

**Statement of Jean Prewitt
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**Before the
Federal Communications Commission
Second Public *En Banc* Hearing on Broadband Network Management Practices
Stanford University, Palo Alto, California**

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Good Afternoon, Mr. Chairman and Commissioners. Thank you for inviting me to testify today on broadband network management practices and consumer expectations.

My name is Jean Prewitt and I am the President and CEO of the Independent Film & Television Alliance, also known as IFTA. IFTA is the trade association that represents the companies that produce, distribute and finance independent films and television programming.

The term “independent” is often assumed to mean low-budget, art house or unknown. In reality “independent programming” refers to the fact that financing for the film or television program came from sources other than the seven major U.S. studios. Far from being “unknown”, IFTA members produce, distribute and finance some of the world’s most successful films. IFTA members have been responsible for many Academy Award winning films, including “Juno”, “The Departed”, “Crash”, “Lord of the Rings”, and “Million Dollar Baby”, among many others. Other recent independent productions include “The Great Debaters”, “Mr. Magorium’s Wonder Emporium”, “The Golden Compass”, and the cable television series “The Tudors”.

IFTA commends the FCC for holding this hearing and for recognizing the role that content creators will play in realizing the potential of the Internet. The Commission’s initial Policy Statement assured consumers that they would have access to the content and services offered by the Internet. We now ask you to set policies to ensure that diverse content and innovative services are not blocked or discouraged under the rubric

of “network management”. Without policies that speak to content supply, the promises made to consumers cannot be kept.

The question of access for suppliers and service providers is one of particular significance for independent programming. Today, independently produced programming has little place on U.S. broadcast or cable television. A decade of vertical integration has merged major studios, networks and cable channel ownership. Much of American television programming is produced internally within the consolidated entities and then recycled. Independent producers are asked to relinquish significant rights and to accept below-cost pricing, if indeed any offer is made. Source diversity has been eliminated from U.S. television and the consumer must look elsewhere to hear voices other than the major studios and networks.

For the independents, the Internet offers a new route to reach consumers and a new creative medium that will change the very form that story-telling will take. The Commission has the chance now to set policies that will keep the Internet open and competitively accessible to all users. Neither we, nor the consumers, can afford to have large gatekeepers lock up the Internet as they have locked up network and cable television.

The risks are already apparent. There are a small number of large broadband providers who have the ability to discriminate unilaterally against some categories of users or

types of traffic or to offer preferential treatment to certain content providers. This is all done under the broad and ambiguous claim of “network management”.

While we acknowledge that there are some legitimate issues related to the technical management of networks, the imprecision of the term offers far too much opportunity for providers to discriminate against some users. We have already seen cases of unequal treatment, a prime example being the decision by Comcast to slow traffic to peer-to-peer sites. Blocking internet applications and interfering with the public’s ability to access information is discriminatory and must not be a consequence of acceptable network management practices. Additionally, there must be transparency, equal treatment and a method of redress when the providers’ private decisions impair fair rights of others and the public interest.

It has been claimed that copyright enforcement requires that we cede these broad powers of “network management” to broadband providers. I assure you that copyright issues are vital to our industry, but copyright concerns should not be an excuse to deny open access, which is absolutely critical to ensuring a vibrant film industry and a diversity of programming. Blocking legitimate users and applications is not a strategy to prevent infringement – it is an abuse that may well backfire as consumers lose faith in the very laws we hope to enforce.

We urge you to consider these issues and the impact on independent programmers and the public when considering future action regarding the future of the internet. Specifically, we ask that the Commission establish sound rules to prevent network operators from blocking or discriminating against any lawful use of the internet.

Thank you again for the invitation to speak and I look forward to answering your questions.