



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Tammy Baldwin
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Baldwin:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

In the *2015 Open Internet Order*, we decided not to require arbitration as part of our open internet dispute resolution process and agreed with concerns expressed by stakeholders that mandatory arbitration more frequently benefits the party with greater resources and better understanding of dispute resolution procedure.¹ For example, we agreed with commenters who stated that, “[i]n most cases, consumers must pay filing fees and the arbitrator’s costs, which can amount to thousands of dollars.”² The same commenters also pointed out that the broadband internet access service provider would be able to select the arbitration location, making the process even costlier, and that arbitrated decisions are not reviewable and often not public, precluding consumers from uncovering potential biases in the process.³

More recently, in the Commission’s Broadband Privacy Notice of Proposed Rulemaking (NPRM), we sought comment on whether to prohibit broadband providers from compelling arbitration in their contracts with customers.⁴ The Commission reiterated concerns brought up by stakeholders in the *2015 Open Internet Order* record, and noted that “[j]ust as customers should not be forced to agree to binding arbitration and surrender their right to their day in court in order to obtain broadband Internet access service, they should not have to do so in order to protect their private information conveyed through that service.”⁵

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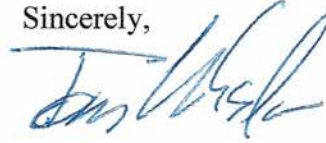
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Page 2—The Honorable Tammy Baldwin

I appreciate your interest in this matter. Your views will certainly be taken into account as the Commission continues to review comments on the NPRM. Please let me know if I can provide further assistance.

Sincerely,

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Tom Wheeler



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THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Blumenthal:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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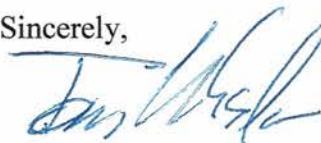
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Tom Wheeler



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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Cory Booker
United States Senate
359 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Booker:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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Tom Wheeler



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THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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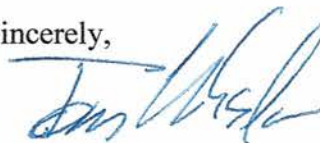
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Tom Wheeler



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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Richard J. Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Durbin:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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Sincerely,

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Al Franken
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Franken:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Mazie K. Hirono
United States Senate
330 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Hirono:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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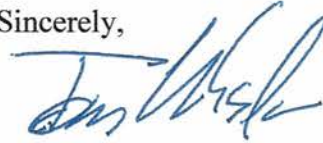
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Tom Wheeler



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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

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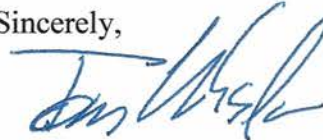
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WASHINGTON

September 7, 2016

The Honorable Jeff Merkley
United States Senate
313 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Merkley:

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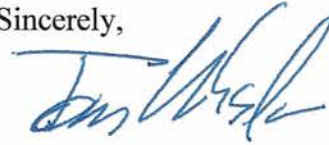
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September 7, 2016

The Honorable Bernard Sanders
United States Senate
332 Dirksen Senate Office Building
Washington, D.C. 20510

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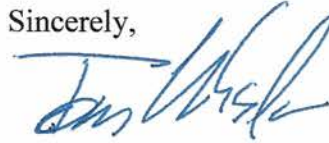
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September 7, 2016

The Honorable Tom Udall
United States Senate
531 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Udall:

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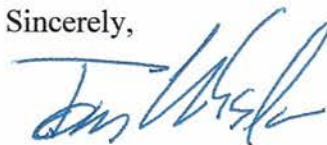
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September 7, 2016

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your letter expressing concern about the harmful impact of pre-dispute mandatory (forced) arbitration clauses in consumer contracts for telecommunications services. I share your commitment to consumer protection, and appreciate you raising this important issue. While arbitration can be a useful tool in the dispute resolution toolkit, I agree that it is not suitable for all situations.

In the *2015 Open Internet Order*, we decided not to require arbitration as part of our open internet dispute resolution process and agreed with concerns expressed by stakeholders that mandatory arbitration more frequently benefits the party with greater resources and better understanding of dispute resolution procedure.¹ For example, we agreed with commenters who stated that, “[i]n most cases, consumers must pay filing fees and the arbitrator’s costs, which can amount to thousands of dollars.”² The same commenters also pointed out that the broadband internet access service provider would be able to select the arbitration location, making the process even costlier, and that arbitrated decisions are not reviewable and often not public, precluding consumers from uncovering potential biases in the process.³

More recently, in the Commission’s Broadband Privacy Notice of Proposed Rulemaking (NPRM), we sought comment on whether to prohibit broadband providers from compelling arbitration in their contracts with customers.⁴ The Commission reiterated concerns brought up by stakeholders in the *2015 Open Internet Order* record, and noted that “[j]ust as customers should not be forced to agree to binding arbitration and surrender their right to their day in court in order to obtain broadband Internet access service, they should not have to do so in order to protect their private information conveyed through that service.”⁵

¹ *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, 5718, para. 267 (2015) (*2015 Open Internet Order*).

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³ *2015 Open Internet Order*, 30 FCC Rcd at 5718, para. 267 n.689.

⁴ *Broadband Privacy NPRM* at 88, para. 274 (2016).

⁵ *Id.*

Page 2—The Honorable Elizabeth Warren

I appreciate your interest in this matter. Your views will certainly be taken into account as the Commission continues to review comments on the NPRM. Please let me know if I can provide further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized, flowing script.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

September 7, 2016

The Honorable Sheldon Whitehouse
United States Senate
530 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Whitehouse:

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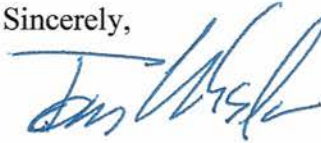
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Page 2—The Honorable Sheldon Whitehouse

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 7, 2016

The Honorable Ron Wyden
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wyden:

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Tom Wheeler