

Before the
Federal Communications Commission

In the Matter of

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Restoring Internet Freedom

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WC Docket No. 17-108

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**Comments of National Arts and Cultural Organizations,
Including:**

Alliance for Media Arts + Culture

Americans for the Arts

CASH Music

Chamber Music America

Dance/USA

Fractured Atlas

Future of Music Coalition

The League of American Orchestras

Network of Ensemble Theaters

New Music USA

OPERA America

Performing Arts Alliance

Theatre Communications Group

August 30, 2017

Executive Summary

In a relatively short period of time, broadband Internet service has inspired tremendous innovation, which has in turn enabled individual artists and arts organizations to reach new audiences, cultivate patrons and supporters, collaborate with peers, stimulate local economies and enrich cultural and civic discourse.

Demand for broadband has helped to encourage the development of the Internet, yet the true engine of growth has been its open architecture, which provides a platform for free expression and entrepreneurship regardless of a user's social, political, or economic status. Independent artists from all backgrounds and disciplines as well as arts organizations are able to take part in this dynamic. In an era of consolidated corporate media, it is crucial that our creative communities--which include filmmakers, writers, publishers, nonprofit performing arts institutions, and artists--are not disadvantaged as we advance and promote the diversity of expression that comprises American culture.

The groups behind these comments believe strongly that the Federal Communications Commission (FCC) must safeguard an open and accessible Internet for many reasons, including our sector's ability to inspire new generations of cultural ambassadors, creators, and innovators using the most important communications platform in history. For that reason, we urge the FCC to sustain the existing, strong net neutrality rules, based on Title II of the Communications Act. The FCC should maintain bright line rules against blocking, throttling, and paid prioritization on both fixed and mobile connections, as well as maintain ongoing oversight of other types of discrimination.

There is a growing consensus within America's creative communities that an open and accessible Internet is crucial to a vibrant and diverse cultural ecosystem. Though each organization listed has a unique approach to doing business, serving communities, and advancing access to arts and culture in the 21st century, we all believe in an ability to compete on a level online playing field based on the merits of our creative expression, goods, and services. We support a legitimate digital marketplace that rewards creators and offers audiences new ways to engage with art. We feel strongly that the FCC must do everything in its power to prevent paid prioritization and a "fast lane" Internet for only the best-funded enterprises. The work of our members has both cultural and economic value. Any rules to emerge from this current rulemaking must take into account the millions of Americans whose contributions to our society give practical meaning to concepts such as "innovation," "ingenuity" and "entrepreneurship."

I. Who We Are and What We Do

The Alliance for Media Arts + Culture is an international member organization facilitating innovation, collaboration and cultural impact for the media arts field. Without an open internet, the stories of those communities frequently marginalized are virtually silenced, and access to information and needed services is severely curtailed.

Americans for the Arts serves, advances, and leads diverse networks of organizations and individuals who cultivate, promote, sustain, and support the arts in America. An open Internet where artists can learn, engage, express themselves, innovate, and be entrepreneurial contributes to more vibrant and creative communities.

CASH Music is a nonprofit organization focused on educating & empowering artists & their fans to foster a viable & sustainable future for music.

Chamber Music America is the national network of ensemble music professionals, whose members are ensembles, concert presenters, managers, composers, educators, and independent musicians in the national ensemble music community.

Dance/USA is a national service organization for the professional dance field with nearly 500 aerial, ballet, modern, culturally specific, jazz, and tap companies, dance service and presenting organizations, individuals and related organizations. The dance field relies on an open internet to share work with audiences, dancers and choreographers, and presenting organizations and to make dance available to anyone who wants to enjoy the discipline.

Fractured Atlas is a non-profit arts service organization based in New York. We serve a diverse national membership of more than 60,000 primarily low-budget and independent artists and arts organizations located in all 50 states, and have raised over \$100 million for our member organizations in our lifetime. We currently have four core programs which address the needs of our members: the Fiscal Sponsorship program, which has sponsored over 4,000 artistic projects this year; Artful.ly, our free ticketing, patron management, and CRM platform; SpaceFinder, an online platform for connecting artists and organizations with rehearsal and performance space; and our Insurance program which offers artists and organizations access to coverage for artwork, events, employees, volunteers, and more.

