

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

COMMENTS OF
MEDIA ACTION GRASSROOTS NETWORK,
COLOROFCHANGE.ORG, PRESENTE.ORG,
APPLIED RESEARCH CENTER, AFRO-NETIZEN,
NATIONAL ASSOCIATION OF HISPANIC JOURNALISTS,
NATIVE PUBLIC MEDIA, AND RURAL BROADBAND POLICY GROUP

Respectfully submitted,



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SUMMARY

Media Access Project, on behalf of Media Action Grassroots Network, *et al.* (collectively “Media Justice Commenters”), submits these Comments in response to the Commission’s Notice of Proposed Rulemaking in *In the Matter of Preserving the Open Internet, Broadband Industry Practices*.

The Internet has and continues to play a role in the lives of users as a way to speak to each other, as well as a way to share, create, and access knowledge and valuable information. Importantly, it has the potential to increase equity in media access and political participation for historically marginalized communities. Traditional media outlets - television, radio, and cable - generally have not included enough diverse voices, or provided content that is significant and relevant to these under-represented groups. With lower barriers to entry, the Internet can create a platform where these groups can speak for themselves and on behalf of their communities, on issues of importance to their communities.

The Internet also has the potential to increase economic opportunities and wealth in marginalized communities. Often times, individuals in these communities lack resources or the option to create their own businesses. With its lower barriers to entry, any one with a broadband connection and an idea has the opportunity to test that idea in a free and open marketplace. Nondiscriminatory networks grant equal opportunity to every idea and can help ensure that marginalized communities do not experience the same lack of representation or opportunities that have occurred in other platforms or areas.

Indeed, the Supreme Court has observed that the content of the Internet is “as diverse as human thought.” *Reno v. ACLU*, 521 U.S. 844, 870 (1997). The Internet is an open and interactive

medium, facilitating communication by anyone to and from everyone. *Id.* It is a medium that supports and enhances the free expression of citizens and serves as a vehicle for democratic governance and economic activities. The Commission can and must take into account this line of authority regarding the structure of the Internet and its impact on the ability of people to communicate and engage in economic, social, and political activities. Thus, the Commission must ensure that Internet users should not feel constrained with what they are able to do with their Internet service and their devices, and instead would benefit from an Internet that is open and nondiscriminatory.

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Media Access Project, on behalf of Media Action Grassroots Network, *et al.* (collectively “Media Justice Commenters”), submits these Comments to provide the Commission with information and insight regarding the expectations and needs of Internet users in low-income, immigrant, and minority communities. The constituents of Media Justice Commenters firmly believe that they should not be constrained with what they are able to do with their Internet service, and instead would benefit from access to a more open and nondiscriminatory Internet. Media Justice Commenters also urge the Commission to require providers to disclose in a transparent and easily understandable manner any network management practices Internet Service Providers (“ISPs”) engage in and to extend any rules the Commission adopts to wireless Internet access providers.

I. INTRODUCTION

Collectively, Media Justice Commenters represent low-income, immigrant, and minority communities, in both rural and urban neighborhoods.¹ For the constituents of Media Justice

¹The *Media Action Grassroots Network*, or MAG-Net, is a national initiative launched by some of the country’s most dynamic regional organizations to provide an infrastructure for grassroots media

Commenters, access to the Internet is essential to their ability to communicate for economical, political, and social purposes. Indeed, Media Justice Commenters view communication as an essential human need and a fundamental human right in which freedom of expression is the basis of individual and societal development, and economic opportunity. Freedom to communicate encourages and allows these communities to speak for and on behalf of themselves, when others do not or are unable.

activist organizations Across the country they are building constituencies, partnerships and victories for progressive structural change. Grounded in a vision of social justice, these organizations generate creative, pragmatic models of strategic communications and mobilization that resonate powerfully far beyond the D.C. Beltway. MAG-Net Anchor's are Media Mobilizing Project, Main Street Project, Media Alliance, Media Justice League, Reclaim the Media, Media Literacy Project, Peoples Production House, Esperanza Peace and Justice Center, and Thousand Kites

ColorOfChange.org exists to strengthen Black America's political voice. Using the Internet, ColorOfChange.org keeps its members informed and gives them ways to act on pressing issues facing Black People in America. ColorOfChange.org is united behind a simple, powerful pledge: it will do all it can to make sure all Americans are represented, served, and protected - regardless of race or class.

