



**Minority Media &
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March 28, 2014

Hon. Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

RE: Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Chairman Wheeler:

As the Commission reexamines its broadband policies following the court's decision on the *Open Internet Order*,¹ the Minority Media and Telecommunications Council (MMTC) concurs with your intent to “[p]reserv[e] the Internet as an open platform for innovation and expression while providing certainty and predictability in the marketplace....”² Responding to the Commission's request for public comment, MMTC requests that the agency consider the unintended consequences that a over-regulated Internet will have on first class digital citizenship. MMTC respectfully urges the Commission to avoid reclassifying Internet access as a common carrier service under Title II, as the digital economy flourishes and engages more vulnerable online users.

Broadband continues to transform nearly every facet of our lives, society, and global economy. The opportunities enabled by the broadband network span accessing basic communications to accessing innovative healthcare, quality education, and the digital economy. A passport to digital citizenship guarantees full access to these and other opportunities powered by broadband and the Internet. Vulnerable populations, particularly people of color, low-income populations, seniors and people with disabilities, have recently benefitted from this digital economy. According to research by the Pew Internet and American Life Project, 74 percent of African

¹ See New Docket Established to Address Open Internet Remand, Public Notice (Feb. 19, 2014). See also *Preserving the Open Internet, Report and Order*, 25 FCC Rcd 17905 (2010); *Verizon v. FCC*, No. 11-1355 (D.C. Cir. Jan. 14, 2014).

² Statement by FCC Chairman Tom Wheeler on the FCC's Open Internet Rules (Feb. 19, 2014).

Americans are cell phone Internet users as compared to 68% of Hispanics and 59% of Whites.³ Low-income populations, less-educated and younger Internet users were also more likely to go online using their cell phones at higher rates than wealthier, more educated and older populations.⁴ The expanded use of the mobile Internet by these groups, along with online activities that contribute to individual and community benefits, such as health care, education, wealth creation and civic engagement are indicative of the increasing value proposition of the Internet.

Despite the importance of the network in advancing our society, significant gaps in broadband adoption and digital literacy persist.⁵ Moreover, broadband adoption dynamics are extremely complex and more resources are desperately needed to achieve these goals.⁶ While the promise of broadband is being realized by some, a large number of African Americans and Hispanics are still not online, citing relevance first and the lack of digital literacy skills second as critical reasons. Among non-Internet users, 24 percent are Hispanic, 15% are African American and 14% are White.⁷ When these variables are combined with income and education, disparities in broadband adoption are even more dramatic.

Despite gaps in broadband adoption, the market for broadband services has blossomed over the last decade. Some researchers and advocates have also argued that the certainty provided by a long-standing, minimalist regulatory approach to broadband policy has preserved and expanded the ecosystem, resulting in continued investment and rapid deployment of next generation networks.⁸ Moreover, as the FCC seeks to close the digital divide, the reality is that disparities

³ See Maeve Duggan & Aaron Smith, Cell Phone Internet Use 2013, Pew Internet and American Life Project (Sept. 16, 2013), available <http://www.pewinternet.org/2013/09/16/cell-internet-use-2013/> (last visited March 20, 2014)

⁴ *Id.*

⁵ See David Honig and Dr. Nicol Turner-Lee, Refocusing Broadband Policy: The New Opportunity Agenda for People of Color (Nov. 21, 2013), p. 7-10 (“MMTC White Paper on Broadband Policy 2013”) (attached).

⁶ See *id.* at p. 5-6.

⁷ See *id.* at p. 8 (citing Kathryn Zickhur, *Who’s Not Online and Why?*, Pew Internet & American Life Project (Sept. 25, 2013), available at <http://www.pewinternet.org/Reports/2013/Non-internet-users.aspx> (last visited March 20, 2014))

⁸ See *id.* at p. 9 (citing Patrick Brogan, Updated Capital Spending Data Show Continued Significant Broadband Investment in Nation’s Information Infrastructure, at p. 2, chart 1, Research Brief, U.S. Telecom (April 2012), available at http://www.ustelecom.org/sites/default/files/documents/042012_Investment_2011_Research_Brief.pdf (last visited March 20, 2014) (observing tens of billions of dollars in annual investment in network infrastructure by ISPs)).

between African Americans, Hispanics and Whites have persisted both before and after the imposition of regulation.⁹

Rather than reclassifying broadband as a Title II service or creating rigid rules to regulate the Internet that might stifle adoption and innovation,¹⁰ we urge the Commission to focus its broadband efforts on policies that will encourage innovation, business model experimentation, and infrastructure investment to facilitate first-class digital citizenship for people of color. First class digital citizenship is a necessary prerequisite to participation in our society and economy and will only be achieved through affordable broadband access, adoption, and informed use.

MMTC asks the Commission to maintain a light-touch regulatory model that it has used since 1995 – a model that retains the flexibility to punish specific instances of malfeasance but does not undermine the business models that continue to promote investment in infrastructure buildout and upgrades.¹¹ Broadband policies should encourage industry investment and innovation while reducing the cost of service for consumers. The Commission’s focus on the creation and enforcement of rules that are designed to be prophylactic¹² towards hypothetical “what ifs” has detracted from the critical conversation on how the nation makes Internet inclusive for all citizens. Thus MMTC urges the Commission to refocus on policy priorities that boost broadband adoption and first class digital citizenship, such as modernizing the E-rate, encouraging innovation in telemedicine, bringing more spectrum to consumers of color and their communities, and promoting diverse entrepreneurship.

⁹ See *id.* at p. 13 (citing John Horrigan, Recent Tech Adoption Trends and Implications for the Digital Divide, Joint Center for Political and Economic Studies (August 2012), available at <http://www.jointcenter.org/research/recent-tech-adoption-trends-and-implications-for-the-digital-divide> (last visited March 20, 2014)).

¹⁰ See *id.* at 15.

¹¹ See Statement of the Minority Media and Telecommunications Council on the FCC’s Open Internet Proposals (Dec. 1, 2010), available at <http://mmtconline.org/lp-pdf/MMTC%20Statement%20OpenInternet%20120110.pdf> (last visited March 19, 2014). See also MMTC Letter to Senate Committee on Commerce, Science and Transportation and House Committee on Energy and Commerce (July 27, 2010), available at <http://mmtconline.org/lp-pdf/MMTC%20ThirdWayLtrtoCongress%20072710.pdf> (last visited March 19, 2014).

¹² See MMTC White Paper on Broadband Policy 2013 at p. 21 (citing to *Preserving the Open Internet, Report and Order*, 25 FCC Rcd 17905, 17909 ¶12 (2010)).

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Respectfully submitted,

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cc: Hon. Mignon Clyburn
Hon. Ajit Pai
Hon. Jessica Rosenworcel
Hon. Michael O'Rielly

Attachment: David Honig and Dr. Nicol Turner-Lee, Refocusing Broadband Policy: The New Opportunity Agenda for People of Color (Nov. 21, 2013).