

Before the  
 FEDERAL COMMUNICATIONS COMMISSION  
 Washington, DC 20554

In the Matter of )  
 Protecting and Promoting the Open Internet ) GN Docket No. 14-28  
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 )

**OPENING COMMENTS OF THE GREENLINING INSTITUTE, CENTER FOR MEDIA JUSTICE, THE GLOBAL ACTION PROJECT, MINNESOTA CENTER FOR NEIGHBORHOOD ORGANIZING, THE PEOPLE’S PRESS PROJECT, URBANA-CHAMPAIGN INDEPENDENT MEDIA CENTER, AND MEDIA LITERACY PROJECT**

<p><b>Carmelita Miller</b>          Legal Fellow          The Greenlining Institute          1918 University Ave          Berkeley CA, 94704          510-809-41804          carmelitam@greenlining.org</p>	<p><b>Steven Renderos</b>          National Organizer          Center for Media Justice          The Center for Media Justice          436 14th Street, 5th Floor          Oakland, CA 94612          510-698-3800</p>
<p><b>Teresa Basilio</b>          Global Action Project          130 West 25th Street, 2c          New York, NY 10001          Phone: 212-594-9577          teresa@global-action.org</p>	<p><b>Ned Moore</b>          Minnesota Center for Neighborhood Organizing          301 19th Avenue S. , 330 Humphrey          Minneapolis, MN 55455          612-625-5805          nedmoore@umn.edu</p>
<p><b>Cindy Gomez-Schempp</b>          The People’s Press Project          701-367-0403          cindy@fmppp.org</p>	<p><b>Danielle Chynoweth</b>          Urbana-Champaign Independent Media Center          UC-IMC, 202 South Broadway, #100          Urbana, IL 61801          217-721-7223          chyn@ucimc.org</p>
<p><b>Neza Leal</b>  <b>Joseph Boyd</b>          Media Literacy Project          6400 Wyoming Blvd. NE          Albuquerque NM 87109          505-307-5034</p>	<p><b>Maria Elena Gutierrez</b>          Asamblea de Derechos Civiles de MN          info@asamblea-mn.org</p>

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## I. Introduction

The Greenlining Institute, Center for Media Justice, The Global Action Project, Minnesota Center for Neighborhood Organizing, The People’s Press Project, Urbana-Champaign Independent Media Center, and Media Literacy Project (“Joint Consumers”) respectfully submit the following opening comments in response to the Federal Communications Commission’s (“Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned matter. The Commission’s release of proposals to update its Open Internet Order in the wake of recent changes has sparked a rigorous debate in the cyber community. Coincidentally, that debate was made possible by the openness of the Internet—a freedom enjoyed by everyone connected to the digital world, which may now disappear.

It is the policy of the United States to “preserve the vibrant and competitive free market that presently exists for the Internet...”<sup>1</sup> A competitive free market is largely driven by consumers, whose appetite for innovation maintains the virtuous cycle of innovation.<sup>2</sup> For this reason, the conversation about Net Neutrality cannot simply center on what would be an effective policy for a harmonious relationship between Internet Service Providers (“ISPs”) and content providers. Consumers look to the Commission to protect the public interest by balancing the competing concerns of consumers, their government, and the telecommunications industry. However, the NPRM does not directly address **how** the product of this rulemaking would create strong protections directed at consumers.

Joint Consumers respectfully submit these comments to re-direct the Commission’s discussion of Net Neutrality to emphasize the needs of consumers. Joint Consumers are

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<sup>1</sup> 47 U.S.C. Sec. 230(b)(2) (1996).

<sup>2</sup> The Commission believes that the Internet’s openness is critical to enable the virtuous cycle of innovation where new uses of network lead to increased consumer demand for broadband, which drives network improvements, which in turn lead to further innovative network uses. Preserving the Open Internet, GN Docket no. 09-191, WC Docket No. 07-52, Report and Order, para. 14, (2010) hereinafter “Open Internet Order”.

concerned that these proposals will not achieve the Commission’s stated policy goals of achieving an open and accessible Internet.

