



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Madam Chair:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command

vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was

also made part of my written statement associated with the adoption of the Notice of Proposed Rulemaking.<sup>1</sup> It is customary and traditional for the leadership of the FCC to thank the staff responsible for their work on any items presented at an agency open meeting. A list of this staff is also attached as Exhibit A.

The Notice of Proposed Rulemaking contains a detailed discussion of the FCC’s legal authority to classify broadband under Title II of the Communications Act. I look forward to receiving comments on all aspects of the Notice of Proposed Rulemaking, including the agency’s legal authority in this area, and assure you that they will be carefully considered.

With respect to economic analysis, the Notice of Proposed Rulemaking specifically solicits economic analyses regarding the FCC’s proposals to reclassify broadband as a telecommunications service and the proposal to adopt open internet rules in paragraphs 21 and 117, and the agency will, consistent with its obligations under the Administrative Procedure Act, consider and respond to any such economic analysis in any subsequent effort adopted in this proceeding. The Notice of Proposed Rulemaking also discusses potential economic incentives of internet service providers in paragraphs 123 through 129 and economic theories regarding edge innovation in paragraphs 130 through 133 and 145.

I did not discuss the “reclassification of broadband” with anyone from the Executive Office of the President (EOP) prior to my September 26, 2023, announcement. To the best of my knowledge, no member of my immediate staff discussed the “reclassification of broadband” with the EOP prior to the September 26, 2023, announcement. My staff did provide notice that the agency would soon be considering the Notice of Proposed Rulemaking to staff of the National Economic Council on September 22, 2023, and staff of the National Security Council on September 25, 2023.

Attached as Exhibit B is a list of all stakeholders that my office or the Wireline Competition Bureau met with to discuss the “reclassification of broadband” prior to September 26, 2023, as well as any associated *ex parte* statements associated with those meetings or discussions. Please note that this list is based on a reasonable search of FCC records for such meetings and may not represent all staff discussions on the issue. Should I become aware of any further meetings that occurred, I will pass that information along to the Committee as soon as possible.

Attached as Exhibit C is a summary of the 249,802 informal internet service complaints filed by consumers at the FCC since the repeal of the open internet rules. Of those, keyword searches and topics self-selected by consumers indicate that several thousand may have alleged “blocking, throttling, or paid prioritization” of broadband service.

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<sup>1</sup> Statement of Chairwoman Jessica Rosenworcel, Re Safeguarding and Securing the Open Internet, WC Docket No. 23-320, Notice of Proposed Rulemaking (Oct. 19, 2023), FCC 23-83, available at <https://docs.fcc.gov/public/attachments/FCC-23-83A2.pdf>.

I have no interest in pursuing regulation of broadband rates, *ex ante* or *ex post*, through this proceeding or any other, as I made clear in my statement on October 19, 2023 when I said: “This is not a stalking horse for rate regulation. Nope. No how, no way.” To this end, paragraph 105 of the Notice of Proposed Rulemaking expressly and unambiguously proposes to forbear from any provisions of Title II that would enable the agency to engage in any type of rate regulation for broadband. I continue to believe that competition is the best way to bring rates down for consumers.

To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

The pandemic, which caused us to move work, school, medical care, and so much of our day-to-day lives online, made it apparent that broadband is no longer nice-to-have, it’s need-to-have for everyone, everywhere. With respect to how the county’s networks performed during the pandemic, press reports indicate that outages did occur, like in Hope Village. But the FCC’s ability to monitor internet performance and track these outages during the pandemic was hampered by its lack of authority over broadband service. In other words, the decision to retreat from broadband oversight meant that the agency had no authority to collect data regarding such outages even when this service is absolutely vital for modern life. However, by reclassifying broadband as a Title II service, the agency would be in a better position to understand when, where, and why such outages occur.

The threats against former Chairman Pai and his family and the fake bomb threat at the Commission were completely unacceptable—full stop. So too were the actions in 2015 of protesters that blocked former Chairman Wheeler in his driveway. A spirited debate is a sign of a healthy democracy, but such debate should take place within the bounds of lawful conduct.

I believed in 2017 and continue to believe today that the FCC’s decision to repeal net neutrality and step away from its Title II authority over broadband was misguided. The decision was—and continues to be—at odds with the views of the public, which overwhelmingly supports net neutrality. Polls show that large majorities of voters in both parties and up to 80 percent of Americans overall support net neutrality. My comments at the time to “fight” against that decision and speak up in Washington, which I continue to believe were entirely appropriate,

reflected my belief that citizens should exercise their rights to peacefully protest the FCC's actions by making their voices heard through the agency's processes and before Congress. In fact, I believe that it was absolutely vital for actual broadband consumers to make their voices heard in light of a big money campaign that flooded the FCC with over 18 million fake comments supporting the repeal of net neutrality. I hope that in the immediate proceeding consumers will have the opportunity to make their voices heard because it is important that this process is open to their input.

Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
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October 31, 2023

The Honorable Bob Latta  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Latta:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

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net neutrality. Polls show that large majorities of voters in both parties and up to 80 percent of Americans overall support net neutrality. My comments at the time to “fight” against that decision and speak up in Washington, which I continue to believe were entirely appropriate, reflected my belief that citizens should exercise their rights to peacefully protest the FCC’s actions by making their voices heard through the agency’s processes and before Congress. In fact, I believe that it was absolutely vital for actual broadband consumers to make their voices heard in light of a big money campaign that flooded the FCC with over 18 million fake comments supporting the repeal of net neutrality. I hope that in the immediate proceeding consumers will have the opportunity to make their voices heard because it is important that this process is open to their input.

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October 31, 2023

The Honorable Michael C. Burgess  
U.S. House of Representatives  
2161 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Burgess:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

Rulemaking.<sup>4</sup> It is customary and traditional for the leadership of the FCC to thank the staff responsible for their work on any items presented at an agency open meeting. A list of this staff is also attached as Exhibit A.

The Notice of Proposed Rulemaking contains a detailed discussion of the FCC’s legal authority to classify broadband under Title II of the Communications Act. I look forward to receiving comments on all aspects of the Notice of Proposed Rulemaking, including the agency’s legal authority in this area, and assure you that they will be carefully considered.

With respect to economic analysis, the Notice of Proposed Rulemaking specifically solicits economic analyses regarding the FCC’s proposals to reclassify broadband as a telecommunications service and the proposal to adopt open internet rules in paragraphs 21 and 117, and the agency will, consistent with its obligations under the Administrative Procedure Act, consider and respond to any such economic analysis in any subsequent effort adopted in this proceeding. The Notice of Proposed Rulemaking also discusses potential economic incentives of internet service providers in paragraphs 123 through 129 and economic theories regarding edge innovation in paragraphs 130 through 133 and 145.

I did not discuss the “reclassification of broadband” with anyone from the Executive Office of the President (EOP) prior to my September 26, 2023, announcement. To the best of my knowledge, no member of my immediate staff discussed the “reclassification of broadband” with the EOP prior to the September 26, 2023, announcement. My staff did provide notice that the agency would soon be considering the Notice of Proposed Rulemaking to staff of the National Economic Council on September 22, 2023, and staff of the National Security Council on September 25, 2023.

Attached as Exhibit B is a list of all stakeholders that my office or the Wireline Competition Bureau met with to discuss the “reclassification of broadband” prior to September 26, 2023, as well as any associated *ex parte* statements associated with those meetings or discussions. Please note that this list is based on a reasonable search of FCC records for such meetings and may not represent all staff discussions on the issue. Should I become aware of any further meetings that occurred, I will pass that information along to the Committee as soon as possible.

Attached as Exhibit C is a summary of the 249,802 informal internet service complaints filed by consumers at the FCC since the repeal of the open internet rules. Of those, keyword searches and topics self-selected by consumers indicate that several thousand may have alleged “blocking, throttling, or paid prioritization” of broadband service.

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

The pandemic, which caused us to move work, school, medical care, and so much of our day-to-day lives online, made it apparent that broadband is no longer nice-to-have, it’s need-to-have for everyone, everywhere. With respect to how the county’s networks performed during the pandemic, press reports indicate that outages did occur, like in Hope Village. But the FCC’s ability to monitor internet performance and track these outages during the pandemic was hampered by its lack of authority over broadband service. In other words, the decision to retreat from broadband oversight meant that the agency had no authority to collect data regarding such outages even when this service is absolutely vital for modern life. However, by reclassifying broadband as a Title II service, the agency would be in a better position to understand when, where, and why such outages occur.

The threats against former Chairman Pai and his family and the fake bomb threat at the Commission were completely unacceptable—full stop. So too were the actions in 2015 of protesters that blocked former Chairman Wheeler in his driveway. A spirited debate is a sign of a healthy democracy, but such debate should take place within the bounds of lawful conduct.

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reflected my belief that citizens should exercise their rights to peacefully protest the FCC's actions by making their voices heard through the agency's processes and before Congress. In fact, I believe that it was absolutely vital for actual broadband consumers to make their voices heard in light of a big money campaign that flooded the FCC with over 18 million fake comments supporting the repeal of net neutrality. I hope that in the immediate proceeding consumers will have the opportunity to make their voices heard because it is important that this process is open to their input.

Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Morgan Griffith  
U.S. House of Representatives  
2202 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Griffith:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Gus Bilirakis  
U.S. House of Representatives  
2306 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Bilirakis:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

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We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Bill Johnson  
U.S. House of Representatives  
2082 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Johnson:

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Richard Hudson  
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Washington, DC 20515

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

Rulemaking.<sup>10</sup> It is customary and traditional for the leadership of the FCC to thank the staff responsible for their work on any items presented at an agency open meeting. A list of this staff is also attached as Exhibit A.

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With respect to economic analysis, the Notice of Proposed Rulemaking specifically solicits economic analyses regarding the FCC’s proposals to reclassify broadband as a telecommunications service and the proposal to adopt open internet rules in paragraphs 21 and 117, and the agency will, consistent with its obligations under the Administrative Procedure Act, consider and respond to any such economic analysis in any subsequent effort adopted in this proceeding. The Notice of Proposed Rulemaking also discusses potential economic incentives of internet service providers in paragraphs 123 through 129 and economic theories regarding edge innovation in paragraphs 130 through 133 and 145.

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

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The threats against former Chairman Pai and his family and the fake bomb threat at the Commission were completely unacceptable—full stop. So too were the actions in 2015 of protesters that blocked former Chairman Wheeler in his driveway. A spirited debate is a sign of a healthy democracy, but such debate should take place within the bounds of lawful conduct.

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Jeff Duncan  
U.S. House of Representatives  
2229 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Duncan:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Earl L. Carter  
U.S. House of Representatives  
2432 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Carter:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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WASHINGTON

OFFICE OF THE  
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October 31, 2023

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

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Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Gary Palmer  
U.S. House of Representatives  
170 Cannon House Office Building  
Washington, DC 20515

Dear Representative Palmer:

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Debbie Lesko  
U.S. House of Representatives  
1214 Longworth House Office Building  
Washington, DC 20515

Dear Representative Lesko:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

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National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

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It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

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A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Daniel Crenshaw  
U.S. House of Representatives  
248 Cannon House Office Building  
Washington, DC 20515

Dear Representative Crenshaw:

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Greg Pence  
U.S. House of Representatives  
404 Cannon House Office Building  
Washington, DC 20515

Dear Representative Pence:

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

Rulemaking.<sup>19</sup> It is customary and traditional for the leadership of the FCC to thank the staff responsible for their work on any items presented at an agency open meeting. A list of this staff is also attached as Exhibit A.

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With respect to economic analysis, the Notice of Proposed Rulemaking specifically solicits economic analyses regarding the FCC’s proposals to reclassify broadband as a telecommunications service and the proposal to adopt open internet rules in paragraphs 21 and 117, and the agency will, consistent with its obligations under the Administrative Procedure Act, consider and respond to any such economic analysis in any subsequent effort adopted in this proceeding. The Notice of Proposed Rulemaking also discusses potential economic incentives of internet service providers in paragraphs 123 through 129 and economic theories regarding edge innovation in paragraphs 130 through 133 and 145.

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Attached as Exhibit B is a list of all stakeholders that my office or the Wireline Competition Bureau met with to discuss the “reclassification of broadband” prior to September 26, 2023, as well as any associated *ex parte* statements associated with those meetings or discussions. Please note that this list is based on a reasonable search of FCC records for such meetings and may not represent all staff discussions on the issue. Should I become aware of any further meetings that occurred, I will pass that information along to the Committee as soon as possible.

Attached as Exhibit C is a summary of the 249,802 informal internet service complaints filed by consumers at the FCC since the repeal of the open internet rules. Of those, keyword searches and topics self-selected by consumers indicate that several thousand may have alleged “blocking, throttling, or paid prioritization” of broadband service.

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

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The threats against former Chairman Pai and his family and the fake bomb threat at the Commission were completely unacceptable—full stop. So too were the actions in 2015 of protesters that blocked former Chairman Wheeler in his driveway. A spirited debate is a sign of a healthy democracy, but such debate should take place within the bounds of lawful conduct.

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Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Kelly Armstrong  
U.S. House of Representatives  
2235 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Armstrong:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Rick Allen  
U.S. House of Representatives  
462 Cannon House Office Building  
Washington, DC 20515

Dear Representative Allen:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Randy Weber  
U.S. House of Representatives  
107 Cannon House Office Building  
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Dear Representative Weber:

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

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A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

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Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Russ Fulcher  
U.S. House of Representatives  
1514 Longworth House Office Building  
Washington, DC 20515

Dear Representative Fulcher:

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Troy Balderson  
U.S. House of Representatives  
2429 Rayburn House Office Building  
Washington, DC 20515

Dear Representative Balderson:

Thank you for your letter of October 17, 2023 regarding the Safeguarding and Securing the Open Internet proceeding at the Federal Communications Commission.

