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[www.Consumers4Choice.org](http://www.Consumers4Choice.org)

February 28, 2007

The Honorable Deborah Platt Majoras  
Chairman  
Federal Trade Commission  
Room H-135 (Annex B)  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

Re: Broadband Competition Comment, Project No. V07000

Dear Chairman Majoras:

Consumers for Cable Choice (C4CC) submits these comments in response to the Federal Trade Commission's (FTC or Commission) request for written comments for the Broadband Connectivity Workshop hosted by the agency on February 13-14, 2007.

C4CC recognizes and applauds the Commission's inquiry into broadband connectivity and the impact of Net Neutrality regulation on the marketplace. C4CC represents a number of consumer groups, including ethnic, rural, disability, residential and small business organizations on communications policy issues. Those groups, in turn, have more than one million consumer members who are keenly affected and interested in the development of a pro-consumer communications marketplace.<sup>1</sup> C4CC has consistently raised its voice in support of cable franchise reform to speed the emergence of a competitive video market for consumers. We are additionally concerned that the broadband infrastructure underlying video and data service be deployed in an expeditious manner that brings cost-effective benefits to the greatest number of American consumers.

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<sup>1</sup> For information about Consumers for Cable Choice generally, see [www.consumers4choice.org](http://www.consumers4choice.org).

In recent months, C4CC has considered the policy issues regarding the call by some for additional government prescriptions governing the flow of public Internet access traffic. This issue, dubbed Net Neutrality, is premised on the belief that existing nondiscrimination provisions in federal law and industry standards are insufficient to protect the public interest. The hypothesis is that further government regulations are necessary to protect content providers. These views were articulated by some groups at the Commission's Policy Workshop, who opined that change is needed now, even before the network is fully built. C4CC attended this workshop and has considered these views, as well as those expressed in other forums. As always, our perspective is based on how these policy options will impact consumers in the video broadband market.

After careful consideration of this issue and its impact on our member organizations and the consumers they represent, we have reached the following determinations:

1. **The Federal Communication Commission's Broadband Policy Statement is an available and viable deterrent against unjustly discriminatory conduct.** Proponents of additional proscriptive regulation gloss over the existence of the FCC's Broadband Policy Statement, which stems from industry "Connectivity Principles." This Statement serves as an effective deterrent to unjustly discriminatory behavior in the broadband access marketplace, as evidenced by the dearth of untoward conduct since the Statement's issuance. As some have suggested, this is effective protection for all stakeholders.<sup>2</sup> We agree that current standards are an effective deterrent, and no group has effectively demonstrated a need for additional intervention. The consumer interest is adequately protected by the status quo.
2. **Even if the current regulatory policy was inadequate (which it is not), any additional Net Neutrality regulation will have untoward consequences.** The gist of the Net Neutrality argument is that all Internet access should be treated in a manner devoid of preference. Although there is a certain superficial appeal to this notion, it belies the complexity of the network and the need for effective traffic management. In fact, such a policy would harm consumers by making the Internet less efficient. Broadband networks must be managed in an intelligent manner to operate efficiently and maximize benefits for consumers. Indeed, consumers want a network that is managed in a way that "discriminates" between traffic types. For example, vital public services should be given priority speed and availability. Overarching prohibitions may have the effect of limiting the vitality of the network for consumers. These consequences must be more fully understood and accounted for before any policy revisions are made.
3. **The consequence of additional Net Neutrality regulation may be to chill financial markets and consequently diminish consumer welfare.** The irony of additional Net Neutrality regulation is that it is directed at a ubiquitous broadband network that is literally "under construction." Much of the national broadband infrastructure is still on the drawing board. This is truly a case of the tail wagging

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<sup>2</sup> See Comments of Alcatel-Lucent at 2.

the dog. By proposing to prematurely over-regulate the operation of that future network (in anticipation of problems that do not exist today), the ability to attract capital at competitive rates may be compromised. Indeed, taken to an extreme, the construction of the network may be limited. This is not inconsequential for consumer or the economy. From the anecdotal information available, the construction of broadband networks is the nation's current largest economic development project. And, it is being accomplished with predominately private capital.<sup>3</sup> It would be a most unfortunate result for consumers if broadband infrastructure is not deployed to the fullest extent possible because premature, pre-emptive Net Neutrality regulations tilted the financial viability of that network. Consumer interest demands that broadband deployment, not hypothetical access concerns, drive the policy agenda.

In conclusion, Consumers for Cable Choice and the one million communications consumers who stand behind it urge the FTC to move with caution as it addresses the Net Neutrality issue. There is no demonstrated need for additional federal regulation in this area, and the FCC Statement is properly governing the marketplace. More importantly for consumers, the consequences of premature action will almost certainly have a negative impact on them. Instead, the Commission should follow a policy of watchful restraint under which the broadband market can develop without additional limitations beyond those in place.

Respectfully submitted,

Robert K. Johnson  
President  
Consumers for Cable Choice, Inc.

CC:

Commissioner Harbour  
Commissioner Leibowitz  
Commissioner Kovacic  
Commissioner Rosch

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<sup>3</sup> Capital expenditures by Verizon, for instance, led the nation over the past three years, with almost \$44 billion from 2004 through 2006. Reference, Testimony of Verizon at the Commission's Workshop.