The *Applied Research Center* (ARC) is a racial justice think tank and home for media and activism. ARC is built on rigorous research and creative use of new technology. Our goal is to popularize the need for racial justice and prepare people to fight for it. By telling the stories of everyday people, ARC is a voice for unity and fairness in the structures that affect our lives.

Afro-Netizen is a social enterprise dedicated to informing, inspiring and engaging intellectually curious, civic-minded afro-netizens and the communities they touch.

Native Public Media promotes healthy, engaged, independent Native communities by strengthening and expanding Native American media capacity and by empowering a strong, proud Native American voice.

The *National Association of Hispanic Journalists* (NAHJ) is dedicated to the recognition and professional advancement of Hispanics in the news industry. NAHJ has created a national voice and unified vision for all Hispanic journalists.

Presente.org seeks to strengthen the political voice of Latino communities. Using the Internet, Presente.org gives its members ongoing opportunities for action on the issues they care about. Presente.org's goal is to unite Latinos of all generations, nationalities, and regions, together with allies from other communities.

The *Rural Broadband Policy Group* is national coalition of rural broadband advocates with two goals: 1) to articulate national broadband policies that provide opportunities for rural communities to participate fully in the nation's democracy, economy, culture, and society; and 2) to spark and kindle national collaboration among rural broadband advocates. The Coalition includes People Escaping Poverty Project, Appalshop, California Center for Rural Policy, Media Literacy Project, Access Humboldt, Main Street Project, Housing Assistance Council, Institute for Local Self Reliance, and Center for Rural Strategies.

Freedom to communicate also encourages innovation in these communities; the existence of a free and open market gives hope to any individual or other start-up that their idea could catch on because it is actually a good idea and not because of the resources behind the idea. Thus, for the constituents of Media Justice Commenters, any means of communications, especially communication via access to the Internet, should be an open and nondiscriminatory one because it enables the way individuals and communities find, create, and share knowledge.

Media Justice Commenters applaud the Commission for initiating this rulemaking because clear rules and policies are needed to ensure that low-income, immigrant, and minority communities continue to have the access and opportunities available to them through the Internet. Media Justice Commenters urge the Commission to adopt rules that make clear that Internet users are able to freely, and in a nondiscriminatory manner, access the content, applications, services and devices of their choice, and to require ISPs to clearly disclose how and when they are engaging in network management practices. Media Justice Commenters further urge the Commission to extend these rules to wireless networks since it may be the only way for low-income, immigrant, and minority communities to fully realize the potential of the Internet.

II. OPEN INTERNET PROTECTIONS ARE CRITICAL FOR LOW-INCOME, IMMIGRANT, AND MINORITY COMMUNITIES

The Commission has proposed to codify the current Internet principles and adopt rules regarding nondiscrimination and transparency of network management practices. In seeking comment on the proposed rules, the Commission also expresses concern over the impact the rules could have on “minorities and other socially and economically disadvantaged groups.”² The Commission is

²Notice of Proposed Rulemaking, *In the Matter of Preserving the Open Internet, Broadband Industry Practices*, ¶82 (October 22, 2009) (“NPRM”).

correct to note the relevance and importance of an open and nondiscriminatory Internet to minorities and other socially and economically disadvantaged groups, and Media Justice Commenters encourage the Commission to give serious effect to the necessity of the proposed rules to these traditionally disadvantaged groups.

A. Open Internet Protections Will Lead to More Empowered Communities.

Access to an open and nondiscriminatory Internet is especially crucial in light of a history in which these communities have often been disadvantaged and discriminated against. For example, these communities have experienced first-hand how the influence and concentration of traditional media outlets³ can result in inaccurate and distorted news and images.⁴ These inaccurate images tend to result in misconceptions and stereotypes.⁵ These communities have also been disadvantaged and discriminated against in their ability to partake in political and civic activities, leading to a lack of participation in and an effective voice in political and civic discourse.⁶ Even in economic activities,

³People of color were prevented from obtaining radio or TV licenses when the licenses were first available because of discrimination and segregation. *See* W. LaNelle Owens, Notes and Comment *Inequities on the Air: the FCC Media Ownership Rules--encouraging Economic Efficiency and Disregarding the Needs of Minorities*, 47 How. L.J. 1037, 1055 (2004). Later, in the 1970s, cable promised to be a real alternative to broadcast television for more diverse programming, which did not happen.

⁴*See* Neil F. Carlson and Leonard M. Baynes., *Rethinking the Discourse on Race: A Symposium on How the Lack of Racial Diversity in the Media Affects Social Justice and Policy*, 9-16, *Journal of Legal Commentary* (2007), available at <http://ssrn.com/abstract=938978>Race.

