



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 2, 2015

The Honorable John Thune  
Chairman  
Committee on Commerce, Science, and Transportation  
United States Senate  
Washington, D.C. 20510

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairmen Thune, Upton, and Walden:

Thank you for your letter regarding the Commission's Open Internet proceeding. I recognize and appreciate that your Committees are fully engaged on Open Internet issues, which are of great importance to Congress and the American people. It is critical to preserve an open Internet.

The Commission's process for considering items like the Open Internet rule is designed to give stakeholders and members of the public ample opportunity to engage in a transparent and vigorous discussion. It is also designed to give Commissioners a three-week period to discuss in confidence the substance of an item before final decisions are released. This is commonplace for administrative agencies and closely resembles the way that appellate courts - including the Supreme Court - hear public argument, confer privately, share their views and review drafts confidentially, and then issue their public decision.

What you have suggested in terms of releasing the preliminary discussion draft of the Order runs contrary to Commission procedure followed over the years by both Democratic and Republican Chairs. If decades of precedent are to be changed, then there must be an opportunity for thoughtful review in the lead up to any change.

I intend to ask the Commission to adopt an Open Internet Order at our next open meeting, on February 26, 2015. As is long-standing and established FCC procedure, I will circulate a

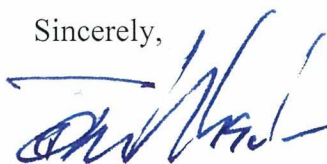
draft Order for consideration by my fellow commissioners three weeks prior to the date of that meeting (on February 5, 2015). We will continue to hear from interested parties in the run-up to the open meeting, will engage in the normal confidential process of sharing and considering changes to that Order and, of course, will consider and discuss the matter in public at the open meeting.

The Commission's Open Internet proceeding has been one of the most transparent and inclusive proceedings in recent memory. Indeed, we have received more than four million comments – a record for any Commission proceeding – on the Notice of Proposed Rulemaking released last spring. We have been urged to act, and act swiftly, to protect Internet openness. We have also had continuous engagement with stakeholders, including in the form of six separate roundtables. These roundtables, which were open to the public, addressed Open Internet issues, including mobile broadband, effective enforcement, and technological considerations, and also sought the best economic and legal thinking on Open Internet topics. The information gathered from these roundtables, public comments, and other engagement with stakeholders has informed our deliberations in the Open Internet proceeding. The almost 600 Ex Parte filings in this proceeding are another indication of the extensive dialogue the Commission and stakeholders have conducted in recent months.

Our decisionmaking process has also been informed by regular and detailed, bipartisan engagement with Congress, including you and other Members and staff of your Committees.

Again, I am pleased that we share the goal of ensuring a free and open Internet, and I am committed to continuing to work with you toward that end and on other matters of interest to your Committees. Please do not hesitate to be in touch with me if I may be of further assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line above it.

Tom Wheeler

cc: The Honorable Bill Nelson, Ranking Member  
Committee on Commerce, Science and Transportation  
United States Senate

The Honorable Roger Wicker, Chairman  
Subcommittee on Communications and Technology  
Committee on Commerce, Science and Transportation  
United States Senate

The Honorable Brian Schatz, Ranking Member  
Subcommittee on Communications and Technology  
Committee on Commerce, Science and Transportation  
United States Senate

The Honorable Frank Pallone, Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives

The Honorable Anna Eshoo, Ranking Member  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives