

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

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COMMITTEE ON ENERGY AND COMMERCE

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May 13, 2014

Thomas E. Wheeler
Chairman
Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

We write today to express our grave concern that the Commission continues to consider reclassifying Internet broadband service as an old-fashioned “Title II” common carrier service. Such unwarranted and overreaching government intrusion into the broadband marketplace will harm consumers, halt job creation, curtail investment, stifle innovation, and set America down a dangerous path of micromanaging the Internet. The Commission must reject this approach.

Over a decade ago, the FCC wisely rejected calls to regulate broadband service as a Title II service, noting Congress’s explicit direction to leave the Internet “unfettered by federal or state regulation.” The result of this regulatory restraint has been billions of dollars in private sector investment, tremendous annual increases in broadband speeds, and an explosion of applications, content and services available to consumers over the Internet.

Now, despite the incredible record of broadband success in America, the Commission may be contemplating turning back the clock on this process and proceeding with a classification that gives itself the authority to regulate every possible aspect of the Internet. Simply raising the prospect of such stifling regulation harms broadband providers, the American economy, and ultimately broadband consumers – actually doing so would be fatal to the Internet as we know it.

Indeed, consumers will fare the worst if the FCC proceeds with this “common carrier-ization” of broadband. The FCC efforts to impose Title II regulation will prohibit pricing innovation and force consumers to pay for the entire cost of building and operating American Internet access networks. As demand for video and data continues to explode exponentially, this will ultimately result in broadband becoming unaffordable for many Americans. Title II reclassification could deprive consumers of the benefits of creative and flexible market-based pricing plans that would fit their video and data needs at affordable prices.


Investors, investment analysts, and broadband companies have advised that regulating broadband as a Title II service will create such regulatory uncertainty that stock values will drop and investment capital will become much harder to find. Decreased investment leads to deferred maintenance, infrequent upgrades, and stalled deployment, which, at best, leads to higher consumer prices and at worst leaves consumers with fewer, if any, reliable choices. This market reaction is not speculation, it is reality. When the FCC briefly considered its "third way" implementation of Title II several years ago, broadband provider stocks dropped sharply. Without capital, providers cannot innovate, upgrade their networks, or create new jobs. This is not an outcome anyone wants.


Sixteen years ago, in a report to Congress, then-Chairman Bill Kennard and the FCC set a course for this country that supports consumer choice and champions the freedom of the Internet. The regulatory approach to date has done just that – by rejecting legacy regulation and supporting the job-creating and investment potential of the private sector. The Commission needs to send a strong signal that it has no intention of harming today's thriving market and consumers by imposing expansive new Title II regulation on broadband service and micromanaging the Internet under rules designed for the legacy telephone network. We ask you to end this uncertainty by stating clearly your intention to drop any consideration of the Title II approach, and closing your Title II docket.

Sincerely,


Fred Upton
Chairman


Greg Walder
Chairman
Subcommittee on Communications and Technology


Marsha Blackburn
Vice Chairman


Bob Latta
Vice Chairman
Subcommittee on Communications and Technology

cc: The Honorable Henry A. Waxman, Ranking Member
House Committee on Energy and Commerce

The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

The Honorable Mignon Clyburn, Commissioner
Federal Communications Commission

The Honorable Jessica Rosenworcel, Commissioner

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The Honorable Ajit Pai, Commissioner
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The Honorable Michael O'Rielly, Commissioner
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