⁵*See id.*

⁶*See* George Bundy Smith, *State Courts and Democracy: The Role of State Courts in the Battle for Inclusive Participation in the Electoral Process*, 74 N.Y.U. L. Rev. 937, 941 (1999) (The Voting Rights Act of 1964 was the watershed legislation which finally secured voting rights for African Americans, almost a century after Reconstruction); Sandra Del Valle, *Language Rights and the Law in the United States* 105 (2003) (Securing the right for foreign-language voting materials happened significantly after the enactment of the Voting Rights Act, which finally secured voting rights for racial and other minorities).

these communities have faced disadvantage in and discrimination with, for instance, access to opportunities and capital.⁷

In light of these obstacles, these communities have always desired the ability to speak and create opportunities for and on behalf of themselves. However, either due to a lack of resources, limited opportunities, or other barriers to entry, few people in these communities have the ability to own a traditional media outlet or own other businesses. The ability to own a traditional media outlet - television, radio, and cable - would allow these communities to reach a wider audience more effectively and efficiently, whether it be for social, political, or economic purposes. Similarly, the ability to invest in a business would enable these communities to create their own wealth and opportunities for themselves and in their communities.

This bleak scenario, however, has drastically been altered with the advent of the Internet. With its low barriers to entry, the Internet can allow these communities to speak for themselves by allowing them to create their own content, providing them the ability to speak for themselves and on behalf of their communities. It can also allow them to create their own opportunities and freely engage in activities which they could not or were previously limited. Moreover, for those who have access to the Internet, it is increasingly becoming a necessity for a variety of economical, social, and political purposes. Millions of low-income, immigrant, and minority communities rely on the Internet for a variety of activities such as applying for jobs, creating and growing their businesses,

⁷See Karlyn Mitchell and Douglas K. Pearce, *U.S. Small Bus. Admin., Availability of Financing to Small Firms Using the Survey of Small Business Finances*, 1-2 (2005), available at <http://www.sba.gov/advo/research/rs257tot.pdf> (“We found that for ethnic minorities as a group, evidence of discriminatory lending exists in outstanding transaction loans from banks and nonbanks and in outstanding transaction loans from banks. We also uncovered evidence from all outstanding loans and from outstanding bank transaction loans that African-American and Hispanic firm owners are less preferred borrowers.”).

participating in civic and political activities, and accessing public and government assistance.

Thus, rather than focus on the corporate service providers, the Commission must embrace policies, and the necessary rules to further those policies, that will address the human impact of the opportunities afforded by an open and nondiscriminatory Internet: the opportunity for all people regardless of their digital skills, or geographic and socio-economic situation to communicate and create, access, and share information useful for their own life plans.

In fact, the Supreme Court has unanimously embraced a robust view of the affirmative duty of government to facilitate speech, pointing to the public's "collective right to have the [electronic media] function consistently with the ends and purposes of the First Amendment."⁸ In *Red Lion*, the Court recognized that it "is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee."⁹ It further noted that it "is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here."¹⁰ This role of the First Amendment in application of the Communications Act was dramatically restated in the Supreme Court's *Turner* cases, which held that considerations of both competition and diversity justified enactment of cable must carry rules. In *Turner I*, the majority held that "assuring that the public has access to a multiplicity of information sources is a governmental purpose of the highest order, for it promotes values central to the First

⁸*Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 390 (1969).

⁹*Id.*

¹⁰*Id.*

Amendment.”¹¹

Moreover, with respect to the Internet itself, the Supreme Court has observed that the content of the Internet is “as diverse as human thought.”¹² The Internet is an open and interactive medium, facilitating communication by anyone to and from everyone.¹³ It is a medium that supports and enhances the free expression of citizens and serves as a vehicle for democratic governance and economic activities. Thus, there is a long and unbroken line of authority that the Commission can and must take into account regarding the structure of the Internet and its impact on the ability of the consumer to communicate and engage in economic, social, and political activities. For Media Justice Commenters, to further these objectives, a communication rights platform to create community-based and people-centered communication technologies is critical, and a principle of nondiscrimination is rooted in fairness, equality, and freedom, and can support the creation of digitally empowered communities.

B. An Open and Nondiscriminatory Internet Can Help Drive Adoption and Innovation.

The Commission also seeks comment “on possible implications that the draft rules we propose here might have on efforts to close the digital divide and encourage robust broadband adoption and participation in the Internet community by minorities and other socially and economically disadvantaged groups.”¹⁴ Media Justice Commenters firmly believe that rather than harming or

¹¹*Turner Broadcasting System v. FCC*, 512 U.S. 622, 663 (1994), *aff’d*. *Turner Broadcasting System v. FCC*, 520 U.S. 180 (1997).

¹²*Reno v. ACLU*, 521 U.S. 844, 870 (1997).

¹³*Id.*

¹⁴*NPRM* at ¶82.

inhibiting adoption and participation, an open and nondiscriminatory Internet is needed for their constituents to fully realize the potential and benefits of the Internet to them. Thus, Media Justice Commenters urge the Commission to adopt the proposed rules to foster adoption, innovation, and participation.

As has been noted by the Commission, home adoption rates for broadband Internet service are low among low-income, immigrant, and minority communities.¹⁵ However, the accessibility and availability of more relevant content, applications, and services could help underscore the importance of the Internet for these communities. For example, the ability to speak to loved ones cheaply through VoIP applications on the Internet is a benefit realized by many in these communities. The ability to discuss issues of concern to and among these communities, with their own perspectives, is more possible now than having to rely on traditional media outlets to capture their voices and perspective.¹⁶ Also, the ability to gather health or medical information found on the internet can be useful to these communities.¹⁷ Even the ability to access a variety of information in different languages is more possible, and likely, now.

¹⁵See John Horrigan, Pew Internet & American Life Project, *Home Broadband Adoption 2009* (June 2009). See also, Pew Hispanic Center, Pew Internet & American Life Project, *Latinos Online* (March 14, 2007) (“Pew Latinos Study”).

¹⁶According to a study by Pew, when it comes to online social networks, there are no racial/ethnic differences with respect to use of these networks compared to other populations. See Pew Internet & American Life Project, *Online Participation in the Social Media Era*, Racetrack Industry Program (December 10, 2009). This would indicate that when accessible, racial/ethnic communities will participate, at the same rate, in the media available to them to access and share knowledge.

¹⁷See Susannah Fox, Strategic Learning for Health Care in 2010 (Jan 6, 2010) available at <http://www.pewinternet.org/Commentary/2010/January/Strategic-Learning-for-Health-Care-in-2010.aspx> (Health is holding steady as one of the most popular activities online). Many in rural communities or workers without insurance rely on medical information available on the Internet to self diagnose their symptoms.

The Internet is also a medium that allows the constituents of Media Justice Commenters to create their own economic opportunities, innovations, and businesses, with minimal resources. With a broadband connection, anyone with an idea can create, shape, and market that idea using minimal resources. The Internet has become an extremely cost-effective way for entrepreneurs and innovators to showcase their ideas. Anyone with access to the Internet can reach millions of people, to market their ideas, despite a lack of major support or monetary resources, and, potentially, find success.

These are the types of opportunities, services, and content that these communities seek and desire. Thus, all of the different and interesting opportunities and services now possible on the Internet, with unfettered access, is critical to increase and maintain adoption, innovation, and participation. Without guaranteed unfettered access to these types of opportunities, services and content, these communities will be limited in sharing, creating, and accessing the content and services they desire, and therefore devaluing the need for Internet access. A nondiscrimination rule will ensure that the Internet remains a platform for innovation, equality, connection, and community, and as a result a valued space for economic growth and democratic engagement in these communities.

C. Effective Transparency Rules Are Necessary.

The Commission seeks “comment on what consumers need to know about network management practices to make informed purchasing decisions and to make informed use of the services they purchase.”¹⁸ Media Justice Commenters agree that effective, practical, and useful information is necessary for Internet users to make informed decisions and agree with the Comments submitted by Public Interest Commenters¹⁹ with respect to the type of information that should be

¹⁸*NPRM* at ¶125.

¹⁹*See* Comments of Public Interest Commenters, GN Docket No. 09-191, WC Docket No. 07-52 (Jan. 14, 2010).

disclosed. For example, Media Justice Commenters believe that many consumers need information concerning actual (as opposed to advertised) transmission rates, capacity, and any network management practices that affect their quality of service. Importantly, Media Justice Commenters also ask the Commission to urge ISPs to provide such disclosure in various different languages so that all Internet users have the ability to access and understand the information provided.

