

# United States Senate

April 2, 2024

Chairwoman Jessica Rosenworcel  
Federal Communications Commission  
45 L Street, N.E.  
Washington, DC 20554

Dear Chairwoman Rosenworcel,

We write in strong support of the Federal Communications Commission’s (FCC) proposed rule to reclassify broadband internet access service (BIAS) as a telecommunications service under Title II of the Communications Act and reinstate net neutrality protections. As the COVID-19 pandemic demonstrated, broadband is essential. By reclassifying broadband under Title II, the proposed rule will protect the free and open internet, strengthen national security, and provide the FCC with the rightful authority to oversee the country’s most important communications network. As part of this rulemaking, the FCC should ensure that ISPs cannot exploit loopholes to circumvent these protections. We urge the Commission to move swiftly to finalize this rulemaking and protect the free and open internet.

As Americans increasingly learn, socialize, work, obtain healthcare, and find community online, broadband — like electricity or water — has become essential. Today, nearly three-in-ten adults say they are “almost constantly” online while 48 percent say they go online several times a day.<sup>1</sup> From seniors receiving telehealth services to students finishing their homework to parents working from home, broadband internet is critical for families across the country. Given the internet’s importance to the daily lives of hundreds of millions of Americans, we must ensure that the FCC — our premier communications regulator — has the legal authority to protect consumers from unfair, deceptive, or discriminatory practices.

The FCC’s proposed rulemaking accomplishes this goal by classifying broadband under Title II and reinstating net neutrality protections. In particular, the bright-line rules against blocking, throttling, and paid prioritization are critical to maintain a free and open internet, prevent the presence of fast and slow lanes, and allow all users to compete on a level playing field. In addition, Title II will restore the FCC’s rightful authority to protect consumers against other discriminatory or anticompetitive practices, protect consumer privacy, strengthen national security and public safety, and enhance network resiliency. With more than 70 percent of households having access to just one or two providers offering 100/20 Mbps service — the

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<sup>1</sup> Andrew Perrin and Sara Atske, *About three-in-ten U.S. adults say they are ‘almost constantly’ online*, Pew Research Service (Mar. 26, 2021), <https://www.pewresearch.org/short-reads/2021/03/26/about-three-in-ten-u-s-adults-say-they-are-almost-constantly-online/>.

FCC's new standard for broadband — the FCC's expertise and experience are critical to overseeing the most important communication channel in the country.<sup>2</sup>

As the FCC reviews the comments in the proceeding, we urge it to ensure that it addresses potential loopholes that could allow ISPs to circumvent net neutrality protections or otherwise undermine the rule. In particular, the FCC should address the following issues:

- **Wholesale ISPs:** The Commission should ensure that it has jurisdiction over wholesale BIAS providers and has the authority to adjudicate disputes between wholesale providers and resellers pursuant to Title II and the Commission's rules on blocking, throttling, paid prioritization, and other consumer protections.
- **Non-BIAS Data Services:** The Commission should ensure that ISPs cannot evade the net neutrality protections by improperly labeling certain BIAS apps and services as a non-BIAS data service outside the bounds of Title II.
- **No Throttling:** The Commission should ensure that ISPs cannot evade the no throttling rule by speeding up, in addition to slowing down, certain applications or classes of applications.

The FCC's proposed rule to reclassify broadband under Title II and reinstate net neutrality protections is critical to protecting the free and open internet and ensuring the Commission has its rightful authority over broadband. We commend the FCC for taking this much-needed step and urge the Commission to finalize a strong rule as soon as possible.

Sincerely,



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Edward J. Markey  
United States Senator



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Ron Wyden  
United States Senator



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Richard Blumenthal  
United States Senator



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Amy Klobuchar  
United States Senator

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<sup>2</sup> See *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2024 Section 706 Report, GN Docket No. 22-270, ¶ 67, Figure 4 (rel. Mar. 18, 2024).