## **II. Net Neutrality is a Racial Equity Problem**

By rejecting the Commission’s anti-blocking and anti-discrimination rules, the *Verizon* court has opened up the possibility that without the Commission’s intervention, carriers will determine the winners and losers of the digital world.<sup>3</sup> The consequences of losing equal access to the Internet, whether it is due to discrimination, blocking, or slowing down content, will disproportionately affect people of color. According to U.S. Census data, for every dollar of wealth a U.S. white family has, the median Asian family has about sixty-three cents, the median Latino family has seven cents, and the median Black family has less than a nickel.<sup>4</sup> The racial wealth gap plaguing our communities causes people of color to spend a disproportionately larger amount of their income on telecommunications services.<sup>5</sup> The digital divide, price and content discrimination, and the potential violation of free speech are problems that will affect consumers across all ethnic backgrounds. However, because communities of color are disproportionately subjected to various types of consumer abuse, they are in more critical need of protection that net neutrality provides. To our communities, net neutrality is not only a telecommunications issue, but a racial equity issue as well.

### **a. The NPRM’s Proposed Rules are Insufficient to Protect Consumers of Color against Broadband “Redlining”**

Internet discrimination—the ability of carriers to speed up some traffic and degrade others—is a critical issue for communities of color. More than being sensitive to the idea that

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<sup>3</sup> *Verizon v. FCC*, 740 F.3d 623 (D.C. Cir. 2014)

<sup>4</sup> U.S. CENSUS BUREAU, Net Worth and Asset Ownership of Households: 2011 tbl.1, 3, (2013), available at <http://www.census.gov/people/wealth>.

<sup>5</sup> *Telecommunications & Technology-Ensuring All Communities Have Access to Technology*, THE GREENLINING INSTITUTE (July 14, 2014), <http://greenlining.org/issues-impact/telecommunications-technology/>.

tiered Internet is simply an act of separating the haves from the have-nots, people of color have a legitimate concern with possible redlining outcomes if the Commission decides to allow tiered Internet service or pricing. For example, ISPs could make certain content such as live streaming of videos accessible only to consumers that pay a premium. Similarly, an ISP could give priority to a content provider's traffic in exchange for a premium. In any type of tiered Internet scheme, people of color will disproportionately find themselves at the bottom because of the racial wealth gap.

Tiered Internet could deny our communities access to content because customers cannot pay more money for "premium" services. Tiered internet would also threaten competition and the innovation that drives economic growth in our communities. Several content providers such as Kickstarter, Etsy, and Dwolla have now spoken up about the harms that consumers would suffer if ISPs can block websites that are unwilling or unable to pay for access to their network.<sup>6</sup> ISPs could force content providers to divert their resources that could go into improving customer service, payment processing, security, and innovation of better products for consumers.<sup>7</sup> Consumers would have fewer options for products they would want to support because they will not be able to access smaller websites that cannot pay for faster lanes.

Additionally, our community members are not just consumers but also contributors and entrepreneurs in the digital marketplace as small business owners. They build and sell innovative products, create jobs, exchange information, and compete with other companies, big or small, using websites like Kickstarter, Etsy, and Dwolla. Without an open Internet, the success of these small businesses would depend on their ability to pay for the fast lanes rather

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<sup>6</sup> Mike Masnick, *Kickstarter, Etsy and Dwolla All Speak Out On Net Neutrality and Why The FCC's Plan is Dangerous to Innovation*, TECHDIRT (July 11, 2014), <https://www.techdirt.com/articles/20140710/17450827845/kickstarter-etsy-dwolla-all-speak-out-net-neutrality-why-fccs-plan-is-dangerous-to-innovation.shtml>.

<sup>7</sup> *Id.*

than the quality of the service they provide the customers and the excellence of the products they produce. Thus, the risk of closing up the Internet and allowing for paid prioritization of content will disrupt innovation and harm competition, particularly in communities whose best economic opportunities often come through entrepreneurship and small businesses.

Rapid consolidation of the broadband market and instances of blocking and discrimination committed by ISPs show that we are facing a monopolized industry where the few remaining ISPs will act as gatekeepers of how much services cost and what type of content reaches the consumers. The Commission should stand against any type of paid prioritization because it will disproportionately harm people of color.

