



Ajit Pai
Commissioner

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

December 2, 2014

Mr. Reed Hastings
Chief Executive Officer
Netflix, Inc.
100 Winchester Circle
Los Gatos, CA 95032

Dear Mr. Hastings,

Netflix has been one of the principal advocates for subjecting Internet service providers (ISPs) to public utility regulation under Title II of the Communications Act, arguing that this step is necessary to prevent the development of so-called “fast lanes” on the Internet. “The basic argument,” you have said, “is that we’re big believers in the free and open Internet.”¹

For this reason, I was surprised to learn of allegations that Netflix has been working to effectively secure “fast lanes” for its own content on ISPs’ networks at the expense of its competitors.

Recent press articles report that Netflix, our nation’s largest streaming video provider, has chosen not to participate in efforts to develop open standards for streaming video. Moreover, I understand that Netflix has taken—or at least tested—measures that undermine aspects of open standards for streaming video. Specifically, I understand that Netflix has at times changed its streaming protocols where open caching is used, which impedes open caching software from correctly identifying and caching Netflix traffic. Because Netflix traffic constitutes such a substantial percentage of streaming video traffic, measures like this threaten the viability of open standards. In other words, if standards collectively agreed upon by much of the industry cannot identify and correctly route Netflix traffic, those standards ultimately are unlikely to be of much benefit to digital video consumers.

Some have suggested that Netflix has taken these actions because the company is currently installing its own proprietary caching appliances throughout ISPs’ networks as part of its Open Connect program. If ISPs were to install open caching appliances throughout their networks, all video content providers—including Netflix—could compete on a level playing field. If, however, ISPs were to install Netflix’s proprietary caching appliance instead, Netflix’s videos would run the equivalent of a 100-yard dash while its competitors’ videos would have to run a marathon.

¹ Ryan Lawler, “Netflix CEO Reed Hastings Makes The Case (Again) For ‘Strong Net Neutrality,’” *TechCrunch*, <http://tcrn.ch/1zIx27R> (May 29, 2014).

Because these allegations raise an apparent conflict with Netflix's advocacy for strong net neutrality regulations, I thought that it was important to give you a chance to respond to them directly.

I look forward to receiving a response to this letter by Tuesday, December 16.

Sincerely,

A handwritten signature in blue ink that reads "Ajit Pai / la". The signature is written in a cursive, flowing style.

Ajit Pai
Commissioner
Federal Communications Commission