

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Safeguarding and Securing the Open Internet) WC Docket No. 23-320
)
)

ORDER

Adopted: December 11, 2023

Released: December 11, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. By this Order, the Wireline Competition Bureau (Bureau) denies a request filed by the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Information Technology Industry Council, seeking for the above-captioned proceeding: (1) an extension of the comment deadline from December 14, 2023 to January 17, 2024; and (2) an extension of the reply comment deadline from January 17, 2024 to March 18, 2024.¹

II. BACKGROUND

2. On October 19, 2023, the Federal Communications Commission (Commission) adopted a *Notice of Proposed Rulemaking (NPRM)* that proposes to reestablish the Commission’s authority over broadband Internet access service by classifying it as a telecommunications service under Title II of the Communications Act of 1934, as amended (Act), which would provide the Commission with authority necessary to safeguard the open Internet, advance national security, and protect public safety.² The *NPRM* also proposes to reinstate conduct rules for Internet service providers that would provide a national regulatory approach for safeguarding Internet openness. The Commission released the *NPRM* on October 20, 2023, setting a comment deadline of December 14, 2023, and a reply comment deadline of January 17, 2024.³

3. On December 1, 2023, the U.S. Chamber of Commerce, National Association of Manufacturers, and Information Technology Industry Council (U.S. Chamber) filed a joint request for an extension of time to submit comments and reply comments pursuant to section 1.46 of the Commission’s rules.⁴ The U.S. Chamber specifically requests that the comment deadline be extended by 34 days to January 17, 2023 (for a total of 89 days), and that the reply comment deadline be moved to March 18, 2024, resulting in an extension of 27 days (for 61 days total). The U.S. Chamber asserts five reasons that good cause exists for the extensions. First, it asserts that additional time is needed because of the

¹ U.S. Chamber of Commerce, the National Association of Manufacturers, and the Information Technology Industry Council Request for Extension of Time, WC Docket No. 23-320 (filed Dec. 1, 2023) (U.S. Chamber *et al.* Extension Request).

² *Safeguarding and Securing the Open Internet*, WC Docket No. 23-320, Notice of Proposed Rulemaking, FCC 23-83 (rel. Oct. 20, 2023) (*2023 Open Internet NPRM*).

³ The *NPRM* was published in the Federal Register on November 3, 2023. *Safeguarding and Securing the Open Internet*, 88 Fed. Reg. 76048 (Nov. 3, 2023).

⁴ 47 CFR § 1.46.

substantial changes in the Internet marketplace and the judicial landscape since the Commission's 2015 *Open Internet Order*.⁵ Second, it argues that additional time is warranted due to the scope of the *NPRM* and its potential impact on the Internet, consumers, and businesses.⁶ Third, the U.S. Chamber argues that the breadth of stakeholders affected by and interested in this proceeding warrants a robust comment period.⁷ In addition, it notes the major holidays occurring during the comment and reply comment periods.⁸ Fourth, the U.S. Chamber asserts that additional time is needed to evaluate the interplay between this proceeding and the Commission's Broadband Labels and Digital Discrimination proceedings.⁹ And finally, it asserts that additional time will enable commenters to provide and adequately respond to robust information and analysis concerning the issues presented in the *NPRM*.¹⁰

4. On December 8, 2023, Public Knowledge, American Library Association, Benton Institute For Broadband & Society, Center for Rural Strategies, Common Cause, Communications Workers of America, Demand Progress Education Fund, Electronic Frontier Foundation, Electronic Privacy Information Center, Fight for the Future, Future of Music Coalition, New America's Open Technology Institute, and United Church of Jesus Christ Media Justice Ministry (Public Knowledge) filed an opposition to the request for extension of time.¹¹

III. DISCUSSION

5. We deny the U.S. Chamber's request for a comment and reply comment extension. As set forth in section 1.46 of the Commission's rules, and as the U.S. Chamber notes,¹² it is the policy of the Commission that extensions of time shall not be routinely granted.¹³ The Commission may consider an extension "to the extent that good cause for an extension is demonstrated."¹⁴ The criteria for granting a request for extension of time "are that the extension be in the public interest, cause no harm to any party in the proceeding, and cause no significant delay."¹⁵ We do not find that "good cause" to grant the requested extensions exists.

6. We find that the December 14, 2023 initial comment deadline provides interested parties with sufficient time to respond to the proposals and questions the Commission presented in the *NPRM*. The Commission released the final *NPRM* on October 20, 2023, giving commenters 55 days to address

⁵ U.S. Chamber *et al.* Extension Request at 2.

⁶ U.S. Chamber *et al.* Extension Request at 2-3.

⁷ U.S. Chamber *et al.* Extension Request at 3.

⁸ U.S. Chamber *et al.* Extension Request at 3 (noting that Hanukkah, Veterans Day, and Thanksgiving Day occurred during the initial comment period and that Christmas Day, New Year's Day, and the birthday of Martin Luther King, Jr. occur during the reply comment period).

⁹ U.S. Chamber *et al.* Extension Request at 4-5.

¹⁰ U.S. Chamber *et al.* Extension Request at 5.

¹¹ Public Knowledge, American Library Association, Benton Institute For Broadband & Society, Center for Rural Strategies, Common Cause, Communications Workers of America, Demand Progress Education Fund, Electronic Frontier Foundation, Electronic Privacy Information Center, Fight for the Future, Future of Music Coalition, New America's Open Technology Institute, and United Church of Jesus Christ Media Justice Ministry, WC Docket No. 23-320 (filed Dec. 8, 2023) (Public Knowledge Opposition).

¹² U.S. Chamber *et al.* Extension Request at 1.