#### **b. Digital Divide**

The digital divide may be closing for some, but is generally not for people of color. In California, 81% of Whites have access to broadband Internet service at home while Asians (75%), Blacks (71%), and Latinos (52%) still significantly trail behind.<sup>8</sup> The divide is even more explicit when viewed geographically within the state. Internet access is less prevalent in the Central Valley, Inland Empire, and Los Angeles, where the predominant population is people of color.<sup>9</sup> A consequence of the racial wealth gap, being on the wrong side of the digital divide means much more than lacking access to the Internet for entertainment. Being disconnected or being relegated to the slow lane reduces people of color's access to economic opportunities, democratic participation, healthcare, and quality education.

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<sup>8</sup> Mark Baldassare et al., *California's Digital Divide*, PUBLIC POLICY INSTITUTE OF CALIFORNIA (June, 2013), [http://www.ppic.org/main/publication\\_show.asp?i=263](http://www.ppic.org/main/publication_show.asp?i=263).

<sup>9</sup> *Id.* and *State & County QuickFacts-California*, U.S. CENSUS (JULY 8, 2014), <http://quickfacts.census.gov/qfd/states/06000.html>.

### **i. Digital Health**

The age of digital health has arrived and there is rapid availability of Internet-based life-saving products to assist people with self-care, management of their disabilities and illnesses, and to achieve overall wellness. Virtual doctor visits are available through telemedicine.<sup>10</sup> There is technology now to continuously measure glucose levels and alert both the patients and their doctors of any critical changes.<sup>11</sup> They can test a person's body parts and symptoms for diagnosing a disease.<sup>12</sup> People can use apps that monitor heart rhythm online and in real time, participate in non-invasive vital signs capturing, and access several other digital programs that make healthcare accessible much more than ever.<sup>13</sup> All of these innovations are becoming possible due to the ubiquity of smart phones that depend on reliable, high-speed broadband connectivity.<sup>14</sup> However, these innovations are of no help to people who simply do not have access to technology. The decision to pay for a slower access to the Internet or forgo Internet access altogether could eventually be a life threatening decision. With the advent of these new digital tools, an inequitable Internet could mean that the people who cannot afford a faster connection will have unequal access to healthcare.

### **ii. Digital Education**

In education, today's school curriculum and standardized tests require students to possess computer proficiency and online research skills. Low-income students who do not have computers and regular access to the Internet at home and in school are automatically placed at a technology skills disadvantage. As a result, students who have these disadvantages are graded

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<sup>10</sup> Pauline M. Chen, M.D., *Are Doctors Ready for Virtual Visits?*, THE NEW YORK TIMES (Jan. 7, 2010), <http://www.nytimes.com/2010/01/07/health/07chen.html>.

<sup>11</sup> Eric Topol M.D., THE CREATIVE DESTRUCTION OF MEDICINE: HOW THE DIGITAL REVOLUTION WILL CREATE BETTER HEALTH CARE, 71 (2012), *available at* <http://www.medikz.com/Ebook/The%20Creative%20Destruction%20of%20Medicine.pdf>.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> *Id.* at 73.

<sup>14</sup> *Id.* at 13.

not on their knowledge of the relevant substantive subjects, but on their inability to use the computer and navigate the Internet. The disappearance of net neutrality protections could worsen this digital divide because wealthier students will be able to afford better Internet connections and could have access to online educational tools unavailable to their lower income counterparts. For example, if schools use an online curriculum developed by a company that has an agreement with Verizon, Verizon could prioritize traffic from that company. Accordingly, students who subscribed to Verizon would have an advantage over students who subscribed to another provider.<sup>15</sup> This is also a concern for educators. Companies with more money will be able to edge out not-for profit and open source web tools and content-sharing sites for educators.<sup>16</sup> Students and educators will both lose if education content providers had to face off with more powerful content providers in this “pay for play” situation.

This is the more subversive problem brewing under the surface of the net neutrality debate. If we succeed in achieving universal access but fail to maintain an open internet, the digital divide will shift from “have” and “have not” to “some access” and “all access.” Absent proactive measures by the Commission, communities of color will disproportionately face a very separate-but-unequal digital future that will create ripple effects into health, education, and other critical areas of life.

