

United States Senate
WASHINGTON, DC 20510

October 21, 2009

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20515

DSL
Network
P/V
JG

11/35

Dear Chairman Genachowski,

For the past year, Americans have struggled through the worst economic decline since the Great Depression. While there has been significant debate regarding how to best foster economic recovery and renewed growth, we have all sought to encourage investment as a means of stimulating the economy and creating new, well-paying jobs. Congress and the administration seem to be in agreement that allowing our nation's innovation and technology – in particular expanding broadband technologies – to succeed is sound policy to achieve these goals. Clearly, broadband enhances overall productivity and creates access to new markets for goods and services.

In light of the overarching policy objective of expanding broadband access, we are disappointed by the apparent direction of the Federal Communications Commission (FCC) concerning broadband policy. Rather than focus attention on completing its statutorily mandated National Broadband Plan by February, it appears the FCC may divert its focus to drafting so-called network neutrality regulations, which would hinder investment in broadband networks, impair a broadband provider's ability to monitor the transference of illegal content over the network, and ultimately harm consumers and businesses across the nation who depend on reliable broadband access.

We would hope that the FCC staff's status report on the National Broadband Plan would persuade you that now is not the time to impose onerous regulations that would stifle broadband investment. According to the FCC staff, "[t]he incremental cost to universal availability varies significantly depending on the speed of service, with preliminary estimates showing that the total investment required ranging from \$20 billion for 768 Mbps-3 Mbps service to \$350 billion for 100 Mbps or faster."

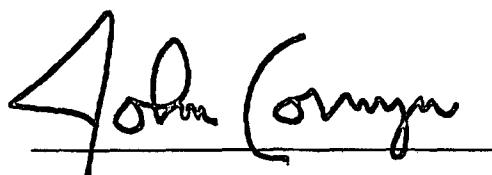
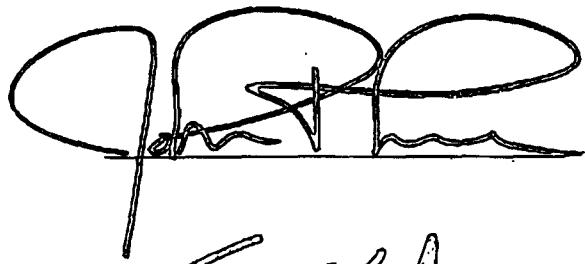
Even if the National Broadband Plan sought ubiquitous broadband deployment at the mid-range of those speeds, the United States would need hundreds of billions of dollars to achieve universal availability. These sums will require enormous investments by the private sector. However, the imposition of network neutrality rules, which would create uncertainty about whether broadband deployers would be able to compete or offer unique services to consumers, will drive investment away from broadband networks at a time when we must be promoting an environment that allows the private sector to create jobs, deploy services and operate successfully.

Since August 5, 2005, the FCC, the communications and Internet industry, and consumers, have supported and endorsed the FCC's policy statement that outlined the "Four Principles," which were put in place to protect consumers, enhance competition in the marketplace, and encourage innovation. These principles by all accounts have served all parties well, and when any issues have arisen, either the uncomfortable spotlight of consumer attention or swift action from the FCC has resulted in a resolution of the complaint. Given the success of the application of these principles, the vigilance of consumers, and the effort of the FCC, we are at a loss as to why you are now focusing on a major policy initiative, which could have a severe impact on America's consumers, the communications industry, the economy and job growth all while a national broadband plan is still in development.

U.S. broadband networks have been built and upgraded by hundreds of billions of dollars in private investment and generally in the absence of onerous regulations. If full deployment and access to broadband are goals of the Obama Administration, policies that would hinder these achievements and stunt future growth seem counter intuitive, to say the least.

We therefore find it troubling that, rather than focusing on the National Broadband Plan and determining what is needed to attract capital to the broadband sector, you intend to adopt rules that would prevent broadband providers from implementing innovative strategies to fulfill the plan's objectives. We urge you to suspend FCC consideration of network neutrality rules, and instead to focus on what the FCC can do to encourage the private sector to devote the resources necessary to achieve ubiquitous broadband deployment.

Sincerely,



Cc: Commissioner Michael J. Copps
Commissioner Mignon Clyburn
Commissioner Robert M. McDowell
Commissioner Meredith Attwell Baker