¹³ 47 CFR § 1.46(a).

¹⁴ See e.g., *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, CG Docket No. 17-59 and WC Docket No. 17-97, Order, 36 FCC Rcd 15572, 15573, para. 4 (WCB & CGB 2021) (*Robocall Extension Order*); *Call Authentication Trust Anchor*, WC Docket No. 17-97, Order, DA 23-13 (WCB 2022).

¹⁵ *Robocall Extension Order*, 36 FCC Rcd at 15573, para. 4.

the *NPRM*.¹⁶ Additionally, given that the Commission revealed both the comment deadlines and substantially all of the text of the *NPRM* to interested parties when it released the draft text of the *NPRM* on September 28, 2023, interested parties had an additional 22 days to begin preparing their submissions for a total of 77 days.¹⁷

7. Interested parties also had ample notice and time to consider and prepare support for their positions on the issues raised in the *NPRM* prior to the Commission’s official announcement of proposed action. Specifically, they have been on notice since February 4, 2021, that the Commission might take further action on the issues raised in this proceeding in light of the pending petitions for reconsideration of the Commission’s action in the *Restoring Internet Freedom* proceeding.¹⁸ The Commission affirmed that likelihood when it informed the D.C. Circuit on April 7, 2021, that it intended to revisit the issues raised in that proceeding.¹⁹ In addition, as Public Knowledge notes, the “matter was the subject of considerable debate at the confirmation hearings of Chairwoman Rosenworcel, Gigi Sohn, Anna Gomez and Geoffrey Starks.”²⁰

8. The scope of the *NPRM* does not present issues that are substantially novel or unanticipated as to warrant additional time. As Public Knowledge notes, “[d]ebates on the proper regulatory treatment [of broadband Internet access service] and the need for net neutrality rules have been ongoing for years,” and parties, including the U.S. Chamber, have well-established views on the matter.²¹ Much of the Commission’s proposals and justification in the *NPRM* are substantially similar to those in the *2015 Open Internet Order*, and therefore do not constitute a “novel regulatory framework.”²² To the extent that an issue raised in the *NPRM* is novel or unexpected, we note that Commission proceedings often involve novel and important issues that do not overcome the norm of not granting extensions, particularly when, as here, the Commission provided parties with 77 days to consider those issues.²³

¹⁶ Commenters have 41 days for initial comments from the date of Federal Register publication. *Safeguarding and Securing the Open Internet*, 88 Fed. Reg. 76048 (Nov. 3, 2023). The comment period in this proceeding is commensurate with the 55 day comment period the Commission provided for interested parties to respond to the *Restoring Internet Freedom Notice of Proposed Rulemaking*, which raised many of the same issues as in this proceeding. *Restoring Internet Freedom*, WC Docket No. 17-108, Notice of Proposed Rulemaking, 32 FCC Rcd 4434 (2017) (released on May 23, 2017, with a set comment date of July 17, 2017). And then, just as now, the comment period included national holidays—Memorial Day and Independence Day.

¹⁷ *Safeguarding and Securing the Open Internet*, WC Docket No. 23-320, Draft Notice of Proposed Rulemaking, FCC 23-83 (rel. Sept. 28, 2023); *see also* Public Knowledge Opposition at 2 (“[I]n this instance, the Commission’s draft, released on September 28, 2023, specified that the Commission would establish a comment date of December 14, 2023. And, indeed, that is what the Commission did. As a consequence, all interested parties had more than 10 weeks [sic] notice that the comments were to be due on December 14, 2023.”) (footnote omitted).

¹⁸ *Common Cause, et al.*, Petition for Reconsideration, WC Docket Nos. 17-108, 17-287, and 11-42 (filed Feb. 8, 2021); *INCOMPAS*, Petition for Reconsideration, WC Docket Nos. 17-108, 17-287, and 11-42 (filed Feb. 4, 2021); *Public Knowledge*, Petition for Reconsideration, WC Docket Nos. 17-108, 17-287, and 11-42 (filed Feb. 8, 2021); *County of Santa Clara, et al.*, Petition for Reconsideration, WC Docket Nos. 17-108, 17-287, and 11-42 (filed Feb. 8, 2021).

¹⁹ *See* Public Knowledge Opposition at 2 (*citing* Respondent Federal Communications Commission’s Unopposed Motion for Abeyance, *CPUC v. FCC*, Docket No. 21-106 (filed April 7, 2021)).

²⁰ Public Knowledge Opposition at 3.

²¹ Public Knowledge Opposition at 3.

²² *See 2023 Open Internet NPRM*, FCC 23-320; *Protecting and Promoting the Open Internet*, WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015); *see also* Public Knowledge Opposition at 3 (“The rules the Commission proposes to enact are the same as the 2015 Rules.”); U.S. Chamber *et al.* Request for Extension at 2.

²³ Public Knowledge Opposition at 4-5.

Furthermore, overlapping issues across different proceedings is not uncommon given the press of Commission business and the importance of these matters to the industry and consumers.

9. For the foregoing reasons, we find that the initial comment deadline established in the *NPRM* affords interested parties with ample time to respond to the *NPRM*'s proposals, and the request for an extension of time is denied.

10. Furthermore, the Bureau denies the request for extension of the reply comment deadline as premature given that the request speculates on the size and complexity of the record the Commission will receive in the initial round of comments.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 154(j), and 303(r), sections 0.91, 0.204, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.91, 0.204, 0.291, 1.46, that the U.S. Chamber of Commerce, the National Association of Manufacturers, and the Information Technology Industry Council's Request for Extension of the Comment and Reply Comment deadline is hereby DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Trent Harkrader
Chief
Wireline Competition Bureau