I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
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October 31, 2023

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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

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To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable August Pfluger  
U.S. House of Representatives  
1124 Longworth House Office Building  
Washington, DC 20515

Dear Representative Pfluger:

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Mariannette Miller-Meeks  
U.S. House of Representatives  
1034 Longworth House Office Building  
Washington, DC 20515

Dear Representative Miller-Meeks:

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OFFICE OF THE  
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However, in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. As a result, it means that in the United States today there is no expert agency ensuring that access to the internet is fast, open, and fair. This retreat from oversight of broadband—a service we now know is essential service for modern life—has also exposed serious safety and security vulnerabilities that cannot stand.

That is why the FCC acted on October 19, 2023, to initiate a proceeding to ensure a fast, open, and fair internet and to restore the agency’s authority over broadband service. The Notice of Proposed Rulemaking that we adopted proposes to reinstate enforceable, bring-line rules to prevent blocking, throttling, and paid prioritization. These rules would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints. They are also rules that have been upheld in court. In other words, our legal system has already pronounced the rules we have proposed lawful and proper under the Communications Act.

The proposed rules and reclassification of broadband will address several glaring regulatory gaps that currently exist. Public safety is a prime example. By reclaiming authority over broadband under Title II, the FCC would have had the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that

suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we currently have in place is focused on long distance voice service outages—and in a modern digital economy that is manifestly insufficient.

National security is another area where the agency's retreat from broadband oversight has unacceptable consequences. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When the FCC stripped state-affiliated companies from China of their authority to operate in the United States, that action did not extend to broadband, thanks to the retreat from Title II. In a modern digital economy this is painfully retrograde. It is a security loophole that needs to be addressed.

We are also working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic, like the Border Gateway Protocol vulnerabilities exploited by China Telecom. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies, even when it is in our national security interest to do so.

This proceeding will also protect consumer privacy. The Communications Act requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. I believe we need to protect consumers where they are, and in today's world, that is predominantly on broadband networks.

It is also important to be clear about what the Notice of Proposed Rulemaking does not propose to do. This is not about rate regulation. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place.

With respect to the first question in your letter, I would note that the Notice of Proposed Rulemaking adopted by the FCC on October 19, 2023, consistent with the Administrative Procedure Act, provides all stakeholders with an opportunity to comment on all aspects of the proposed rules and I can assure you that the agency will carefully review and consider all comments that are received. The draft Notice of Proposed Rulemaking was circulated to my fellow Commissioners on September 26, 2023.

A list of the agency staff who participated in the drafting and review of the Notice of Proposed Rulemaking was announced at the FCC's October 19, 2023, open meeting and was also made part of my written statement associated with the adoption of the Notice of Proposed

Rulemaking.<sup>28</sup> It is customary and traditional for the leadership of the FCC to thank the staff responsible for their work on any items presented at an agency open meeting. A list of this staff is also attached as Exhibit A.

The Notice of Proposed Rulemaking contains a detailed discussion of the FCC’s legal authority to classify broadband under Title II of the Communications Act. I look forward to receiving comments on all aspects of the Notice of Proposed Rulemaking, including the agency’s legal authority in this area, and assure you that they will be carefully considered.

With respect to economic analysis, the Notice of Proposed Rulemaking specifically solicits economic analyses regarding the FCC’s proposals to reclassify broadband as a telecommunications service and the proposal to adopt open internet rules in paragraphs 21 and 117, and the agency will, consistent with its obligations under the Administrative Procedure Act, consider and respond to any such economic analysis in any subsequent effort adopted in this proceeding. The Notice of Proposed Rulemaking also discusses potential economic incentives of internet service providers in paragraphs 123 through 129 and economic theories regarding edge innovation in paragraphs 130 through 133 and 145.

I did not discuss the “reclassification of broadband” with anyone from the Executive Office of the President (EOP) prior to my September 26, 2023, announcement. To the best of my knowledge, no member of my immediate staff discussed the “reclassification of broadband” with the EOP prior to the September 26, 2023, announcement. My staff did provide notice that the agency would soon be considering the Notice of Proposed Rulemaking to staff of the National Economic Council on September 22, 2023, and staff of the National Security Council on September 25, 2023.

