

December 13, 2023

The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Safeguarding and Securing the Open Internet – WC Docket No. 23-320

Dear Chairwoman Rosenworcel:

This letter is submitted on behalf of Business Roundtable, an association of more than 200 chief executive officers (CEOs) of America's leading companies representing every sector of the U.S. economy. Business Roundtable CEOs lead U.S.-based companies that support one in four American jobs and almost a quarter of U.S. GDP. We appreciate the opportunity to comment on the Federal Communications Commission's (FCC) Notice of Proposed Rulemaking (NPRM) to reclassify broadband Internet access service under Title II of the Communications Act of 1934 (as amended by the Telecommunications Act of 1996) and the critical issues resulting from this proposal.

Business Roundtable supports light-touch regulation of broadband services, which incentivizes investment to build out robust, resilient and competitive networks. The COVID-19 pandemic showed the importance of the resiliency built from these investments, as millions of Americans were forced to utilize broadband services to a new extent while working and socializing from home. The reclassification of broadband as a telecommunications service under Title II would upset years of settled precedent that promoted competition and allowed the Internet to flourish. A light-touch regulatory framework allows broadband service providers to rapidly respond to consumer demands and market changes. Moreover, after more than two decades of public scrutiny and debate, it is imperative that the FCC rely on more than the speculative harms outlined in the NPRM to justify its case.

Unfortunately, the FCC's NPRM proposes to go even further than the last time the FCC experimented with Title II authority for broadband in 2015. For example, unlike the FCC's 2015 Order, the FCC proposes to retain, rather than forbear from, broad section 214 authority that would govern basic entry and exit obligations. In a competitive market with constant and rapid technological evolution, this could act as a handbrake on investment and innovation and unreasonably interfere with consumer choice.

The solution is for Congress to address the issue of net neutrality. While the FCC imposed Title II regulations on broadband providers in 2015, the agency reversed the Title II framework and reinstated broadband Internet access service to its prior classification in 2017. The back and forth policy adjustments in different Administrations underscores why bipartisan Congressional action on this topic is necessary to provide businesses necessary regulatory certainty. Revisiting the Title II reclassification proposed in the NPRM would fundamentally change how broadband providers operate through unilateral Federal agency action for the third time in the past decade. Such a significant policy decision should only be done, if at all, through action by Congress after thorough debate and careful evidence-based policy analysis. Administrative agencies should act only on the statutory authority they are granted to implement Congressional mandates through such regulation.

Business Roundtable believes that a free and open Internet is a vital component of innovation, economic growth, job creation and free expression. We encourage the FCC to focus on efforts to develop solutions to facilitate smart investments in broadband technologies while at the same time balancing consumer and other stakeholder concerns.

Business Roundtable appreciates your consideration of our views. We look forward to continued collaboration with the FCC to maintain a free and open Internet.

For more information, please reach out to Amy Shuart, Vice President, Technology and Innovation at ashuart@brt.org or (202) 496-3290.