Future of Music Coalition is a nonprofit organization that advocates a musical ecosystem where artists flourish and are compensated fairly and transparently for their work. Our ability to effectively execute our research, advocacy, and education work in support of musicians is premised on the freedom to communicate online.

The League of American Orchestras leads, supports, and champions America's more than 1,600 orchestras and the vitality of the music they perform, supporting an extensive membership, from world-renowned symphonies to community groups, from summer festivals to student and youth ensembles, from conservatories to libraries, from businesses serving orchestras to individual listeners. Orchestras rely on the internet to expand the reach of their services to communities, broaden access to live and recorded performances, and provide education and wellness services to communities nationwide.

Network of Ensemble Theaters (NET) is a national community of artists and arts organizations dedicated to collaborative creation. NET exists to propel ensemble theater practice to the forefront of culture and society. NET links a diverse array of ensembles and practitioners to one another and the performing arts field, encouraging collaborations and knowledge building/dissemination.

New Music USA is a non-profit organization that advocates for the creation, performance and public enjoyment of new American music. Advocacy is inherent in its media work and grant-making, both of which support composers' activities, as well as in

its role as a key voice in the field. Its grant-making programs are pioneering new ways to support and enrich the field and its editorial work on NewMusicBox and Counterstream Radio sheds increasing light on emerging and established artists around the country. New Music USA has empowered tens of thousands of composers and stimulated the creation of thousands of new works which have reached audiences in the millions.

OPERA America is a national service organization that draws on resources and expertise from within and beyond the opera field to advance a mutually beneficial agenda that serves and strengthens the field through programs that support creation, presentation, and enjoyment of the art form. Artists and opera companies alike are able to make opera accessible because of an open internet, allowing new and existing audiences to experience the classical canon as well as new works.

The **Performing Arts Alliance** is the national policy advocate, leadership forum, and learning network for America's nonprofit performing arts organizations, artists, and allies. Our members rely on the open internet to expand the reach of the arts and reduce barriers to access; to give voice to artists not often heard on mainstream radio stations or seen on mainstream stages; and to offer professional development services and tools to their members, empowering them to serve their communities and develop their careers.

Theatre Communications Group is a non-profit service organization dedicated to nurturing, strengthening and promoting professional non-profit theatre in the United States. TCG's membership includes over 500 theatres in 48 states and territories, along with the District of Columbia; over 12,000 individual members and affiliated trustees; and over 225 affiliated universities, funders, and other businesses. TCG Member Theatres represent a broad spectrum of aesthetic and cultural viewpoints, organizational structures, budget sizes, and missions and together are responsible for much of the vibrant work being produced in America's theatres today.

II. Creators, Access, and Innovation

Although the Internet has brought challenges for individual creators and arts organizations—from protecting intellectual property to adapting business models to meet new realities—broadband access has also expanded our reach and created new opportunities. We are encouraged that the existing open Internet rules made a clear distinction between lawful sites and services, as artists depend in part upon their copyrights and intellectual property as a source of revenue.

The open Internet is part of the solution in growing the legitimate digital marketplace. All of today's licensed, lawful applications and services are a direct result of the ability to innovate without having to negotiate terms with a telecommunications or cable provider whose interests aren't inherently aligned with creators or the public. It is the small-to-medium enterprises (SMEs)—including those in the cultural sector—who are in the best position to utilize new innovations and experiment with Internet-engendered technologies to go about their business. Without an easy way to participate in emerging innovations, creators and cultural organizations will be unable to adopt potentially rewarding tools into their existing business models. There is also the public good to consider: many of the organizations signing these comments are already using open tech platforms to facilitate long-distance arts education, leadership trainings, live

performances and more. We are also participants in platforms that allow our goods and services to be directly purchased by patrons and fans. New modes and models for digital commerce are appearing every day—the open Internet drives these developments, and represents a meaningful way for us to participate in the digital-era economy. The emergence of a tiered Internet would deprive individual artists and arts organizations of the ability to benefit from online innovations while frustrating the growth of the legitimate digital marketplace.

The open Internet allows the arts and cultural sector to more efficiently contribute to the local and national economy. Under the existing open Internet rules, anyone with a robust broadband or mobile connection can reach users, promote their work and sell creative products and services without having to ask permission or pay a toll to an ISP. This dynamic is what allows so many in our creative communities to express ourselves, build businesses and advance American culture. Without rules of the road preventing ISPs from enacting a “pay-to-play” Internet, today and tomorrow’s creators and innovators would be at a tremendous disadvantage.

