

Congress of the United States
Washington, DC 20515

January 22, 2015

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Thomas E. Wheeler
Chairman
Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

You have indicated in public statements that you intend to introduce the net neutrality rules for a vote at the February Open Meeting. Given the significance of the matter and the strong public participation in the Commission's proceeding to date, we believe the public and industry stakeholders alike should have the opportunity to review the text of any proposed order or rules prior to Commission action. Accordingly, we urge you to publicly release the draft text of the Open Internet Order when you circulate it to your fellow Commissioners.

Improving agency process and transparency are matters of great concern to our Committees. The legislative branch publicly posts proposed legislation in advance of Committee or chamber consideration, and we believe the Federal Communications Commission (FCC) would benefit from similar practices. This model allows both Members and the public to review proposed policy changes and provide informed feedback which ultimately produces better public policy.

Improving FCC process is a mission we know you share: one of your first actions as Chairman was to appoint a special counsel to solicit public input and formulate recommendations for improvement of existing Commission process. Under FCC rule §19.735-203, the Commission has the ability to authorize exactly this sort of public release of agenda items. If ever there was an instance where such action would be appropriate, this should qualify. As you have pointed out, a record number of comments, nearly four million, were submitted in this proceeding, indicating a high level of public interest in net neutrality and any rules adopted by the Commission.

Moreover, your recent public statements indicate that you plan to undertake the complex task of reclassifying broadband Internet access service as a Title II telecommunications service. As you have noted, this path will involve a great deal of detailed legal and policy analysis, including "policy issues that run the gamut from privacy to universal service to the ability of federal agencies to protect consumers, as well as legal issues ranging from the ability of Title II to cover mobile services to the concept of applying forbearance on services under Title II." Additionally, as former Chairman Michael Powell recently testified before Congress, the complexity of the forbearance process alone warrants significant public input.

Transparency in this matter is particularly vital as so many of the public participants who have expressed an interest in net neutrality have no meaningful access to the proceeding at the Commission. Currently, the general public, as well as Congress, is entirely reliant on press reports and generic, high-level statements regarding the status of the proceeding and the content of the rules. Releasing the text allows the public to, at the very least, have an informed opinion and ideally, the opportunity to provide feedback on the proposal the FCC will vote on just over one month from today. Limited access to information is beneficial to no one – not to the consumers directly affected by Commission action, not to the industries regulated by the rules, and not to the Commissioners seeking to make informed decisions taking public feedback into consideration.

We believe publicly releasing the draft text of the full Open Internet item in advance of the Commission vote next month is in the public interest, and we call on you to use your authority to do so.

Sincerely,



Fred Upton
Chairman
House Committee on Energy and
Commerce



John Thune
Chairman
Senate Committee on Commerce, Science, and
Transportation



Greg Walden
Chairman
Subcommittee on Communications and Technology
House Committee on Energy and Commerce