### **c. Freedom of Speech**

Very few people can deny that the digital revolution has played an important role in democratic dialogue. Although Blacks and Latinos have lower home Internet use and adoption rates, communities of color are closing in the gap of Internet use on smart phones in younger and

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<sup>15</sup> Gerry Smith, *Everything You Need to Know About The End of Net Neutrality*, THE HUFFINGTON POST (April 24, 2014), [http://www.huffingtonpost.com/2014/04/24/net-neutrality\\_n\\_5206510.html](http://www.huffingtonpost.com/2014/04/24/net-neutrality_n_5206510.html).

<sup>16</sup> Jessy Irwin, *Why Net Neutrality Matters to Education*, EDSURGE (April 29, 2014), <https://www.edsurge.com/n/2014-04-29-why-net-neutrality-matters-to-education>.

more educated adult population. Use of cell phones for Internet access in California among Blacks (73%) is notably higher than use among Whites (59%), while Asians (55%) and Latinos (52%) follow very closely behind.<sup>17</sup> Across the country, 76% of Latinos and 73% of Blacks have access to the Internet through their smartphones, clearly surpassing Whites' (60%) mobile Internet use.<sup>18</sup>

Communities of color have long struggled to participate in democratic discourse. Even with less access to the Internet at home, our communities have long recognized the power of digital activism through social media where quick exchanges of ideas and information are even more accessible through photos, videos, blogs, and group chats. Many social media sites such as Twitter and Facebook have become an effective tool for someone who is looking for free and open media platform, millions of readers, instantaneous exchange of ideas or information, and an easy way to monitor topics of conversations going on. For decades, communities of color have been hungry for such a media platform that it is no coincidence that these communities surpass Whites in the use of social media websites.<sup>19</sup>

### **i. Occupy Wall Street**

Mobile Internet played a critical role in the Occupy Wall Street movement, were protestors rallied against, among other things, the sharp rise of the racial wealth gap. More than 400 US Occupy-related Facebook pages were established, many of which are from local organizers all over California.<sup>20</sup> At the protests' peak, estimates suggest that there were millions of tweets associated with the Occupy movement and hundreds of thousands of Twitter users

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<sup>17</sup> Baldassare, *supra* note 8.

<sup>18</sup> Mark H. Lopez et al., *Closing the Digital Divide: Latinos and Technology Adoption*, PEWRESEARCH (Mar. 7, 2013), <http://www.pewhispanic.org/2013/03/07/closing-the-digital-divide-latinos-and-technology-adoption/>.

<sup>19</sup> Aaron Smith, *Technology Trends Among People of Color*, PEWRESEARCH (Sept. 17, 2010), <http://www.pewinternet.org/2010/09/17/technology-trends-among-people-of-color/>.

<sup>20</sup> Neal Caren & Sarah Gaby, *Occupy Online: Facebook and the Spread of Occupy Wall Street*, University of North Carolina at Chapel Hill, at 5, (Oct. 24, 2011), *available at* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1943168](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1943168).



involved.<sup>21</sup> Facebook and Twitter were places where Occupiers constantly shared news, and more importantly, their narratives and experiences on the ground. More than just giving logistical information (i.e. place and time to meet, items to bring, etc.), these media platforms allowed millions of people to become involved in a public debate over social issues that are affecting them and their government. With the help of social media, occupiers had control over how to portray their stories in the media locally, nationally, and globally.

## ii. Bay Area Rapid Transit (BART) Shutdown

BART became the first government agency to block cellphone service in order to obstruct a “No Justice, No BART” protest against BART’s policy on police-involved fatal shootings of civilians. On July 3, 2011 a BART police officer fatally shot a mentally disabled man named Charles Hill at a downtown San Francisco station platform, a little over 2 years after the infamous shooting of an unarmed African American man named Oscar Grant in Oakland CA’s Fruitvale BART station.<sup>22</sup> “No Justice, No BART” formed in the wake of Grant’s shooting in January 2009.<sup>23</sup> Following Hill’s shooting, the group demonstrated at two BART stations in San Francisco on July 11, 2011, interrupting foot traffic and train schedules for the evening.<sup>24</sup> On August 11, 2011 after finding out that the group was planning to protest that evening, BART authorities decided to turn off cell phone service for three hours in its San Francisco stations, which successfully prevented any protestors from coordinating any demonstrations.<sup>25</sup>

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<sup>21</sup> See Michael D. Conover et al., *The Geospatial Characteristics of a Social Movement Communication Network*, CENTER FOR COMPLEX NETWORKS AND SYSTEMS RESEARCH (March, 2013), <http://www.lapietradialogues.org/area/publicazioni/doc000074.pdf>, at 2 (the study took a 10% sample of all tweets between July 3, 2011 and March 12, 2012 and found 1,522,415 tweets related to the Occupy movement).

