



Thomas A. Schatz
President

Jacob L. Lew
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

July 22, 2011

Dear Director Lew:

Citizens Against Government Waste (CAGW) is writing this letter in response to the Federal Communications Commission's (FCC) Open Internet Order (OMB Control Number: 3060-XXXX. Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09-191 and WC Docket No. 07-52). CAGW is a private, non-partisan, nonprofit organization representing more than one million members and supporters nationwide.

The Internet has thrived in an open and competitive market to become a vital part of society and the global economy. There has been incredible growth in both the speed and quality of the web, largely because the government has resisted onerous regulations. According to the World Bank's Development Indicators, Internet users as a percentage of U.S. population skyrocketed from 0.8 percent in 1990 to more than 72 percent in 2008. Clearly, the light regulatory model adopted in the 1990s continues to work as tens of millions of Americans utilize high speed broadband.

Although fierce competition in the marketplace has kept prices low and consumer choices plentiful, the FCC plans to forge ahead with implementing what the agency characterizes as a non-discrimination rule that would prohibit providers from selectively blocking or slowing web content or applications, and a transparency rule that would require providers to share network management practices with consumers. The FCC contends that these new rules would prohibit Internet providers from acting as "gatekeepers" of web content.

The notion of "equality" on the Internet may sound reasonable, but net neutrality is instead an attack on private sector business models. The FCC's new rules would require providers to treat all web traffic equally and would prohibit them from restricting access to illegal content. Providers would also be prevented from managing traffic in order to combat network congestion so that performance delays are not suffered by the vast majority of subscribers. This policy will ultimately inhibit broadband providers from offering expedited delivery speeds at higher prices, a choice that should be up to consumers.

Proponents of net neutrality want the online world to be forced "open" at the expense of successful Internet providers. Legal issues aside, net neutrality supporters fail to recognize the many

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tradeoffs to “openness” such as increased spam, fewer privacy controls, and slower service. Regulation of the Internet would prevent carriers from managing their own networks, including the ability to curtail viruses and other harmful content. Forcing wireless carriers to over-expose their networks to data-heavy applications like streaming video, graphic-rich games, and movies and music downloads, would only exacerbate the problem and cause disruptions for customers.

Perhaps most importantly, regulating the Internet would decrease incentives for investment and innovation. In 2010, U.S. capital investment totaling almost \$40 billion was spent by the largest four telecommunications firms. The looming threat to limit what telecom companies can charge and to whom will undoubtedly discourage the large investments that have helped the Internet expand so rapidly.

On January 13, 2010, CAGW filed comments urging the FCC to tread lightly on the net neutrality issue and consider its significant impact on America’s flourishing broadband industry. On April 7, 2010, CAGW reaffirmed its opposition to proposed net neutrality regulations and urged the FCC to steer clear of a reclassification of broadband under Title II of the Communications Act. CAGW remains opposed to the regulation of an industry that has historically thrived because of the federal government’s hands-off approach which permitted the rapid growth of the Internet and broadband industries while fostering an environment that has provided this nation with the real-time benefits of innovation and competition.

With respect to the Advisory Guidance published in the Federal Register on July 7, 2011, the FCC continues to fail to properly address the cost burden to providers of the formal complaint procedures, and ignore the time burden being placed on smaller Internet providers for information collection requirements. Given that small business provides a large portion of the country’s job creation, ignoring the economic impact of any new regulation upon these entities is short-sighted. The telecommunications and cable industries and the jobs they provide will be adversely affected by the implementation of the Open Internet Order.

On July 11, 2011, President Obama issued Executive Order No. 13579, aimed at improving and streamlining the regulatory process for government agencies. Executive Order 13579 makes it clear that regulations must include a cost-benefit analysis, as well as a report on any impact on jobs and the economy. The FCC has not provided this information for the Open Internet Order. CAGW continues to be concerned about how net neutrality and the proposed regulations will negatively affect the openness of the Internet and the economy as a whole, and believes OMB and the FCC should neither approve nor implement these regulations.

CAGW strongly urges OMB and the FCC to reconsider the Open Internet Order and instead let the competitive market continue to be the basis for the success of the Internet.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive, slightly slanted style.