



CALinnovates

November 16, 2015

The Honorable Greg Walden
Chairman, Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2123 Rayburn House Office Building
Washington, DC 20515

Re: Oversight of the Federal Communications Commission

Dear Chairman Walden,

CALinnovates, an organization representing America's most exciting companies dedicated to advancing the 21st century economy, writes to identify three key areas for congressional oversight of the Federal Communications Commission ("FCC"). We urge the Subcommittee to:

- (i) Direct the FCC to identify licensed and unlicensed spectrum for use by America's innovation community;
- (ii) Limit the FCC's expansion into consumer privacy issues, particularly given existing, applicable regulations from competing agencies; and
- (iii) Encourage open dialogue between industry, the public, and the FCC regarding net neutrality.

j) The innovation community needs more spectrum.

The U.S. economy's transition from analog to digital will only reach its full potential if entrepreneurs and investors are able to access additional, needed spectrum. Wireless options are replacing fixed broadband connections at an ever-increasing rate, shrinking the world, redefining "work", and creating exciting new opportunities for American consumers, businesses and entrepreneurs. CALinnovates believes that "mobile-first" is not simply a mantra; it is a necessity for the modern world.

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That's why the FCC must identify further licensed and unlicensed spectrum for use by the innovation community. Efforts not dedicated to fueling the mobile revolution are a distraction from the most critical advances needed to promote the 21st Century economy. The innovation community needs additional spectrum to advance new ideas for a mobile-first world.

Advancements to a mobile world are best driven by consumer demand. One recent example of the power of consumer demand in the mobile industry occurred in September when Apple sold 10 million new iPhones in three days. People clamored for these devices because they have embraced mobile technology and the role it plays in their lives. The FCC will benefit from the Subcommittee's acknowledgment that: 1) consumer demand for mobile advancements is high; and 2) mobile advancements are best driven by that consumer demand.

Like the growth of wired Internet, it is consumer demand, not agency mandates or rigid regulations that best promotes innovation. The Subcommittee can refocus the FCC on forward-looking initiatives that can simultaneously support the innovation community and consumers.

ii) The FCC's expansion into privacy issues must be curtailed.

Given the rapid pace in which evolution occurs in the digital economy, the FCC cannot be left to apply its own policy determinations unguided by Congressional oversight. As a result, the Subcommittee is well-positioned to employ a more active role in the regulatory and enforcement process than ever before.

This is particularly true on issues where the FCC oversteps its Congressionally granted charter. Where the Communications Act does not address an issue, which is becoming increasingly common as the innovation community develops new technologies, the risk exists that the FCC will apply policies and practices unguided and unchecked by Congress that will upend the virtuous cycle of innovation and investment.

These fears are not simply hypothetical, but are coming to fruition right now. For instance, in the recent *Citation and Order* issued to rideshare provider Lyft earlier this year, the FCC reprimanded Lyft for its telemarketing practices without any prior indication that edge providers might be subject to those rules. The FCC's surprise order created market disruptions as companies scrambled to read the tea leaves of what further regulations or enforcement actions might be coming from Washington.

Never before did the Internet and startup community envision a need to defend itself against the FCC, but indeed, Lyft has been one of the agency's public targets. Most startups and, even many that have become full-fledged companies, cannot afford

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regulatory attorneys and are largely unfamiliar with acronyms like TCPA and NPRM. But in light of the FCC's recent actions, the technology community now must expend scarce or nonexistent regulatory resources to anticipate and respond to the FCC's jurisdictional overreaches.

Consumer protection issues are another troubling area. The Federal Trade Commission ("FTC") has handled consumer protection issues, such as the privacy and security practices of edge providers for years. But the FCC's recent expansion of its own powers, through Title II, into that same space has created an unworkable overlap of jurisdiction, rules, regulations, enforcement practices, and definitions that few companies—let alone startups with the tall task of progressing the 21st Century economy—can navigate while continuing aggressive development. The Subcommittee is best suited to define each agency's respective jurisdiction. CALinnovates supports the FTC continuing its role on a singular basis rather than competing with the FCC for consumer privacy jurisdiction.

iii) Promote further dialogue regarding Net Neutrality.

Finally, the Subcommittee is in a unique position to help advance the conversation regarding net neutrality. CALinnovates staunchly supports net neutrality. However, the FCC's move to reclassify broadband under Title II was counterproductive to supporting a vibrant Internet. We believe that a *legislative solution* adhering to the principles of flexibility, adaptation, and modernity that have fueled the broadband revolution will best address the Internet community's needs. Legislation is, particularly needed as we are seeing that Title II rules applied to the Internet ecosystem are so mismatched as to invite political, not policy, interpretations by this and future FCCs. Legislation would provide the certainty that would benefit nearly every participant in the Internet economy.

CALinnovates hopes that through hearings like this, a new era of collaboration and cooperation can be ushered in for the benefit of all. CALinnovates thanks the Subcommittee for its leadership and oversight.

Sincerely,



Mike Montgomery
Executive Director

CC: Subcommittee on Communications and Technology Members