III. REASONABLE NETWORK MANAGEMENT TECHNIQUES MUST BE LIMITED

Because of the importance of nondiscriminatory Internet access to economic, political, and social activities and opportunities, it is critical that network management be restricted to those practices that ensure the functioning of the network. The Commission must ensure that a reasonable network management practice typically is one of limited or intermittent duration, designed to address legitimate congestion and traffic management issues. In these cases, management practices should only be implemented at the time when such issues arise – not a practice of unlimited duration, one that discourages expansion of capacity, or one that promotes the competitive self-interest of the ISP. For example, these practices should be undertaken to ensure the network’s survival or to ensure the networks timely functioning.

Media Justice Commenters also believe that the most technologically and economically efficient means of managing Internet traffic is by increasing capacity.²⁰ Thus, adding capacity must be an important public policy goal, and the Commission should adopt rules which will encourage investment in increased capacity. One way to encourage this investment is to adopt a reasonable

²⁰See Steven Corbato and Ben Teitelbaum, *Internet2 and Quality of Service: Research, Experience, and Conclusions 4* (May 2006) (“practical experience...showed a far simpler and far more cost effective means for ensuring high-performance networking: simply provide an overabundance of bandwidth to end users to ensure that the odds of network congestion are minimized. This approach avoided practical deployment obstacles to implementing any effective QoS across a multiple network environment such as the Internet.”).

network management test that is sufficiently tailored to discourage ISPs from maintaining scarcity in their networks or under investing in their broadband infrastructure.

IV. NONDISCRIMINATION AND TRANSPARENCY RULES MUST BE EXTENDED TO WIRELESS ACCESS

The Commission has also stated that the proposed rules “would apply to all platforms for broadband Internet access.”²¹ Media Justice Commenters commend the Commission for recognizing the importance of mobile Internet access since wireless Internet access is vital to low-income, immigrant, and minority communities. Media Justice Commenters believe that their constituents can only fully realize the potential of the Internet if the same rules and benefits are applicable to wireline and wireless services.

For the communities represented by Media Justice Commenters, mobile Internet access is a critical means for communication and accessing information. For example, for some, a mobile device with Internet access serves as a means for organizing and mobilizing around important issues for the community. For others, it can serve as a means for capturing and sharing news and other important activities in their community.

In fact, according to a recent survey, more people are beginning to own mobile devices that allow them to access the Internet with a wireless connection and use that connection for access. For example, 85% of the adult population owns a handheld device, and 32% of the population have used it to go online.²² Similarly, 47% own a laptop and 39% of the population has used it to go online.²³

²¹*NPRM* at ¶154.

²²*See* John Horrigan, Pew Internet & American Life Project, *Wireless Internet Use*, at 8 (July 2009) (“Pew Wireless Study”).

²³*See id.*

Even devices traditionally not thought of as being used for a wireless Internet connection are being used to access the Internet, though not in as large numbers as a handheld device or a laptop. For example, desktop computers, game consoles, and iPods/mp3 players are being used to access the Internet through a wireless connection.²⁴

Importantly, these devices are being used by the constituents of Media Justice Commenters to access the Internet. For instance, 48% of African Americans and 47% of English-speaking Hispanics have accessed the Internet on a handheld device.²⁵ This is a marked increase from 2007, when 29% of African Americans and 38% of English-speaking Hispanics accessed the Internet on a handheld device.²⁶ These numbers appear to indicate that people of color are increasingly relying on a mobile device to access the Internet.

In fact, access and adoption is especially relevant for people of color, who rely more than Whites on a mobile device for non-voice activities; the Pew Wireless Study concludes that Blacks and Hispanics are more likely than Whites to use their phones for a number of non-voice activities. For example, Blacks and Hispanics send or receive email, access the Internet, and send or receive instant messages on their mobile phones more than Whites.²⁷ Moreover, according to a study conducted in 2007, “some Latinos who do not use the internet are connecting to the communications revolution on a different way - via cell phone.”²⁸ The “survey found that Hispanics are more likely than non-

²⁴*See id.*

²⁵*See id.* at 14.

²⁶*See id.* at 14.

²⁷*See id.* at 28.

²⁸Pew Hispanic Center, Pew Internet & American Life Project, *Latinos Online* at ii (March 14, 2007).

