

TO: Federal Communications Commission
FR: Martín Perna
RE: Comment on Net Neutrality/Preserving the Open Internet NPRM (09-191)
DT: January 7, 2010

My name is Martín Perna, and I am pleased to offer my comments in the FCC's Notice of Proposed Rulemaking on Preserving an Open Internet. I am a professional musician and educator living in Austin, Texas, formerly of Brooklyn New York. I have been working full-time professionally in music since 1996.

I began my career as a musician in 1995 while studying at New York University. In 1998, I formed a 12-piece orchestra called Antibalas, which has since recorded five albums, played over 1000 shows in 30 countries, and is currently part of a major Broadway show called FELA!

I have also recorded and performed extensively with my second group Ocote Soul Sounds, and with TV on the Radio. I perform between 100 and 160 shows per year, about half- to 2/3 in the United States, and the other portion abroad, mostly in Canada and Europe but also to Japan, Australia, and Turkey.

I have recorded on over fifty albums, both as a sideman and with my own groups, on major labels such as MCA, Interscope, and Warner Brothers, to international independent labels such as Anti, Ninja Tune, and ESL Music.

I use the internet extensively for music, in the creative, communications, and commercial forms. Creatively, the internet has allowed artists like myself to collaborate and generate new ideas, resulting in works that have been rewarding both creatively and commercially. It has allowed me to build, maintain, and exercise creative relationships with artists across borders. Through the open internet, I regularly collaborate with musicians from New York to Paris to Sao Paulo, exchanging ideas, sketches and final versions of tracks.

For example, on a song called "Vendendo Saude e Fe" (Selling Wealth and Faith), we recorded rhythm tracks in Texas and emailed them to singer Tita Lima in Brazil, who recorded vocals over it. We mixed it in Austin and released it on our latest Ocote Soul Sounds album "Coconut Rock." From there, we emailed the song files to producer Grant Phabao in Paris, who did remixes of this song and others, which came out on our iTunes release of the album. This kind of creative exchange would have been next to impossible without the open internet.

The internet has also been instrumental in allowing me to keep in touch with my fans and make my music available to a broad audience. I have fan pages on MySpace and Facebook for my groups Antibalas and Ocote Soul Sounds, where we post show

information, relevant links and other news of interest to our fans. Our MySpace page has received more than a half-million visitors since we set it up three years ago.

This summer, our horn section was featured on the NBC's Jimmy Fallon Show with Paul Simon and the Roots. We posted a streaming link to that video from our various pages so that our fans could watch, regardless of their geographic location.

My music is available commercially on iTunes, Rhapsody, Amazon.com, and many other digital retailers. CDs and vinyl (yes, we still make albums) can be purchased online directly from the labels as well as a number of online distributors and record stores, large and small. There are a few loyal "mom and pop" record stores across the country, but hundreds have closed since the beginning of the digital music age. As much as I miss local record stores, doing business online is extremely efficient and means our music is available in far more outlets than would've previously been possible.

Online sites and services have been crucial in making our music available to music lovers. Thousands of recent fans have found out about our music through music sites like Pandora and Last.fm. Audio blogs have created and empowered a new generation of music journalists, and have been very useful to us in getting the word out about new albums. These audio blogs often review our albums and feature one or two tracks are free to download. Without net neutrality, they could disappear. This would be devastating to artists like myself, who depend on niche outlets to get the word out about our work.

Beyond music, the internet has been essential in continuing my education. In 2008, after being out of school since receiving my BA in 1996, I applied to and was accepted at University of Texas-Brownsville in their Masters in Education Technology program. Most of the courses are taught by UT-Brownsville faculty, but a few core and elective courses are taught by faculty and UT-Austin and other UT branches. In this program, I have been able to do all of my work online. We meet "live" online once a week per class and each meeting is archived for those unable to attend. I collaborate with classmates on three to four group projects per semester, using wikis, and a Blackboard-based course management system used by the university. This has permitted me to maintain my touring schedule while maintaining a 4.0 average over three semesters so far. Through this rigorous, innovative program, I have broadened my skill set and developed a stronger theoretical and practical educational background. I feel confident that I'll be able to work as a technology teacher or educational consultant doing work that incorporates music, technology and culture.

