

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

cc: Commissioner Michael Copps  
Commissioner Robert McDowell  
Commission Mignon Clyburn  
Commissioner Meredith Attwell Baker

August 12, 2010

Dear Chairman Genachowski:

We would like to thank you for meeting with representatives of the public interest community last week and providing us with the opportunity to articulate a framework for broadband oversight and open Internet policy to which the undersigned organizations remain committed.

In light of this week's announcement from Google and Verizon, we wish to highlight the ways in which the companies' proposed policy fails to meet the framework we discussed, thus does not protect an open Internet.

**I. The Google/Verizon policy proposal is not adequately enforceable.**

The Commission must have clear enforcement authority over any open Internet policies under Title II of the Communications Act. This must include the ability to engage in rulemaking to advance the public interest, which the Google/Verizon proposal precludes. The companies propose only case-by-case adjudication, with Commission deference to third party dispute resolution procedures as the preferred method for resolving potential ISP abuses. We find it unacceptable to rely on such measures rather than clear Commission rules. Further, the maximum \$2 million fine that could be imposed on an ISP found to violate open Internet rules is woefully inadequate, and could hardly be considered a meaningful deterrent force to providers that stand to benefit significantly from behavior that discourages innovation and investment from online competitors.

**II. Wireless Internet connectivity must not be exempted from non-discrimination rules and other openness principles.**

Consistent principles and a unified open Internet framework must be in place over both wireline and wireless networks, yet the Google/Verizon proposal excludes wireless from application of all but minimal transparency rules. This could further widen the digital divide, particularly for those that rely primarily or exclusively on wireless Internet

access, as do many individuals in rural areas, and many low-income consumers. It may also create a barrier to entry by independent creators, entrepreneurs and startups. We agreed with the recommendations in the National Broadband Plan that encourage the development of wireless networks to serve residents that cannot be reached by wireline, and believe those consumers deserve the same access to an open Internet filled with a richness of content and applications, and freedom to innovate. Exempting wireless Internet also creates uncertainty for potential competitors, thereby discouraging the flow of investment and innovation that fueled the growth of the wireline Internet.

**III. “Additional Online Services” must not be allowed to cannibalize the Internet and become a loophole for paid prioritization.**

The Google/Verizon proposal describes a category of rules-exempt “additional online services” that is so broad, it could easily lead to another form of paid prioritization of Internet content and other types of unreasonable discrimination, which is inconsistent with the concept of an open Internet. Defining “additional services” so broadly and removing FCC oversight of it would allow service providers to re-apportion their capacity to create a private network that carries only the traffic of large companies that can afford to pay for carriage. This dynamic would skew investment incentives and discourage timely investment in building the capacity of the country’s broadband infrastructure.

The Google/Verizon announcement does not in any way alleviate the need for the Commission to act to protect consumers, small businesses, students, creators, innovators, investors and others that depend on an open, vibrant Internet. We urge the Commission to act swiftly to issue an order classifying broadband as Title II telecommunications service, and under that authority, adopt open Internet principles that are truly in the public interest.

Sincerely,

Tyrone Brown, President, Media Access Project

Sascha Meinrath, Director, Open Technology Initiative of the New America Foundation

Joel Kelsey, Political Advisor, Free Press

Gigi Sohn, President, Public Knowledge

Casey Rae-Hunter, Communications Dir. & Policy Strategist, Future of Music Coalition

Malkia Cyril, Executive Director, Center for Media Justice

Dee Davis, President, Center for Rural Strategies

Maxie Jackson, President & CEO, National Federation of Community Broadcasters

Ed Mierzwinski, Consumer Program Director, U.S. Public Interest Research Group

Alex Nogales, President & CEO, National Hispanic Media Coalition

Steven Renderos, Media Justice Organizer, Main Street Project

Loris Taylor, Executive Director, Native Public Media

Pete Tridish, Prometheus Radio Project

Charles Benton, Chairman & CEO, Benton Foundation  
Wally Bowen, Executive Director, Mountain Area Information Network  
Cheryl Leanza, United Church of Christ, Office of Communication Inc.  
Andrea Quijada, Executive Director, Media Literacy Project  
Bob Williams, Telecom Policy Specialist, Consumers Union  
Deanne Cuellar, Media Justice League  
Jeffrey Chester, Executive Director, Center for Digital Democracy  
Jonathan Lawson, Executive Director, Reclaim the Media  
Belinda Rawlins, Executive Director, The Transmission Project  
Sean McLaughlin, Executive Director, Access Humboldt  
Todd Wolfson, Co-Founder, Media Mobilizing Project  
Tracy Rosenberg, Director, Media Alliance  
Jack Walsh, Co-Director, National Alliance of Media, Arts and Culture