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December 14, 2023

Jessica Rosenworcel  
Chairwoman  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Dear Chairwoman Rosenworcel,

On behalf of the American Council on Education and the undersigned higher education associations, I write regarding the Notice of Proposed Rulemaking (NPRM) issued on September 28, 2023, titled “Safeguarding and Securing the Open Internet” (WC Docket No. 23-320). We are pleased that the NPRM was adopted and given the approval to move forward in the regulatory process by the Federal Communications Commission (FCC).<sup>1</sup> We offer our strong support for a free and open Internet and for this NPRM.

The Internet has become an increasingly important part of our society in how we communicate, complete our daily tasks, and remain in contact with our friends, family, and loved ones. According to an American Community Survey report, the usage of the Internet has increased from just under 20 percent of households having an Internet subscription in 1997 to 85 percent in 2018.<sup>2</sup> When it comes to those who have owned a computer, the data show that almost 10 percent owned some type of a computer in their household in 1984 compared to 92 percent in 2018.<sup>3</sup>

Dating back to 1988, the Internet was initially created by university researchers for the benefit of education and research. In fact, institutions of higher education were the first to deploy the private high-speed data networks that became the Internet as we know it today.<sup>4</sup> In a prior comment letter that we submitted in 2017, we articulated that “[t]he key National Science Foundation (NSF) report in 1988 that led to the creation of the Internet we know today was called “Toward a National Research Network.”<sup>5</sup> While the Internet became available for public consumption

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<sup>1</sup> On October 19, 2023, the FCC held an Open Meeting to discuss and officially take a vote on the Open Internet NPRM. This was the first item on the agenda and the measure was adopted on party lines with both Commissioner Brendan Carr and Commissioner Nathan Simington opposing the measure.

<sup>2</sup> Martin, M. (2021, April). *Computer and Internet use in the United States: 2018*. American Community Survey Report. <https://www.census.gov/content/dam/Census/library/publications/2021/acs/acs-49.pdf>

<sup>3</sup> *Ibid.* A computer entails desktops, laptops, tablets, smartphones, and selected computing technologies such as smart home devices and single board computers.

<sup>4</sup> Internet Society. (1997). *A brief history of the Internet*. <https://www.internetsociety.org/internet/history-internet/brief-history-internet/>

<sup>5</sup> American Council on Education. (2017, August 30). *Reply Comments of American Association of Community Colleges, American*

in the 1990s, it is important to note its original purpose.

There are over 6,000 total institutions of higher education that serve over 25 million students.<sup>6</sup> Institutions and libraries are utilizing the Internet in various ways to include cloud-based productivity suites that aid in faculty and student interactions; cloud-based administrative and learning management systems; online textbooks and other materials related for class; access to syllabi and course modules; remote access to and storage of data; and access to registration and general information about the institution and services offered. And fundamentally, libraries and institutions of higher education provide access to the Internet.

Students, institutions of higher education, and libraries have a stake in the Internet, and it is imperative that the Internet remains open and free. Because of this belief, the higher education community created net neutrality principles that we continue to champion as advocates. Our principles include the following:

- Ensure neutrality on all public networks;
- Prohibit blocking;
- Protect against unreasonable discrimination;
- Prohibit paid prioritization;
- Prevent degradation;
- Enable reasonable network management;
- Provide transparency;
- Continue capacity-based pricing of broad Internet access connections;
- Adopt enforceable policies;
- Accommodate public safety; and
- Maintain the status quo on private networks.<sup>7</sup>

As the FCC has embarked on ensuring that the Internet remains open and free, the commission has taken different approaches depending on the presidential administration currently in place at the time. Under the Obama administration, the FCC adopted net neutrality rules based on multiple sources of legal authority including both section 706 and Title II of the Telecommunications Act.<sup>8</sup> We have previously stated our support for Title II of the Telecommunications Act being the most stable legal regime for sustaining strong net neutrality protections and we stand firm in that belief. Unfortunately, the FCC, under the Trump administration, voted to repeal the net neutrality rules in a meeting on December 14, 2017.<sup>9</sup>

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*Association of State Colleges and Universities, American Council on Education, Association of American Universities, Association of Public and Land-grant Universities, Association of Research Libraries, EDUCAUSE, National Association of College and University Business Officers, and the National Association of Independent Colleges and Universities.*

<https://www.acenet.edu/Documents/Reply-comments-FCC-Net-Neutrality.pdf>

<sup>6</sup> ACE calculations using data from IPEDS. This includes both Title IV participating and non-Title IV institutions located in the U.S. only. Enrollment number includes all students (undergraduate and graduate full-time and part-time) using the 12-month unduplicated headcount for academic year 2021-2022.

<sup>7</sup> American Council on Education. (2014, July 10). *Net neutrality principles: Provided by the American Association of Community Colleges, American Association of State Colleges and Universities, American Council on Education, American Library Association, Association of American Universities, Association of Public and Land-grant Universities, Association of Research Libraries, Chief Officers of State Library Agencies, EDUCAUSE, Modern Language Association, and the National Association of Independent Colleges and Universities.* <https://www.acenet.edu/Documents/Net-Neutrality-Principles.pdf>

<sup>8</sup> Protecting and Promoting the Open Internet, 80 FR 19737 (2015) (to be codified at 47 C.F.R. pts. 1, 8, 20).

<https://www.federalregister.gov/documents/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet>

<sup>9</sup> Federal Communications Commission. (2017, December). *FCC releases restoring internet freedom order.*

<https://www.fcc.gov/document/fcc-releases-restoring-internet-freedom-order>

We proudly support that the FCC is moving forward to restore net neutrality and ensure an open and free Internet. It is vitally important that the Internet is able to continue to evolve and thrive without the unnecessary distortions that are likely to emerge in the absence of strong net neutrality protections. We, once again, offer our support for the NPRM and the FCC's efforts to restore net neutrality.

Thank you for your time and attention to this letter.

Sincerely,



Ted Mitchell  
President

On behalf of:

American Association of Collegiate Registrars and Admissions Officers  
American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education  
Association of American Universities  
Association of Catholic Colleges and Universities  
Association of Community College Trustees  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
Association of Research Libraries  
Council for Higher Education Accreditation  
EDUCAUSE  
NASPA - Student Affairs Administrators in Higher Education  
National Association of College and University Business Officers  
National Association of Colleges and Employers  
National Association of Independent Colleges and Universities  
UPCEA, The Online and Professional Education Association

CC:

Commissioner Brendan Carr  
Commissioner Geoffrey Starks  
Commissioner Nathan Simington  
Commissioner Anna M. Gomez