<sup>22</sup> *BART Protests: Demonstrators Condemn Fatal Shooting*, THE HUFFINGTON POST (July 11, 2011 at 1:34 AM), [http://www.huffingtonpost.com/2011/07/12/bart-protests-demonstrators-condemn-fatal-shooting\\_n\\_896232.html](http://www.huffingtonpost.com/2011/07/12/bart-protests-demonstrators-condemn-fatal-shooting_n_896232.html).

<sup>23</sup> *What is “No Justice No BART?”*, NO JUSTICE NO BART BLOG, <http://nojusticenobart.blogspot.com/2009/01/what-is-no-justice-no-bart.html> (last visited July 15, 2014).

<sup>24</sup> *BART Protests: Demonstrators Condemn Fatal Shooting*, *supra* note 22.

<sup>25</sup> Zusha Elinson, *BART: We Were Within Our Legal Right to Shut Down Cell Service*, THE BAY CITIZEN (Aug. 12, 2011, 6:24 PM), <https://www.baycitizen.org/news/bart-police-shooting/bart-cell-phone-service-legal/>.

On September 26, 2013, California Governor Jerry Brown signed into law a bill that protects against the government's arbitrary shutdown of cell phone service without a court order.<sup>26</sup> This law, however, only protects against government-initiated shutdowns or interruptions and does not hold private entities accountable for depriving people of the ability to communicate. It is also unclear whether content discrimination would be considered an "interruption" under these new rules. Events like this are the reality now in California and across the nation where Internet providers have interrupted service for various arbitrary reasons.<sup>27</sup>

Without anti-blocking protections, an ISP could degrade or shutdown a website that was critical of that ISP. As an example, Free Press is campaigning on its website to oppose the proposed merger between Comcast and Time Warner.<sup>28</sup> People who access the website can watch a collection of videos, pictures, and blogs that talk about the various harms that the merger would create.<sup>29</sup> Under the Commission's proposed rules, which do not include strong anti-blocking protections, Comcast could prioritize traffic to other websites so that consumers visiting Free Press' website would experience extremely slow loading speeds or, potentially, not be able to reach the site at all.

Discrimination over the Internet will only result in further suppression of the right to free speech and of consumers' ability to freely exchange ideas over the Internet. Without rules that prevent discrimination by mobile providers, consumers are left to find relief only through the court system, months or years after the irreversible free speech violation has occurred.

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<sup>26</sup> Stephen Frank, *Governor Brown Signs Bill Requiring Court Order to Interrupt Wireless Communication Services*, STEPHEN FRANK'S CALIFORNIA POLITICAL NEWS & VIEWS (Sept. 26, 2013), <http://capoliticalnews.com/2013/09/26/governor-brown-signs-bill-requiring-court-order-to-interrupt-wireless-communication-services/>.

<sup>27</sup> See Stephanie Chen & Chris Brown, *Saving the Open Internet: The Importance of Net Neutrality*, 8-9, (Mar. 2012), available at <http://greenlining.org/wp-content/uploads/2013/02/GLIonNetNeutrality.pdf>.

<sup>28</sup> *Join the Fight to Stop the Comcast-Time Warner Cable Merger*, FREE PRESS, <http://www.freepress.net/resource/105883/join-fight-stop-comcast-time-warner-cable-merger> (last visited July 14, 2014).

