



Council on American-Islamic Relations

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Notice of Proposed Rulemaking, captioned ) WC Docket No. 17-108  
“Restoring Internet Freedom” )  
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**COMMENTS OF THE COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK, INC. (CAIR-NY)<sup>1</sup>**

CAIR-NY is the New York State affiliate of the Council on American-Islamic Relations, the Nation’s largest Muslim civil rights organization. CAIR-NY's mission is to protect civil liberties, empower American Muslims, and build coalitions that promote justice and mutual understanding. Our lawyers protect and defend the constitutional rights of American Muslims, thus supporting the rights of all Americans.

We believe that affordable, uncensored, non-discriminatory, and high-quality Internet access is indispensable to the effective exercise of the First Amendment free speech rights that CAIR-NY protects. The above-referenced proposed rule-making would empower Internet service providers (“ISPs”) to discriminate against unwanted viewpoints and block Americans from engaging in our political process. This impact would be most pronounced for non-majoritarian and marginalized communities, potentially hiding their perspective.

In recent decades, the Internet amplified the voices of millions of Americans who lacked an alternative mechanism to disseminate their message to vast numbers of recipients. More importantly, the democratic nature of Internet communication has made it indispensable for promoting non-majoritarian perspectives that might otherwise be censored through obscurity. Contrary to the Commission’s assertion that this growth in broadband access is the result of a “light-touch regulatory approach,” a comparison to other leading developed economies shows that the U.S. continues to lag in both next-generation broadband deployment and affordability. At this moment,

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<sup>1</sup> The views expressed herein are solely those of CAIR-NY and do not necessarily represent those of the CAIR Foundation Inc. and/or any of its affiliates or licensees other than CAIR-NY.

when most Americans would benefit from stronger regulatory protections, the Commission's proposed rules threaten to do just the opposite, imperiling the Internet access and equality we depend upon.

It is clear that broadband deployment advanced rapidly under the pre-Title II regime, but it is also clear that it would have grown even more quickly and equitably if subjected to the same regulatory requirements imposed by the majority of OECD countries. The U.S. continues to rank in the middle of the pack amongst wealthy countries as measured by the rate of fixed broadband subscriptions, with some of the lowest fiber to the home ("Fiber") deployment rates of any advanced economy. We also have one of the lowest Fiber adoption rates of any country, which is crucial in evaluating the importance of title II regulations.

Increasingly, Fiber and cable Internet service ("Cable") are the only two technologies capable of supporting next-generation broadband transmission speeds. Other technologies, such as Digital Subscriber Line ("DSL") (including fiber to the node), satellite, and fixed wireless Internet fundamentally cannot achieve the speeds needed to compete in this space, especially when compared on the basis of consumer upload speed and price. These limitations reflect core constraints of the underlying technology and will not change with time.

Since most homes are only served by one cable provider, and since a majority of Americans lack access to Fiber alternatives, Cable ISPs typically have a monopoly on next-generation broadband access for much of their existing customer base. Where there is a monopoly, there is no consumer choice, no market mechanisms, and no viable alternatives to regulatory intervention. Cable ISPs can impose throttling, packet discrimination, and other unwanted interventions to skew the delivery of network data, and consumers will have no choice but to accept it or forgo next-generation broadband altogether; however, the latter is not a real option. The truth is that next-generation broadband is increasingly a necessity, a utility, and it must be regulated as such under Title II.

In framing Title II regulation of ISPs as "government control of the Internet," the Commission severely misstates the impact of existing regulations. Title II does not empower the government to control the Internet; quite the opposite, it gives consumers control. Today, consumers can freely choose what sites to visit, what content to stream, and what services to purchase, and all without the fear of ISPs stacking the deck. This choice has been indispensable in enabling insurgent companies and new market entrants to quickly gain large followings and challenge the position of incumbent stakeholders. Companies like Netflix and Amazon would not be able to enter the video streaming market in a world where ISPs are allowed to degrade third-party video content and promote their own services.

More importantly for civil rights groups such as CAIR-NY, the proposed rules would potentially make it harder for small news services and NGOs to put forward outlying perspectives, including political narratives that challenge the wealthy and powerful. The intellectual and ideological diversity of the Internet depends on the ability of all news to be viewed on the same footing. If ISPs can

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favor content from one ideological position, and disfavor competing sentiments, it would irrevocably skew our country's political discourse, damaging the mechanisms for democratic engagement. In this context, "market-based policies" are far from being necessary for "Internet Freedom," and they may spell its doom. Additionally, it is impossible to have market-based incentives where there is no effective competition, and thus no market. Let us call this proposed rulemaking what it truly is, regulatory capture and a gift for monopolies. For the foregoing reasons, CAIR-NY urges the Commission to reject the proposed repeal of Title II regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Albert Cahn", written over a horizontal line.

Albert Cahn  
Legal Director  
CAIR-NY

May 24, 2017