with a long horizontal flourish extending to the right.

Brad Burnham