

**Before the
FEDERAL COMMUNICATIONS COMMISSION (FCC)
Washington, DC 20554**

Notice of Proposed Rulemaking (NPRM) - Restoring Internet Freedom Comments

WC Docket No. 17-108

**COMMENTS OF THE INTERNET INFRASTRUCTURE COALITION
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I. INTRODUCTION

The Internet Infrastructure Coalition (i2Coalition)¹ respectfully submits the following comments in response to the Notice of Public Rulemaking (NPRM) - WC Docket No. 17-108, "Restoring Internet Freedom." For more than a decade, the Internet grew by sharing, innovating, and connecting people. The Federal Communications Commission (FCC) proposal ironically entitled "Restore Internet Freedom" (NPRM) would not continue this progress. Rather, the NPRM would limit access to the Internet, adversely impacting applications, content, and privacy. The proposed reversal of the Title II designation of certain Internet Service Providers (ISP) would fundamentally alter the transparency, access, and choice that has been the bedrock of the Internet ecosystem. In short, companies that provide access to the Internet should not be able to pick and choose content based on economics or politics.

The i2Coalition is in a unique position to provide input on the NPRM in support of an open Internet with net neutrality at its core. We represent edge providers, who understand that the NPRM threatens the open Internet. Since the Title II Order² the FCC has had the authority to create clarity in the marketplace and ensure opportunity for all players in the Internet ecosystem. The Title II Order recognizes that the Internet is more than the "last mile" nor is access to the Internet a commodity product. The Internet is a complex ecosystem of providers. The Title II Order facilitates competition within this ecosystem and its development, by ensuring marketplace equitability.

In classifying ISPs as telecommunications providers, the Title II Order recognizes the position of ISPs as consumer gatekeepers. ISPs have an advantage that the services they provide are often the "front door" of the Internet. FCC oversight of this "front door" function ensures that other aspects of the Internet ecosystem, such as infrastructure business like edge providers, will not languish or be slowed by these ISPs. Most end users enter into a relationship with ISP's with accounts and services of their own. They may have no relationship with infrastructure entities like edge providers. The Title II Order ensures that those that may have a relationship with the edge provider do not misuse their position in the Internet infrastructure in a way that damages the Internet as a whole.

¹ The i2Coalition is the non-profit voice of businesses of the Internet infrastructure industry. Our diverse membership represents both large, medium, and small Internet infrastructure providers, such as web hosting companies, software services providers, data centers, registrars, and registries.

² In the Matter of Protecting and Promoting the Open Internet, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, 20 FCC Rcd 5601 (2015) (the "Title II Order").

For our members, the Title II Order represents a success for our industry. It ensures that the FCC retains the ability to create an open and transparent marketplace serving all comers. With this transparent marketplace, technology companies innovate to deliver services in creative ways that move the entire industry, and the economy of the United States, forward. A winner is determined by the market, rather than a gatekeeper. This benefits the entire Internet ecosystem. The Title II Order facilitates innovation and ensures a healthy Internet.

The Title II Order also creates FCC oversight in the broadband market. The ability of the FCC to ensure that broadband services are offered to all comers at market prices is a key aspect of the Title II Order. The ability of participants in the Internet ecosystem to enter into contracts based on an arms-length negotiating position is very important. The Title II Order facilitates supervision of those who have the ability to control access to the Internet, or who may choose to favor their own products and services. This supervision is necessary to ensure that the entirety of the Internet remains a robust marketplace for services, and that the United States retains its market leadership in edge, backbone, data center and related Internet services.

The comments that follow address many of the questions and issues raised by the NPRM. While the NPRM highlighted concerns related to the Internet ecosystem, the i2Coalition firmly maintains that the Title II Order has been a great success for our industry. We offer the following points in response to the NPRM, which we believe to be unfeasible and potentially harmful.

