

February 13, 2014

Dear Mr. Chairman,

The American Library Association (ALA), the Association of Research Libraries (ARL) and EDUCAUSE firmly believe that preserving an open Internet is essential to our nation's freedom of speech, educational achievement, and economic growth. The Internet now serves as a primary, open platform for information exchange, intellectual discourse, creativity, innovation and learning. Preserving the free flow of information over the public Internet for all people is critical to our nation's social, cultural, and economic well-being.

ALA, ARL and EDUCAUSE are deeply disappointed with the recent D.C. Circuit Court of Appeals decision to vacate the "no blocking" and "no discrimination" rules for public Internet access set forth by the Federal Communications Commission (FCC) in 2010. At the same time, we are encouraged by the court's recognition of the FCC's legal authority under Section 706 to protect consumers and the public's access to Internet services.

We understand that you are considering issuing a statement of principles responding to the court decision concerning the openness of the public Internet. We request that you recognize and incorporate the interests of higher education and libraries in your efforts. In the past, some "net neutrality" proposals have divided Internet users into solely residential (mass market) and business (enterprise) categories. These categories do not reflect the critical roles of public institutions such as public and school libraries, research libraries, and colleges and universities as providers of both Internet access and content.¹ We would like to work with you and the relevant FCC staff as the open Internet proceeding progresses to craft new policies that recognize and incorporate the essential roles our institutions play in this area.

Libraries and higher education have made huge investments in Internet access and online content over the past several decades. As you know, the initial protocols for the Internet were developed by higher education, and universities were the first to deploy private high-speed data networks that formed the test-bed for what later became the public Internet. Today, higher education uses the public Internet to advance learning (both in-class and at a distance, including innovations such as massive open online courses, or MOOCs), research (especially around "big data") and scholarly collaboration. Furthermore, the majority of college students live off-campus, which means that they rely on the availability of the public Internet for access to (increasingly media-rich) courses and learning resources, academic and student support, faculty and peer collaboration, and more.

Public libraries specialize in providing Internet access to all consumers, especially the roughly one-third of people who do not have broadband access at home. And the local library offers the only public Internet access in many smaller communities. The general public depends upon the availability of open, affordable Internet access from their local libraries to complete school homework assignments, locate e-government

¹ In the proceedings leading up to the FCC's 2010 Open Internet Order, ALA, ARL and EDUCAUSE filed multiple comments to ensure that the needs of libraries, higher education and other public institutions were included in the FCC's policies. (See, e.g. *Ex parte* letter from ALA, ARL and EDUCAUSE in General Docket No. 09-191 and WC Docket No. 07-52, December 13, 2010.) We were gratified that the FCC agreed with our proposed change and included our proposed language. While the FCC's decision fell short in some areas, particularly with regard to mobile wireless services, the FCC's Order established a precedent that ISPs must keep the Internet open to libraries and higher education.

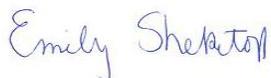
services, research family histories, learn from job-training videos, download streaming media, and more. All of these patrons, reflecting the nation as a whole, deserve open access to online information and services.

Unfortunately, the court's decision to vacate the previous rules gives commercial companies the freedom to block public Internet traffic, grant preferential treatment to certain Internet services or applications, and steer users to or away from certain web sites based on their own commercial interests. Some ISPs, under the misleading banner of "greater consumer choice," are already signaling plans to enter commercial agreements that could give preferential treatment to certain content and applications.

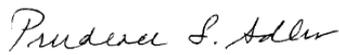
Prioritized delivery to end users, if allowed, will favor those content, application and service providers who can pay for it. Paid prioritization and other forms of preferential access will significantly disadvantage libraries, education, and other non-profit institutions. Students, researchers and library patrons should have the same priority of access to information, knowledge, and educational opportunities as to entertainment and other commercial offerings. The online resources on which they depend cannot be relegated to second-class delivery on the public Internet without seriously compromising the learning, research, and public commons on which we all depend for a healthy society and economy.

Experience has proven that the public Internet provides the most "choice" when it is open to everyone. We urge you to act expeditiously to fill the void created by the court's decision and to develop open Internet principles and enforceable policies that incorporate the interests of libraries, higher education, and the students, faculty, patrons and communities they serve, whether that entails reclassifying Internet access as a "telecommunications service" or adopting new rules protecting consumer rights. ALA, ARL, and EDUCAUSE welcome the opportunity to work with you and the FCC as a whole in this vital effort.

Respectfully Submitted,



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EDUCAUSE

cc: Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
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