Hispanics to consider the cell phone a necessity, rather than a luxury.”²⁹ Similarly, “African Americans are the most active users of the mobile internet - and their use of it is also growing the fastest.”³⁰ According to the survey, the “high level of activity among African Americans on mobile devices helps offset lower levels of access tools that have been traditional onramps to the internet, namely desktop computers, laptops, and home broadband connections.”³¹ The study concludes that “[f]or African Americans, using the onramp to internet is, in contrast to whites, more likely to be a handheld device on mobile wireless network - and not nearly as likely to be on a wireline home broadband connection.”³²

Moreover, with the introduction of devices like netbooks and wireless data cards, more and more in these communities will be able to rely on a wireless Internet connection to access the same services, content, and opportunities that would be available to them with wireline access. For example, “34% of African Americans have a laptop and 28% have used it to go online wirelessly.”³³ Further, with respect to African Americans the “lower level of home broadband access...in conjunction with lower levels of ownership of ‘heavy’ access devices - desktop and laptop computers - helps explain less frequent online access when the questions are framed in terms of traditional access.”³⁴ However, the “picture changes when including access on a handheld and with the broader

²⁹*Id.* at 14. “Fully 59% of Hispanics consider them a necessity, compared with a fewer than half of non-Hispanic whites (46%) and non-Hispanic black (46%).”

³⁰Pew Wireless Study at 4.

³¹*Id.* at 4.

³²*Id.* at 35.

³³*Id.* at 13.

³⁴*Id.* at 32.

measure of wireless use that includes laptops and other devices.”³⁵ In those cases, “use among African Americans matches or exceeds that of white Americans...[where] African Americans are 70% *more likely*” to access the Internet.³⁶ Moreover, “when tethered and wireless access are considered together, the gaps in online engagement between whites and blacks largely dissipates.”³⁷

Thus, it appears that wireless access to the Internet can play a critical role in providing marginalized communities. However, while Media Justice Commenters do not consider access to the Internet through a wireless device as a solution to solving the digital divide, the wireless ecosystem is a critical first step in helping to close the digital divide as well as providing a means for communication. The numbers indicate that wireless devices are increasingly being used for Internet access, especially by communities of color. However, for these communities to fully take advantage of the opportunities afforded to them on the Internet, they should not feel constrained from taking full advantage of wireless Internet access. Without open and nondiscriminatory wireless networks, these communities will continue to be disadvantaged.

For example, as mentioned above, if mobile device users are unable to access desired applications such as VoIP, then they will be unable to communicate with families in other countries via VoIP applications. Similarly, other types economic, social, and political opportunities mentioned above, such as the ability to apply for a job or fill out public assistance applications, should also be available on a wireless device, in the same manner. Otherwise, these communities may not be able to experience the same freedoms and opportunities available through wireline access on their wireless

³⁵*Id.* at 33.

³⁶*Id.*

³⁷*Id.*

device, and will have to rely on access elsewhere, such as at community anchor institutions, which may not be available or available at inconvenient times and locations.³⁸

Thus, Media Justice Commenters expect to have access to an open and nondiscriminatory wireless Internet experience. To achieve those objectives, Media Justice Commenters believe it is imperative that the Commission make clear that the same principles and rules guiding wireline access are equally applicable to wireless services and agree with the Comments and Study submitted in this docket by New American Foundation, *et al.*³⁹ However, even applying the same rules to wireless service, wireless devices should not yet be considered as a complete replacement or substitute for wired access. Communities lacking meaningful access and choice for wireline broadband access continue to desire affordable wireline access and should have that option, especially when considering speeds and ease of undertaking certain tasks (*e.g.*, filling out a job application on-line). Thus, these communities would like also the ability to access broadband in the home, while benefitting from mobile service as one means of communication.⁴⁰

³⁸For example, some may have to rely on a local library to access the Internet through a wireline connection, however, libraries have limited hours of operation, and are often closed on Sunday. Consequently, for these community members, who work during the day or are young children in school, without open and nondiscriminatory access on their mobile device, they are limited as to what they can do on their device.

³⁹*See* New American Foundation, *et al.*, *Comments and Submission Of Technical Report: Any Device and Any Application on Wireless Networks: a Technical Strategy for Evolution*, GN Docket No. 09-191, WC Docket No. 07-52 (Jan. 14, 2010).

⁴⁰Mobile access could also, at some point, help with adoption of wired access since access on mobile phones can start as engagement point. That is, if consumers are using services like social networking and email on their mobile phone, it could help bridge to adoption of broadband since the consumer has already experienced services and information that they find valuable.

V. CONCLUSION

Therefore, in assessing the needs for the proposed rules, the Commission must consider the human impact of the availability of an open and nondiscriminatory Internet. That is, the Commission's review must adopt rules that provide meaningful and affordable opportunities for access to an open and nondiscriminatory Internet, regardless of an individual's or community's digital skills, geographical location, or socio-economic situation.

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