<sup>29</sup> *Id.*

### III. Legal Authority

#### a. Section 706 and Commercial Reasonableness

The Commission adopted four core principles to guide it in achieving its goal to preserve the Internet’s openness and broadband providers’ ability to manage and expand their networks: transparency, no blocking, no unreasonable discrimination, and reasonable network management.<sup>30</sup> However, the Commission cannot achieve its stated goal through the acutely limited exercise of authority permitted under section 706 as interpreted by the D.C. Circuit court in *Verizon*. The court held that while the Commission has affirmative authority to regulate broadband under Section 706, such regulations could not impose common carriage obligations.<sup>31</sup> Under this rationale, the court upheld the Commission’s transparency rule and rejected its no blocking and no discrimination rules.<sup>32</sup>

The court permits the Commission to create a “gray area” set of rules that can apply to common carriers but without imposing common carrier obligations.<sup>33</sup> The court also implied that the only no-blocking rule that could pass scrutiny is one that would allow individualized bargaining between ISPs and content providers.<sup>34</sup> Under these principles, the Commission has now proposed changes to the Open Internet Rules that “would allow broadband providers sufficient flexibility to negotiate terms of service with content providers...”<sup>35</sup> It seeks to create

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<sup>30</sup> Open Internet Order, *supra* note 2, at para. 43.

<sup>31</sup> Holding that the “no unreasonable discrimination” standard is the same as the common carrier “just and unreasonable standard.”

<sup>32</sup> *Verizon*, 740 F.3d at 633.

<sup>33</sup> *Id.* at 652 (citing *Cellco*, 700 F.3d at 547).

<sup>34</sup> In the Matter of Protecting and Promoting the Open Internet, GN Docket No. 14-28, WC Docket No. 14-61, Notice of Proposed Rulemaking, para. 97 (2014) hereinafter “Open Internet NPRM,” (citing *Verizon*, *supra* note 3 at 657).

<sup>35</sup> *Id.* at para. 97 (2014) hereinafter “Open Internet NPRM.”

rules that would bar commercially unreasonable actions without subjecting broadband networks to common carriage duties.”<sup>36</sup>

The rules resulting from the principles outlined in *Verizon* and recently proposed by the Commission are insufficient to achieve a truly open Internet and to protect consumers. Consumers need and expect common carrier protections so that they have the clearly stated right to receive service upon reasonable request;<sup>37</sup> be protected against unjust or unreasonable discrimination in charges, practices, regulations, facilities or services;<sup>38</sup> and be charged just and reasonable rates.<sup>39</sup> Whatever set of baseline service rules it creates, the “commercially unreasonable” standard will not offer these protections because these protections are common carrier obligations, which are not permitted under *Verizon*.

Consumers want bright line rules that state what ISPs can or cannot do. When customers sign up for service, they do not – and should not have to – think about the contracts between their Internet provider and content providers, much less whether those contracts are commercially reasonable under the Commission’s standards. Customers just want service that works in a way that meets their expectations. Under a proposal based on section 706, the rules will be flexible and agreements between ISPs and content providers will vary, which means consumers will experience different types of services and treatment from their providers. This would generate multitudes of consumer complaints arising from a wide variety of contracts and terms, which the Commission will need to handle on a case-by-case basis. This would result in multiple and prolonged litigation, and much consumer frustration.

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<sup>36</sup> Open Internet NPRM, *supra* note 35 at paras. 116-119.

<sup>37</sup> 47 U.S.C. § 201(a) (1996).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

If the Commission truly wishes to minimize consumer harms while ensuring that its goals are met, creating rules for this new standard is not the answer. The Commission will face lawsuits and scrutiny from the carriers even if the Commission creates rules that largely eliminate consumers' rights. In this case, the Commission needs to reconsider its past classification of broadband and extend common carrier obligations to broadband providers.

**b. Reclassification of Broadband as a Title II Service is Consistent with the Commission's Stated Goals**

Carriers' ability to limit the openness of the Internet will threaten the virtuous cycle of innovation. Changes in the broadband marketplace and technology should lead the Commission to reconsider its prior reclassification decisions and reclassify broadband as a Title II service. The Commission is not bound to its initial interpretation of a statute as long as it explains its shift from its prior policy.<sup>40</sup> In the Open Internet Order, the Commission enumerated the changes in the market that warrant a reinterpretation of the Commission's prior broadband classification. The Commission correctly pointed out that the industry has evolved to a point where ISPs have the incentive and the ability to limit the Internet's openness, and that these providers have in fact acted to limit the Internet's openness on many occasions.<sup>41</sup> Instead of an ineffective regulatory scheme under section 706, the Commission needs to revisit its prior classification decisions and apply common carriage duties to broadband Internet providers.

