

245

United States Senate

WASHINGTON, DC 20510

October 21, 2009

Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Dear Chairman Genachowski:

We are pleased that the Commission is about to initiate a Notice of Proposed Rulemaking and begin gathering information to learn how best to protect a free and open Internet.

We also support your decision to have an extended comment period in which Internet service providers, content providers, content creators, interested Internet users and many more will be able to provide their input. We believe that this is the path toward guaranteeing that consumers will hold ultimate control over the content they send and receive over the Internet and that the Internet will remain open and free for everyone who uses it.

The last decade has witnessed extraordinary growth in the Internet economy. The Internet has been an engine of innovation, entrepreneurship and commerce precisely because of its free and open nature. But in recent years, the FCC's removal of non-discrimination protections has drawn into question whether the openness and freedom of the Internet marketplace will continue. The proceeding you seek to undertake has the laudable goal of preserving and sustaining the benefits the Internet has delivered.

Throughout the last decade, the FCC has rightly treated the Internet with a light touch. The agency has intervened to enforce existing law only when necessary to ensure that the Internet remains open, adhering to its Internet Policy Statement—a set of four principles that guide policy. But the Commission's actions have been challenged, and both its authority to act and the sufficiency of its guiding principles have been questioned. In short, there is more work to be done to resolve this issue and to guarantee a free and open Internet for all users.

The FCC's proposed rulemaking will consider the best process for affirming the four existing Internet principles, as well as adding two additional principles. The new principles of non-discrimination and transparency are important, because they will help to ensure a free and open Internet in the future. A principle of non-discrimination will ensure that lawful content is protected from discriminatory practices, while allowing network providers to maintain the security of their networks and engage in reasonable network management of congestion. Additionally, it is important to ensure that a principle encouraging the transparency of network management practices exists, so that consumers know they are getting what they have paid for.

Now the FCC, with these important goals in mind, will begin to consider how best to write the rules and reinstate these critical consumer protections. This is the proper course to

protect an open and secure Internet and thriving marketplace for consumers, producers, and service providers.

We support your approach and are pleased that you are starting the process to develop rules, and we look forward to working with you to keep the Internet free and open.

Sincerely,

George A. Sanyal

John F. Kerry

Chris Dodd

Tom Harkin

Barack Sanders

Jim Gubins

Patrick Leahy

Mark W. Warner

Mark Begich

Maria Cantwell