Open Internet Advisory Committee
Federal Communications Commission
Summary of Meeting
January 17, 2013

The Open Internet Advisory Committee for the FCC was convened for its third meeting at 10:00 A.M PST on January 17, 2013 at Stanford Law School. A full video transcript of the meeting is available at the FCC website at http://www.fcc.gov/events/open-internet-advisory-committee together with a copy of all materials presented at this meeting.

In accordance with Public Law 92-463, the entire meeting was open to the public.

Council present:

| Harvey Anderson, Vice President of Business Affairs & General Affairs, Mozilla | Matthew Larsen, CEO, Vistabeam |
| Brad Burnham, Founding Partner, Union Square Ventures | Kevin McElearney, Senior Vice President for Network Engineering, Comcast |
| David Clark, Senior Research Scientist, Massachusetts Institute of Technology Computer Science and Artificial Intelligence Laboratory | Matt Murphy, Disney and ESPN Media Networks |
| Alissa Cooper, Chief Computer Scientist, Center for Democracy & Technology | Jennifer Rexford, Professor of Computer Science, Princeton University |
| Charles Kalmanek, Vice President of Research, AT&T | Russell Housley, Chair, Internet Engineering Task Force; Founder of Vigil Security, LLC (representing Vigil Security, LLC) |
| Ken Florance, Vice President of Content Delivery, Netflix | Chip Sharp, Director, Technology Policy and Internet Governance, Cisco Systems |
| Jonathan Zittrain, Professor of Law and Computer Science and Co-Founder of the Berkman Center for Internet and Society, Harvard University | Charles Slocum, Assistant Executive Director, Writers Guild of America, West |
| Shane Greenstein, Professor and Kellogg Chair of Information Technology, Kellogg School of Management, Northwestern University | Marcus Weldon, Chief Technology Officer, Alcatel-Lucent |
| Neil Hunt, Chief Product Officer, Netflix | Michelle Zatlyn, Co-Founder & Head of User Experience, CloudFlare |
| Jessica Gonzalez, Executive Board, Media and Democracy Coalition; Vice President for Policy & Legal Affairs, National Hispanic Media Coalition (representing NHMC) – attended remotely | Dennis Roberson, Vice Provost & Research Professor, Illinois Institute of Technology (representing TMobile) – attended remotely |
FCC staff attending included:

Tejas Narechania    Jonathan Levy (attending remotely)

Chair Zittrain began the meeting with a round of re-introductions, and welcomed new members. He then invited the various working groups to present their reports, taking questions and comments from the wider committee. The meeting ended with comments and questions from the public. Highlights from the discussion included:

**Mobile Broadband**

Jennifer Rexford, the chair of the Mobile Broadband working group presented the report on AT&T’s handling of Apple’s FaceTime app on its 3G network. The case study underscored three main issues with mobile broadband application management. First, a preloaded app integrated with a phone’s calling features might receive more frequent use than other apps. Second, heavy use of a two-way video calling app could cause significant focused overload on a network, because of considerable strain on the uplink from the phone to the rest of the Internet. Third, it can be valuable to deploy new applications in phases to gauge network impact, either by differentiating access based on users’ network pricing plans or by some other method. The report acknowledged that application developers, carriers, and network equipment vendors had different viewpoints on what AT&T should have done with respect to FaceTime.

In the discussion following the presentation, committee members noted that network and user interests can align: for instance, user concerns about bandwidth usage and battery life match network interests in bandwidth and signaling resources. Members disagreed about whether AT&T’s choice to limit 3G access to FaceTime would chill future app investment. The working group considered engaging in another case study, but set no definite plan.

**Economic Impacts of Open Internet Frameworks**

Shane Greenstein, the chair of the Economic Impacts working group, presented a progress report that focused on data caps in wireline non-specialized services. The report began by defining “data caps” as a subset of usage-based pricing in which a threshold sets a limit on amount of data per month per household. The working group found that caps only impact high users today, but also noted that “high” use is a moving target since data consumption habits tend to increase. After presenting statistics about current capping efforts, the report sought to answer questions concerning user understanding, managing capacity, user control, and edge providers. Specific concerns were voiced about how best to educate consumers about data usage, how helpful monthly caps might be in curtailing overall peak traffic, whether lower future caps might punish users for circumstances over which they lack control, and whether caps might influence provider services or diminish
user demand for data-intensive services. The report also emphasized that it is unclear who should be responsible for addressing these concerns.

In the discussion following the presentation, committee members noted that caps also risk incentivizing greater usage by lower users who see they have leftover data available, among other issues. Going forward, the working group intends to study in greater depth usage-based pricing and discriminatory practices for both wireless and wireline services.

**Specialized Services**

David Clark, the chair of the Specialized Services working group, gave a presentation that sought to clarify the meaning of “specialized services,” review and analyze the criteria used to define the term, and advise the FCC going forward. The working group struggled to come up with a definition satisfactory to all parties, but contrasted specialized services with services that are general and reach all or most of the end-points of the Internet. It intends to use case studies to hone its definition further. Dr. Clark’s presentation addressed several specific concerns about specialized services, including the possibility of evasion, and constricting network capacity. Specialized services, sharing underlying access capacity, could compete with the Internet for capacity to the point that material classes of Internet applications would not be viable. In addition, it is unclear whether it should be acceptable for a product’s quality of service to vary depending on whether it uses the public Internet or just the underlying IP.

Members of the working group agreed on three main points. First, regulation should not create a perverse incentive for operators to move away from a converged IP infrastructure. Using IP should not imply a regulatory burden related to any regulation of the Internet. Second, a service should not be able to escape regulatory burden, or acquire a burden, by moving to IP. Third, proposals for regulation should be tested by applying them to the range of technologies now being used for broadband. To the extent possible, regulation should be technology-neutral.

**Transparency**

Russell Housley, the chair of the Transparency working group, encouraged the FCC to promote a “logo program” to help consumers to make somewhat informed choices when more than one offering is available for both mobile and fixed services. The logo would display three numbers: download speed, upload speed, and price – all vital details for expert analysis and service-offering comparison. Services that do not provide access to the whole Internet would not be eligible for a logo. Mr. Housley acknowledged that shortcomings to the logo approach included the difficulty of determining prices for bundled services, and the evolving nature of mobile data networks.

In the discussion following the presentation, committee members expressed concern that the logo program would not adequately represent the complexity of both mobile and fixed services. It was further pointed out that two transparency goals, transparency of contents and transparency of practices, might lead to different sorts of labeling. The
Transparency working group intends to canvass other working groups for additional perspectives, and will report on its findings in May.

Public Comments

In the time remaining, members of the public offered comments and questions that committee members did their best to answer. It was pointed out that the Open Internet Order addresses many of the concerns voiced by the Mobile Broadband and Specialized Services working groups. One commenter also wondered whether the committee was adequately representing consumer interests, worrying that the exclusive views of app developers, carriers, and equipment vendors might comprise a “monopsony interest.” In response to these comments, committee members emphasized that they had been hesitant to interpret the contents of the order while writing their reports, since different interest groups would likely understand the text of the order differently. Members also expressed that they had consumer interests very much in mind.

The meeting was adjourned at 12:30 PM. The next meeting is scheduled to take place in Chicago, Illinois on May 7, 2013.