Attached as Exhibit B is a list of all stakeholders that my office or the Wireline Competition Bureau met with to discuss the “reclassification of broadband” prior to September 26, 2023, as well as any associated *ex parte* statements associated with those meetings or discussions. Please note that this list is based on a reasonable search of FCC records for such meetings and may not represent all staff discussions on the issue. Should I become aware of any further meetings that occurred, I will pass that information along to the Committee as soon as possible.

Attached as Exhibit C is a summary of the 249,802 informal internet service complaints filed by consumers at the FCC since the repeal of the open internet rules. Of those, keyword searches and topics self-selected by consumers indicate that several thousand may have alleged “blocking, throttling, or paid prioritization” of broadband service.

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<sup>28</sup> Statement of Chairwoman Jessica Rosenworcel, Re Safeguarding and Securing the Open Internet, WC Docket No. 23-320, Notice of Proposed Rulemaking (Oct. 19, 2023), FCC 23-83, available at <https://docs.fcc.gov/public/attachments/FCC-23-83A2.pdf>.

I have no interest in pursuing regulation of broadband rates, *ex ante* or *ex post*, through this proceeding or any other, as I made clear in my statement on October 19, 2023 when I said: “This is not a stalking horse for rate regulation. Nope. No how, no way.” To this end, paragraph 105 of the Notice of Proposed Rulemaking expressly and unambiguously proposes to forbear from any provisions of Title II that would enable the agency to engage in any type of rate regulation for broadband. I continue to believe that competition is the best way to bring rates down for consumers.

To the extent that internet service providers refrained or are currently refraining from conduct harmful to the open internet, I believe that this was initially the result of intense scrutiny from members of Congress and the public that internet service providers operated under in the immediate aftermath of the FCC’s decision to abandon open internet protections and then later, efforts at the state level in nearly a dozen states to enshrine open internet provisions in state law, executive orders, or contracting policies. It is vital to remember that when the FCC walked away from net neutrality, the court reviewing the agency’s handiwork determined that with the FCC stepping out, states across the country were permitted to step in with their own policies for internet traffic. To put a finer point on it, instead of having these policies come from Washington, DC, they came from Sacramento and other state capitals. But ultimately, I do not believe consumers should be forced to rely on the good will of internet service providers or a mix of state laws to ensure that their ability to use the most essential service in the digital age remains open and free. A national policy is necessary.

The pandemic, which caused us to move work, school, medical care, and so much of our day-to-day lives online, made it apparent that broadband is no longer nice-to-have, it’s need-to-have for everyone, everywhere. With respect to how the county’s networks performed during the pandemic, press reports indicate that outages did occur, like in Hope Village. But the FCC’s ability to monitor internet performance and track these outages during the pandemic was hampered by its lack of authority over broadband service. In other words, the decision to retreat from broadband oversight meant that the agency had no authority to collect data regarding such outages even when this service is absolutely vital for modern life. However, by reclassifying broadband as a Title II service, the agency would be in a better position to understand when, where, and why such outages occur.

The threats against former Chairman Pai and his family and the fake bomb threat at the Commission were completely unacceptable—full stop. So too were the actions in 2015 of protesters that blocked former Chairman Wheeler in his driveway. A spirited debate is a sign of a healthy democracy, but such debate should take place within the bounds of lawful conduct.

I believed in 2017 and continue to believe today that the FCC’s decision to repeal net neutrality and step away from its Title II authority over broadband was misguided. The decision was—and continues to be—at odds with the views of the public, which overwhelmingly supports net neutrality. Polls show that large majorities of voters in both parties and up to 80 percent of Americans overall support net neutrality. My comments at the time to “fight” against that decision and speak up in Washington, which I continue to believe were entirely appropriate,

reflected my belief that citizens should exercise their rights to peacefully protest the FCC's actions by making their voices heard through the agency's processes and before Congress. In fact, I believe that it was absolutely vital for actual broadband consumers to make their voices heard in light of a big money campaign that flooded the FCC with over 18 million fake comments supporting the repeal of net neutrality. I hope that in the immediate proceeding consumers will have the opportunity to make their voices heard because it is important that this process is open to their input.

Sincerely,

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Jessica Rosenworcel



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

October 31, 2023

The Honorable Jay Obernolte  
U.S. House of Representatives  
1029 Longworth House Office Building  
Washington, DC 20515

Dear Representative Obernolte:

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I appreciate your views on this matter and will ensure that your comments are carefully considered in this rulemaking proceeding. I do not agree, however, that “this action continues to be a solution in search of a problem.” I believe that broadband is an essential service. The pandemic demonstrated this with striking clarity. Everyone, everywhere in this country needs access to broadband to have a fair shot at 21st century success.

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