There is a clear economic imperative to getting the policy right when it comes to broadband access and openness. The organizations behind these comments represent a cross-section of this sector, and are employers, producers, consumers and cultural and economic ambassadors for their cities and regions. According to the U.S. Bureau of Economic Analysis, the arts and culture sector is a \$730 billion industry, which represents 4.2 percent of the nation’s GDP—

a larger share of the economy than transportation, tourism, or agriculture. The nonprofit arts industry alone generates \$166.3 billion in economic activity annually (spending by organizations and their audiences), which supports 4.6 million jobs. These studies quantitatively demonstrate the tremendous economic impact the creative sector has on local and national economies.

It is fair to say that part of this success story comes from the creative sector’s ability to utilize the Internet and its innovations in the ways that make the most sense for our diverse business models and disciplines. If a few powerful ISPs are allowed to dictate which innovations reach the marketplace or to deprioritize our content in favor of corporate partners, our contribution to local and national economies would be stymied. At a time when nonprofits and small businesses are scrapping for any advantage they can get, it makes no sense for policymakers to disadvantage key drivers of growth and revitalization. Rather, policymakers should do everything to encourage and stimulate development in local communities where arts and culture can make a real difference. Supporting localism is a longstanding goal of the Commission; doing so requires not only the availability of high-quality, affordable broadband service, but also open platforms upon which we are free to innovate and inspire.

III. The open Internet and the arts benefit society

Though the arts and cultural sector has a strong economic case, we also enrich society through our artistic expression. The impact of our contributions in this regard is hard to quantify, but it fundamentally underscores the importance of preserving an open Internet in which creators of all disciplines are able to reach audiences with a minimum of interference. Presently, just a handful of ISPs control access to end users, and there is a very real danger that these corporations will seek to garner even greater profits by charging content providers for premium delivery of our sites and services. The

telecommunications and cable companies often point out that such strategies are necessary to their ongoing investment in infrastructure, but we agree with the many filers whose data demonstrates that this is not the case. It is much easier—and cheaper—to not update networks, charging consumers data overages while rent-seeking from content providers. A proper incentive to buildout would come from the ISP conducting market research to determine demand, then deploying the infrastructure to support it. Yet this is not the preferred approach of the incumbent ISPs. Instead, they want to create a more cable-like environment online, with enhanced capacity reserved for preferred business partners only. The very real danger is that such arrangements will come at the expense of the Internet the rest of us use every day.

The open Internet has inspired innovations that artists and arts organizations use to engage with audiences and facilitate commerce. These are the very services that would be disadvantaged in an environment where ISPs have free reign to pick winners and losers among content providers and innovators. Artists may find themselves locked into potentially disadvantageous economic structures due to ISPs favoring sites and services with entirely different business interests than those of creators; innovators with artist-friendly platforms may never get off the ground due to bandwidth restrictions or economic barriers to entry.

Such an outcome would not only be damaging for the marketplace, but would also constrict noncommercial activity on the web. In promoting a diversity of voices across media, the FCC should take into account the incredible range of expression and innovation that an open Internet engenders, not all of it for-profit or intended to operate at a mass scale. As a field, the arts and cultural communities must retain the ability to utilize new innovations and adapt them to our highly individual missions and business models.

The FCC should sustain the existing, strong rules possible to support this dynamic.

IV. The FCC Should Sustain Its Existing Strong Net Neutrality Rules and The Existing Legal Framework Under Title II

The proposed approach under Title I would interfere with innovation, competition, and consumer choice online. Previous court rulings have said that an approach under Title I would preclude certain bright-line rules. Instead, the FCC is proposing a set of vague legal standards that would allow discrimination. Small creators do not have the legal resources to address instances of discrimination, absent the existing bright line rules and authority for ongoing oversight. By the time the lengthy process of case-by-case review of anti-competitive behavior is complete, an artist or cultural organization like ours will have suffered severe financial harm and diminished capacity to serve communities. An approach like this puts the burden of pointing out mischief on communities with less legal or technical capacity than major corporations.

The FCC's existing framework works well. It should sustain its current approach under Title II; ban blocking, throttling, or paid prioritization of Internet traffic; and continue ongoing oversight of other discriminatory conduct.

