



Nancy Pelosi  
Democratic Leader

June 15, 2017

Mr. Ajit Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, Southwest  
Washington, D.C. 20554

Dear Chairman Pai:

Thank you for allowing me the opportunity to submit my comments for the record in the Net Neutrality proceeding.

Consumers should be able to use the internet on the device they want, using the apps and services they want without their internet provider standing in the way. I support the current rules because they are in place to protect consumers, and I oppose your efforts to eliminate them.

You have said recently that you support an open internet. Yet you have proposed reclassifying broadband as a service under Title I of the Communications Act, not Title II. The Federal Communications Commission (FCC) already tried in its 2010 Open Internet Order to enshrine strong net neutrality provisions under Title I. Sadly, Verizon challenged those rules, arguing that it had the right to discriminate against apps and services under Title I, and the court ruled that Title I was incapable of protecting consumers from that kind of harmful behavior.

I supported the FCC in 2015 when it drafted commonsense consumer protections that applied the fewest parts of Title II needed to protect consumers and innovators. These rules were later upheld by the courts. It is my understanding that you are concerned that Title II might chill investment in broadband deployment. We share the goal that every American should have choices for broadband internet access. But when two-thirds of Americans have at most one “choice” of high-speed broadband provider at their home, I’m disappointed that the FCC is instead working to undo net neutrality. The record shows that the Title II legal framework for net neutrality promoted a “virtuous circle” – where broadband providers continued to invest in order to deliver faster speeds to customers, and innovators on the edge continued to come up with apps and services that encouraged people buy those faster connections.

No matter what their lawyers tell the FCC or their spokespeople tell reporters, when these companies speak to their shareholders, they are prohibited under federal securities laws from materially misstating facts. I encourage you to read the nearly 50 pages of detailed excerpts

from the voluminous statements broadband providers made on earnings calls and at investment conferences that Title II has had no impact on their investment decisions.<sup>i</sup>

But if you don't have the time, in December 2015, AT&T's CEO told investors that the company would "deploy more fiber" in 2016 than it did in 2015, and that Title II would not impede its future business plans. In December 2016, Comcast's chief financial officer said that that any concerns Comcast had about reclassification were based on "the fear of what Title II could have meant, more than what it actually meant." Also in December 2016, Charter's CEO told investors, "Title II, it didn't really hurt us; it hasn't hurt us."<sup>ii</sup>

Even smaller and mid-sized ISPs support rules under Title II. Many Californians can choose Sonic, whose CEO told their customers it "of course remains committed to the principals of network neutrality" and that it "support(s) the FCC's Title II classification." Title II hasn't chilled their investment decisions, as Sonic is currently expanding gigabit fiber internet access to my constituents in neighborhoods like The Mission, Noe Valley, The Castro, Dolores Heights, Glen Park, Potrero Hill, and Sunnyside.<sup>iii</sup> Additionally, Monkeybrains, a wireless Internet provider in San Francisco, "has expanded both its customer base and its workforce by 25 percent in each of the last four years."<sup>iv</sup> Even NTCA—The Rural Broadband Association, which represents more than 800 independent, community-based telecommunications companies remains in favor of Title II rules.<sup>v</sup>

I was also dismayed to learn you are likely to disregard the millions of public comments filed in the record.<sup>vi</sup> The Administrative Procedures Act prohibits the FCC from disregarding comments. You have made confusing statements that you will both give less weight to comments that are not of sufficient quality<sup>vii</sup>, and that you will err on the side of including suspicious comments in the agency's deliberation<sup>viii</sup>, even when dozens among a particular batch of comments have sworn that their name and address were used fraudulently. I therefore ask that you clarify your policy on how the agency will consider comments in the record.

Finally, if you believe that online public comments are coming from "astroturf" sources and are of questionable integrity, then you must hear directly from the public in official hearings outside of Washington, DC. In 2014, you told the Commission that before it acted to protect net neutrality, "We should engage computer scientists, technologists, and other technical experts to tell us how they see the Internet's infrastructure and consumers' online experience evolving."<sup>ix</sup> Earlier this year you said "I've met with innovators and entrepreneurs in just about every small and mid-sized city that will have me."<sup>x</sup>

San Francisco is home to many people building apps, web services and internet-connected devices used locally and around the world. It's also home to many internet users who would be impacted by the Commission's proposal. It would be my pleasure to invite you and your colleagues to hold a Public Hearing in San Francisco to hear from my constituents on this important matter.

Thank you for your consideration of my views and my request; please inform me when you can schedule a field hearing in San Francisco.

best regards,



NANCY PELOSI  
Democratic Leader

Cc: Commissioner Mignon Clyburn  
Commissioner Michael O'Reilly

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<sup>i</sup> Comments of Free Press, *It's Working: How the Internet Access and Online Video Markets Are Thriving in the Title II Era*, S. Derek Turner, May 2017, pages 66-113.

<sup>ii</sup> Ibid, page 10.

<sup>iii</sup> <https://forums.sonic.net/viewtopic.php?f=5&p=31330>

<sup>iv</sup> Bay Area ISPs Thrive in the Era of Net Neutrality, Dominic Fracassa, *San Francisco Chronicle*, June 8, 2017

<sup>v</sup> Basic Rules of the Road Are Needed to Protect an Open Internet, Shirley Bloomfield, NCTA – The Rural Broadband Association, June 8, 2017.

<sup>vi</sup> Astroturfing in Net Neutrality Proceeding Seen Making Comments Noise, *Communications Daily*, June 1, 2017.

<sup>vii</sup> Examining the FCC claim that DDoS attacks hit net neutrality comment system, Jon Brodtkin, *Ars Technica*, May 23, 2017.

<sup>viii</sup> FCC Is Honoring Fake Anti-Net Neutrality Rants Left By Bots, Kevin Collier, *Vocativ*, May 18, 2017.

<sup>ix</sup> Dissent of FCC Commissioner Ajit Pai, *Open Internet Notice of Proposed Rulemaking*, page 5

<sup>x</sup> Remarks Of FCC Chairman Ajit Pai at Carnegie Mellon University's Software Engineering Institute, Pittsburgh, March 15, 2017