

(received via email 5/2/2018)

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United States Senate

Dear Thomson,

Thank you for contacting me regarding the Federal Communications Commission's (FCC) Restoring Internet Freedom Order. I appreciate your thoughts on this issue and welcome the opportunity to respond.

For the last 20 years, there has been bipartisan consensus favoring free and open Internet policies, with the FCC working together with both Democrats and Republicans as an independent agency. Under a Republican-led FCC, both parties worked together to adopt principles to preserve an open Internet and incorporated them into their policymaking. Under this light-touch regulatory framework, the private sector invested more than \$1.5 trillion to deploy networks in the United States, and startups turned into global companies. The Internet thrived, and investment in broadband deployment continued to increase.

While bipartisan agreement on enforcing net neutrality principles continued, the FCC took an unprecedented approach to regulate the Internet by voting in favor of the 2015 Open Internet Order. In February 2015, the FCC, an independent federal agency, took a directive from the White House and voted in favor of regulating the Internet by reclassifying broadband service as a utility under Title II of the Communications Act. This was a controversial decision for a number of reasons. Many believed that the FCC did not have the legal authority to make such a decision, and that further, the FCC was doing this because of a distinct directive from the White House, which would not be consistent with the FCC's statutory mandate as an independent federal agency. In its February 2015 Order, the FCC granted itself the authority to impose new rules to regulate Internet service providers (ISPs) under a 1930's regulatory framework that was designed to regulate the telephone monopoly. This move could allow the FCC to inhibit innovation through rate regulation and competition by increasing barriers to entry

The FCC, which is an independent agency that is required by law to develop policies in accordance with laws passed by Congress versus taking directives from the White House, nevertheless issued an order that appeared driven by a White House directive than the law.

On January 23, 2017, President Trump designated Ajit Pai as the 34th Chairman of the FCC. As a Commissioner under the previous Chairman, Pai was an opponent of the FCC being the lead agency to regulate the Internet, and supported returning ISPs to a light-touch regulatory framework, which has had bipartisan support for over two decades.

On December 14, 2017, the FCC voted in favor of the Restoring Internet Freedom Order, which repeals the government regulations imposed on ISPs in the 2015 Open Internet Order. This order reclassifies Internet access service as a Title I information service. Prior to the 2015 Open Internet Order, ISPs were regulated under Title I by the Federal Trade Commission (FTC), a federal regulatory agency responsible for protecting consumers from misleading or deceptive practices. Chairman Pai's order restores the FTC's authority to take action against any Internet company that engages in paid prioritization, throttling, or blocking of Internet content, which the FTC would not have been able to do under the 2015 Open Internet Order. I believe that returning ISPs to the FTC's regulatory framework will restore competition, investment, and innovation in the Internet marketplace while ensuring consumers are protected by the expert agency focused on consumer

protection. Additionally, the Restoring Internet Freedom Order requires increased transparency of ISPs. It requires ISPs to report on their network management practices, performance, and commercial terms of their broadband Internet access service, blocking, throttling, paid prioritization, congestion management practices, and several other anti-consumer behaviors, if any.

I believe keeping the Internet affordable and accessible to all consumers is an essential principle in Internet governance. As noted above, in the past few years, the FCC has issued very different orders regarding Internet governance. While the Internet's use and reach in America has expanded dramatically over the past two decades, appropriate and up-to-date legislation has not kept pace with these advancements and might be part of the reason for the differing FCC administrative orders in the past two years. As a member of the Senate Commerce Committee, which has jurisdiction over this issue, I support bipartisan efforts led by Commerce Committee Chairman John Thune and members of the Committee to pursue bipartisan legislation to ensure net neutrality principles – including protections against discriminatory practices – are codified into law. For decades, the Internet grew and thrived under a 'light touch' regulatory framework that had strong bipartisan support. A return to this framework will increase access for Americans, and most importantly, encourage continued expansion of networks across rural Alaska.

As we move forward, I am committed to working in that same manner to ensure the Internet can remain fair, open, and accessible while still allowing for robust innovation. I look forward to working with Chairman Thune, Chairman Pai, and the other FCC Commissioners on these and other issues, and will be sure to keep your comments in mind as discussion continues.

Thank you again for contacting me on this issue. If you have any more questions or concerns, please feel free to contact me or my staff. My office can be reached at 202-224-3004, or online at www.sullivan.senate.gov.

Sincerely,



Dan Sullivan
United States Senator