In some ways, the internet has been a double-edged sword. Depending on what time in your career the "digital age" hit you, the internet could be a a major boon or a challenge.

One of the major ways the internet has changed our art is that we cannot expect to sell as many records as we used to due to file sharing and the ease at which CDs can be digitized and copied.

For example, in 2007, Antibalas released the album "Security" on the label ANTI, a Los Angeles-based label with extensive international distribution. We toured the US and Canada for nearly two months, selling out venues of 700-1800 in major markets across North America. At the end of the tour, we had barely sold 10,000 albums. Our booking agent, a 20-year industry veteran, looked at the sales figures and told us that with the concert attendance figures, we would have sold at least 50,000 albums pre-Internet. Anecdotally, every member of the band has had at least one conversation with a fan who admitted to having discovered us online through unpaid downloads.

The upside to the internet is that we've been able to expand our fan base both in the US and abroad. However, since we're such a large band and because our fans are so geographically dispersed, it is hard for us to make much money touring. If we were a younger band (early 20s, no families to support) this would be very useful to use because we could tour constantly and build our fanbase exponentially, as evidenced by dozens of young "MySpace bands" who are now touring nationally.

However, it seems to me that people will always find a way around technological measures to prevent piracy. Rather than waste resources developing big brother tactics, we need to find a way to change people's consciousness about fair ways to compensate creators for their work.

When someone downloads one of my songs via torrent or fileshare, my first response is of happiness — a new fan, someone interested in my music. My response is not to call internet 911 and send a cyber-swat team to his house. I don't want anything of the sort.

I'm far more interested in cultural and educational campaigns that could make it natural for someone to want or feel impelled to pay something, anything for something useful that they download.

I have heard talk about common funds that would be amassed from internet usage fees that would be subsequently distributed among copyright owners, proportional to the number of times their music is downloaded. These potential solutions, as well as more opportunities for fans to access licensed music when they want, seem to be a more reasonable approach to dealing with copyrighted content online.

In addition to preserving net neutrality, the quality of broadband service could also stand to be improved. I access the internet through a home DSL connection via ATT which is very slow. I live in a ghetto area of Austin, and my friends in more affluent sections of town have faster internet speed with the same provider, same contract, and same equipment. If I were able to tether my internet connection through my mobile phone, I would do it and cancel my home internet contract because it is overpriced and slow.

I frequently travel and use wi-fi in airports, hotels, cafes, and through other free wifi networks — some better than others.

I recently began using an iPhone and that has been instrumental in allowing me to stay connected to my friends, family, and community while on the road. We used a GPS program which was incredibly helpful in locating hotels, clubs, healthy food places, and detours.

Wireless coverage with ATT has been very spotty while I'm on the road. When we travel, even just for a day or two across the border to Canada, we are hit with huge roaming charges for a few minutes of calls, email downloads.

Universal broadband access is crucial, and I am absolutely willing as a taxpayer to support the expansion so that all citizens get access. Someone in rural Arkansas or Idaho should have access to the same download speeds and same prices as someone in Manhattan or Hollywood.

I also believe that Net Neutrality principles should inform principles for governing wireless. The two have already merged in many ways. Right now we have a playing field which, if we make good choices, can be even more level in the future and accommodate more players. However, we are constantly facing pressure from bigger players who want to build trenches, hills, and walls on this playing field.

The internet is crucial in facilitating freedom of expression. This freedom, like freedom of speech on a public street, must be maintained and defended. While I am horrified at what can be found in certain dark, ignorant corners of the internet, quality content and engaging, constructive ideas are only one mouse-click away.

Again, rather than trying to regulate content, we need to concentrate on teaching ourselves and our children to be media-savvy. If more time were spent on teaching critical thinking skills, we would have to worry about our children or wayward spouses in online sex rooms because they'd be too busy blogging, communicating, or using the internet in more constructive, positive ways.

Thank you very much for your time and consideration. I can't imagine how many comments you have to go through and consider. I wish I had millions of dollars to attach to these comments, like telecom giants, but I don't. I hope the honesty and sincerity counts for something.

Regards,

Martín Perna