**i. Title II Forbids Unjust and Unreasonable Discrimination**

The conduct the Commission proposes to regulate is precisely the kind of conduct that the Commission typically regulates under Title II. In Title II, Congress vested the Commission with the authority to prohibit service providers from unjustly and unreasonably discriminating

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<sup>40</sup> *Nat'l Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 980-81 (2005) (citing *Chevron, U.S.A., Inc. v. NRDC, Inc.*, 467 U.S. 837 (1984)).

<sup>41</sup> Open Internet Order, *supra* note 2, at paras. 20-37.

against consumers or other entities that connect to their network.<sup>42</sup> The four core principles of Internet openness fundamentally reflect Title II common carrier regulations.<sup>43</sup> In fact, the Open Internet Order’s anti-discrimination rule mirrors the language of Title II’s “unjust or unreasonable discrimination” standard.<sup>44</sup> Under Title II, the Commission can fully protect consumers by regulating Internet providers to prevent discriminatory practices while promoting competition and encouraging the deployment of broadband infrastructure. Thus, Title II is not only consistent with the Commission’s goals, it will also provide adequate protection for consumers against abuse of providers regarding charges, practices, regulations, facilities, or services. Accordingly, the Commission should reclassify broadband as a Title II service.

#### **IV. Conclusion**

The digital divide, discrimination, and free speech violations are real harms that communities of color experience every day. Some of the consequences of a tiered, walled, or otherwise inequitable Internet have severe, irreversible damages. Unlike carriers, ordinary people simply will not have immediate access to the courts, their state public utilities commission, and to this Commission every time they believe their carrier has caused them harm. Authority under Section 706 will not allow the Commission to adequately protect consumers against these harms. As such, the Commission should reclassify broadband Internet service as a Title II telecommunications service.

The current discussion of Net Neutrality has been dominated by the idea that the carriers or the government should dictate what benefits or disadvantages our communities. However, the interests of consumers, particularly those in underserved communities, are receiving insufficient attention in the current debate. This must change. The tradeoff for sacrificing Net Neutrality

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<sup>42</sup> 47 U.S.C. § 202 (1996).

<sup>43</sup> Open Internet Order, *supra* note 2, at para. 43.

<sup>44</sup> *Verizon*, 740 F.3d at 657.

will amount to a tax on society, competition, and innovation.<sup>45</sup> It is the Commission’s job to bring a more appropriate balance in this conversation that is currently heavily skewed in the favor of industry concerns, and listen to what the consumers are saying.

Consumers want quality Internet service at an affordable price that allows them to both access and supply lawful content, applications, and services across a global communications and commerce network. Consumers want an Internet that is not subject to blocking or preferential treatment of content at the whim of their service provider, and one that is governed by straightforward rules that protect our interests across the digital playing field. This is the digital future that Internet technology promises, and it should be available to everyone – and the Commission agrees. Title II can guarantee this future. Section 706 cannot. As such, Joint Consumers urge the Commission to reclassify broadband Internet under Title II and ensure all consumers equal access to our digital future.

Respectfully submitted,

Filed: July 18, 2014

/s/ _____ Carmelita L. Miller The Greenlining Institute	/s/ _____ Steven Renderos Center for Media Justice
/s/ _____ Ned Moore Minnesota Center for Neighborhood Organizing	/s/ _____ Teresa Basilio Global Action Project
/s/ _____ Danielle Chynoweth Urbana-Champaign Independent Media Center	/s/ _____ Cindy Gomez-Schempp The People’s Press Project
/s/ _____ Joseph Boyd Media Literacy Project	/s/ _____ Neza Leal Media Literacy Project

<sup>45</sup> Hearing Before the H. Comm. on the Judiciary Telecom & Antitrust Task Force on Network Neutrality: Competition, Innovation, and Nondiscriminatory Access, at 3, *available at* [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=903118](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=903118) (testimony of Tim Wu, Professor, Columbia Law School).

	/s/ _____ Maria Elena Gutierrez Asamblea de Derechos Civiles de MN
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