II. HOW WE GOT HERE

In 2004, then FCC-Chairman Michael Powell outlined four principles for Internet freedoms: freedom to access lawful content, freedom to use applications, freedom to attach personal devices to the network, and freedom to obtain service plan information. In 2015, the Title II Order reclassified broadband Internet access service as a telecommunications service, ensuring competition in the broadband and interconnection market, and protecting the end users. These actions help provide the framework for an open Internet and creating net neutrality. We believe that the intent of the NPRM is to weaken the open Internet and net neutrality in spite of a broad based political support for the Title II Order.

It is our view that the light-touch oversight in the Title II Order stabilized the environment for Internet infrastructure providers by providing certainty and the assurance of market access. Edge providers – content warehouses on the Internet – rely on a fair and open Internet so that consumers can decide for themselves what they want to see, view, and access. These providers work to improve the way content is made accessible and enhanced for both the end user and optimized for ISPs.

Despite several attempts to find a suitable agency to ensure competition for Internet services, none yielded a better fit for what the Internet is and the services it provides than the FCC. It is particularly important that the FCC reject the NPRM and promote an Internet infrastructure that is firmly rooted in a fair and open framework. The NPRM will undermine

confidence in the Internet ecosystem, weaken net neutrality, and facilitate a “pay-to-play” Internet, in spite of the broad political consensus supporting the current open Internet.

III. THE CURRENT INTERNET ECOSYSTEM - How the U.S.A. Fits In

The current Internet ecosystem is made up of roughly 60,000 Internet infrastructure companies, more than half of which are housed in the United States. Most of these companies are small and mid-sized businesses, and all of them are affected by the decision to reclassify broadband Internet access as a telecommunications service. If the Title II Order is modified, the entire Internet ecosystem from the U.S. consumer to the small business in which she is employed will be negatively impacted.

The Title II Order has provided stability by ensuring that the Internet will remain the open and fair network that has become the place for innovation and content development. The stability and marketplace transparency provided by the Title II Order ensures that the United States remains the preeminent economy for Internet services and the Internet infrastructure.

IV. THE CURRENT INTERNET ECOSYSTEM - How the Rest of the World Fits In

The evidence that the Commission pointed to in the NPRM, does not reflect the entire Internet ecosystem stabilized by the Title II Order. Rather, the Commission points to a small aspect of the Internet, access third-party content, which represents only a small part of the Internet. In considering the Title II Order, the Commission needs to consider the entirety of the Internet ecosystem. All Internet users require access to services and content over the entire range of the Internet, not simply access to third party content. Put simply, the Internet is more than the last mile. The Commission cannot afford to overlook a large part of the Internet, and as a result stifle or even block innovation and the free flow of content exchange upon which the Internet was formed and has flourished.

Although often misunderstood and ever misdefined, Internet infrastructure providers work hard to provide content quickly, efficiently, and freely. Innovation has been our lifeline to providing content that businesses need, faster and on a competitive basis.

Without the oversight provided in the Title II Order, end users, Internet infrastructure businesses and edge providers alike will lack protection. Future growth of the Internet as a whole is exciting. Internet infrastructure providers will be at the heart of new technologies supporting the Internet of Things. We agree with the Commission that an open marketplace is appropriate for us to compete based on the merits of our services. Therefore, it is essential that the FCC continue to protect end users and Internet infrastructure providers, but balance that posture with transparency and an open marketplace. We want to have both a clear and concise set of rules for the system so that we can function and thrive in regardless of politics.

V. CONCLUSION

The Internet is now part of the fabric of most Americans' lives; it is a free and open access medium where students can access information, businesses can build private cloud infrastructure, and messages of all kinds are delivered freely between friends and strangers alike – worldwide. While we applaud the FCC for encouraging a free and open market, we are concerned that the proposed NPRM will impede Internet innovation and in fact weaken net neutrality; we do not support the removal of protections that prevent big broadband providers from analyzing, manipulating, and interfering with our online presence. We believe that we can have both an open Internet and net neutrality. With regard to the proposed NPRM, we believe that this would lead to a less or non-competitive U.S. The Title II Order establishes long-standing protection that can keep the Internet open and net neutral for the benefit and use of all Americans.