

memorandum

DATE: December 6, 2010

TO: Nicole Turner-Lee

FROM: Jonathan B. Baker, Chief Economist, Federal Communications Commission

SUBJECT: Peer Review of Influential Scientific Information

The Commission is currently considering the best means to achieve the goal of preserving and promoting the open Internet in a manner that will protect the legitimate needs of consumers, broadband service providers, entrepreneurs, investors, and businesses of all sizes that make use of the Internet. In a pending Notice of Proposed Rulemaking and associated Public Notice in GN Docket No. 09-191 and WC Docket No. 07-52, the Commission is considering whether to adopt rules codifying its existing Internet policy principles, adopted in 2005, as well as additional principles of nondiscrimination and transparency. The Commission is also considering whether these principles should apply to all forms of broadband Internet access, and whether and if so, how, any rules should apply to “managed” or “specialized” services. In connection with its consideration of these matters, the Commission is evaluating research studies that may further its understanding of the relevant market forces.

OMB requires that influential scientific information¹ on which a Federal Agency relies in a rule-making proceeding be subject to peer review to enhance the quality and credibility of the government’s scientific information. Accordingly, I ask that you perform a peer review of the following FCC study: John B. Horrigan and Ellen Satterwhite, “Broadband Decisions: What drives consumers to switch – or stick with – their broadband Internet provider,” FCC Working Paper (November 2010) (unpublished). This study has not yet been released and is therefore nonpublic. A copy of the study is enclosed.

OMB further requires Federal Agencies to provide peer reviewers with “instructions regarding the objective of the peer review and the specific advice sought.”² We are interested in using the data generated by this study to inform the Commission’s evaluation of issues presented in the above-referenced proceeding. In performing this peer review, we ask that you evaluate and comment on the theoretical and empirical merit of the information. You should consider, among other things: (1) whether the methodology and assumptions employed are reasonable and technically correct; (2) whether the methodology and assumptions are consistent with accepted practices in the field; (3) whether the conclusions, if any, follow from the analysis and are supported by the data. Please note that the standards for evaluation are not necessarily the same as those one might apply in evaluating studies for publication in a professional journal. For example, it is not necessary that the study present new or novel theoretical results or empirical techniques. Consistent with the requirements of the OMB Bulletin, we are not asking you to “provide advice on policy” or to evaluate the policy implications of the study.³

¹ See OMB Peer Review Bulletin, 70 Fed. Reg. 2664 (2005).

² OMB Bulletin, 70 Fed. Reg. at 2668.

³ The OMB Bulletin states in relevant part: “Peer reviewers can make an important contribution by distinguishing scientific facts from professional judgments. Furthermore, where appropriate, reviewers should be asked to provide

Finally, you should be aware of two other aspects of the peer review process. First, the peer review will not be anonymous. Rather, you will be identified and your review will be placed in the public record. Past peer reviews can be found at <http://www.fcc.gov/omd/dataquality/peer-agenda.html>.

Second, the OMB Bulletin requires us to assess whether potential peer reviewers have any potential conflicts of interest.⁴ To assist you in determining whether there are any potential conflicts, I can send you a list of parties who have participated in the proceeding.

I ask that you provide a written report of your review, findings, and recommendations with regard to this influential scientific information by **November 19, 2010**.

Thank you very much for your assistance in this matter.

Enclosure

advice on the reasonableness of judgments made from the scientific evidence. However, the charge should make clear that the reviewers are not to provide advice on the policy..." OMB Bulletin, 70 Fed. Reg. at 2669.

⁴ OMB Bulletin, 70 Fed. Reg. at 2670.