

# United States Senate

WASHINGTON, DC 20510

February 10, 2014

The Honorable Thomas Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler,

We are writing to urge you to move quickly to protect Internet users and the open Internet in light of the recent decision by the United States Court of Appeals District of Columbia on net neutrality. The Court's ruling threatens the freedom of innovators to compete on an open, neutral platform. Without rules to preserve fair competition – rules to bar Internet networks operators from discriminating against one content provider over another – deep-pocketed incumbents will have the ability to enter into arrangements with Internet Service Providers that disfavor the delivery of their competition.

We urge you to quickly adopt enforceable rules to prevent the blocking and discrimination of Internet traffic. These rules must stand on strong legal footing to withstand judicial scrutiny. Without such rules in place, Internet Service Providers are prone to act as gatekeepers of the Internet, controlling access by blocking or throttling certain content and thereby limiting the opportunities for innovation, speech, and commerce.

The Court expressed no opinion on the merits of the FCC's Open Internet Order, focusing its attention instead on the question of legal authority. Notably, the Court deferred to the FCC's substantive judgments, including that Internet openness encourages innovation and broadband deployment; that broadband providers have incentives to discriminate against edge providers; and that the Open Internet rules would not harm investment in infrastructure.

In reaching its decision, the Court rightly pointed out that when Congress enacted the Telecommunications Act of 1996, the FCC had already been subjecting Internet providers to common carrier obligations. The January 14, 2014 decision states that, "one might have thought, as the Commission originally concluded, that Congress clearly contemplated that the Commission would continue regulating Internet providers in the manner it had previously."

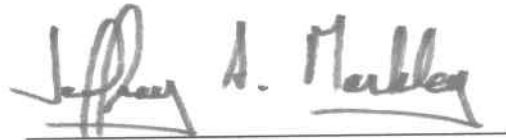
We respect your desire to take a careful approach. The Commission must hear from all stakeholders as it weighs how to correct the issues raised by the Court. While it would be premature to reject any particular path forward, we urge you to act with expediency. Consumers,

entrepreneurs and innovators deserve to know their right to view or use the content and services of their choice online will be protected.

Sincerely,



Ron Wyden  
U.S. Senator



Jeff Merkley  
U.S. Senator



Edward J. Markey  
U.S. Senator



Al Franken  
U.S. Senator



Richard Blumenthal  
U.S. Senator