

*Before the*  
Federal Communications Commission  
Washington D.C. 20554

In the Matter of	)	
	)	
Preserving the Open Internet	)	GN Docket No. 09-191
	)	
Broadband Industry Practices	)	WC Docket No. 07-52

**Comments of  
American Composers Forum, American Music Center, Center for Creative Voices  
in Media, Film Independent, Fractured Atlas, Future of Music Coalition,  
International Documentary Association, International Music Manager’s Forum,  
Just Plain Folks, Meet the Composer, Nacional Records, National Alliance for  
Media Art and Culture, and Writers Guild of America West**

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## **I. INTRODUCTION**

The groups submitting these comments recognize the fundamental importance of open internet structures to the creative community. Since its inception, the internet has represented a powerful tool for the exchange of information and ideas, and in recent years, its structures have contributed greatly to the emergence of novel platforms for the dissemination of creative content. As the digital marketplace matures, it is essential that clear, enforceable net neutrality principles are codified to ensure that the internet remains a viable platform for culture and commerce.

The undersigned are pleased to submit these comments, which demonstrate how the open internet provides an unprecedented means through which creators and entrepreneurs can reach potential audiences, promote and sell their work and develop sustainable careers. The adoption of net neutrality rules would help ensure that all creators, regardless of affiliation, would have access to this vital and still-developing marketplace. We urge the Commission, as it undertakes this historic and crucial rulemaking, to consider closely how the cultural sector is using the open internet to forge the future for entertainment and expression.

## **II. CREATORS DEPEND ON NET NEUTRALITY**

Access to the internet must mean that all users can visit the lawful sites of their choosing, use non-destructive applications and upload and download lawful content without undue

restrictions from Internet Service Providers (ISPs). Creators, in particular, depend on open internet structures to engage in a variety of ways; from direct interaction with audiences, fans and patrons to collaboration with other artists. From musicians to filmmakers to writers to independent labels to arts and service organizations, today's creative community depends on the internet to conduct business and contribute to the rich tapestry that is American arts and culture.

Today's creators are poised to take advantage of emerging technologies fostered by the open internet to deliver an exciting array of entertainment offerings to consumers. All of this content starts with an idea, yet the internet greatly extends the reach of American content creators. The internet allows authors and creators to retain ownership and control more often, because of the ubiquitous and instantaneous distribution options. By contrast, traditional media, such as broadcast TV or films, rely heavily on hierarchical chains of ownership and distribution, which are controlled by powerful gatekeepers. In order for creators to continue to take advantage of these opportunities, the open internet must be preserved.

We are encouraged that the FCC has clearly stated that its net neutrality draft rules apply only to lawful content, applications and services, which leaves room to explore methods to combat the illegal distribution of unauthorized content. Yet there are those who would deliberately confuse the issue in order to advance agendas that may, if unchecked, herald the arrival of a host of new gatekeepers. Net neutrality ensures that everyone has access to the same powerful technology, and would prevent network service operators from leveraging their own services by blocking or degrading competing offerings. It would also ensure that smaller and independent content providers would not be unnecessarily

disadvantaged in the digital marketplace. This is a distinct and separate issue from copyright and intellectual property protection.

The creators represented in these comments firmly believe that net neutrality rules need not inhibit the efforts to curb the unauthorized distribution of copyrighted content. Furthermore, we feel strongly that the continued innovation fostered by open internet structures will benefit and expand the legitimate digital marketplace, as more consumers discover robust, legal and licensed services that provide lawful access to a broad array of high-quality content — primarily on-demand. Although the entertainment industries are currently experimenting with pricing models, recent developments indicate that, where licensed services are available, consumers are beginning to forego peer-to-peer trading of both audio and visual content<sup>1</sup>. This is encouraging news for rightsholders, yet stakeholders and policymakers must be careful not to frustrate this marketplace before it has a chance to mature. Net neutrality rules would do much to allow the continued innovation that will hopefully make piracy a mere footnote in the digital transition.

The experiences of today's creators are models for a new industry, and they would not have been possible without open internet structures. The benefits of these structures can be readily witnessed in those creators, technologists and entrepreneurs whose efforts are key to the establishment of a legitimate digital marketplace that rewards creators, entrepreneurs and fans alike.

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<sup>1</sup> *Washington Post*, December 2, 2009: <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/02/AR2009120200748.html>

## **II. UNNECESSARY GATEKEEPERS HINDER CULTURE AND DEMOCRACY**

The groups submitting these comments are in a unique position to describe the negative outcomes that would likely result from a loss of net neutrality. The freedom and choice that the open internet provides is what makes it such fertile ground for democratic engagement, innovation and entrepreneurship. The internet has given all users a license to innovate, which has resulted in a global exchange of ideas, information and capital. For artists, this means that their creative expression enjoys practically unlimited reach, with access to potential audiences no longer limited by geographical distance. This differs greatly from creators' recent experiences with other media.

Over the past two decades, government policymakers have frequently relaxed the media ownership rules for radio and television, which have led to a breathtaking amount of consolidation of both ownership and access to audiences for both of these media. This has made it enormously difficult for the majority of creators to reach audiences through these mediums. As broadcasting decisions became centralized, homogeneity in programming became commonplace, thus freezing out a wide variety of talent that under different circumstances, may have had a chance to become part of the country's cultural fabric. By contrast, the internet has enabled unprecedented and direct communication for any American who enjoys access. Furthermore, the open internet has fostered unbridled innovation that promises to yield greater returns for creators, provided the underlying structures of the web are not altered to favor a select group of players while discriminating against less economically privileged users. It is also important to consider

the possible ramifications of US policy — or lack thereof — on the rest of the world, who often look to America as a guidepost in crafting their own policies.

### **III. THE OPEN INTERNET IS THE ENGINE OF INNOVATION, CREATIVITY AND COMMERCE**

Clearly, there are legitimate concerns about the protection of intellectual property online that deserve full attention. Yet any solution to the problem of the unauthorized distribution of copyrighted content must not compromise the essential structures that have made the internet the most significant communications tool since the printing press.

The FCC has the responsibility to enact policies that preserve those attributes that have made the internet such a powerful engine for innovation, creativity and commerce. By undertaking this proceeding and gathering information from stakeholders and the public, the Commission is demonstrating its commitment to ensuring that the internet works for everyone, and not just a privileged few. For creators, net neutrality is not a luxury — it's a necessity. The ability to engage directly with other users worldwide is a positive development not only for art, but also democracy.

We applaud the FCC for commencing this important work, and hope that these comments provide useful as it seeks to craft clear and comprehensible rules to preserve the open internet.

Respectfully submitted by the following organizations:

American Composers Forum

American Music Center

Center for Creative Voices in Media

Film Independent

Fractured Atlas

Future of Music Coalition

International Documentary Association

International Music Manager's Forum

Just Plain Folks

Meet the Composer

Nacional Records

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