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**National
Urban League**

July 18, 2014

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: In the Matter of Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Ms. Dortch:

We, the undersigned leaders of national civil rights organizations committed to economic empowerment and digital inclusion for communities of color, write to share comments regarding the Federal Communication Commission's (Commission) proposed rules to protect and promote the open internet.

At the outset, we applaud and support Chairman Wheeler's goals of ensuring that the internet remains a platform for economic growth, innovation, entrepreneurship, free expression and broadband investment and deployment. Open internet rules as he has proposed are a strong start to the process of ensuring not only that the internet remains free, open and well-managed, but also that the internet remains a tool and a vehicle for us to promote and encourage the social and economic inclusion necessary for a competitive, robust 21st Century America.

Additionally, our comments will suggest several areas where the rules should and must be strengthened in order to accomplish the aforementioned objectives – all of which are in the public interest. A little history is in order.

In 2010, many of us supported the Commission's Open Internet Order.ⁱ We recognized then, as we do now, the enormous potential and promise that the internet and digital technologies afforded our communities and supported the Commission in adopting rules that will encourage and promote the unparalleled social and economic empowerment that the internet has provided to our nation.

Central to our point of view is that the final order must contain a strong anti-discrimination mechanism that will specifically ensure that communities of color, emerging entrepreneurs and urban communities will not be disadvantaged or left behind by the growth of the internet. Accordingly, the Commission should adopt a rule that seeks to prevent, discourage and outlaw discrimination prior to the specific determination of harm.

We believe that the public interest, along with sound public policy, can be served by the utilization of the authority contained in Section 706 and that the Commission should exercise its authority pursuant to those provisions to the fullest extent possible.

In doing so, the Commission is urged to consider not only the state of the internet today, but also the state of the internet in the future. This means ensuring that the final rule on anti-discrimination encourages full and complete high-quality broadband deployment to communities of color. Redlining and exclusion of any sort should not be tacitly or actively sanctioned by any portion of the proposed rules.

While we are not saying that this is the case, we urge the Commission to exercise due care and foresight in considering the best way that these rules promote the important public interest of digital inclusion and the widest deployment of the highest quality broadband possible – now and in the future. As for the invitation to comment on the potential utilization of Title II, after careful thought and analysis, we do not believe that Title II is an appropriate or necessary vehicle to be utilized at this time. While we do not believe that the door to Title II should be opened, we do not believe that it should be dead-bolted and locked. Instead, further analysis of what a Title II regulatory framework represents is warranted to determine the effects of such actions on social and economic opportunities for all. Some argue that it gives the Commission an opportunity to promulgate a stronger, non-discrimination rule. Others, however, assert that it will provide future commissions – under different leadership – an opportunity to stifle growth and development and allow barriers to investment and entry. Any framework should encourage inclusion and investment – not impede it – and we will not support any framework ab initio that would promote ill-defined interests. Because of the myriad questions that still exist, further due diligence, information, analysis and clarification regarding what reclassification would indeed mean is necessary so that consumers and the nation clearly understand what rules and regulations would be promulgated by the FCC in a Title II regulatory regime. The current record on this issue is void and de minimis. By engaging in such analysis, the Commission will best fulfill its responsibilities to act in the public interest.

We believe that Chairman Wheeler has struck a good balance with a difficult issue and support his efforts. Nonetheless, we wish to offer several areas where the rules can be strengthened to ensure that economic opportunity and inclusion for all Americans is central to the internet in the 21st Century:

- 1. We urge a strong focus in the Order on closing the digital divide by ensuring the deployment of broadband internet to all communities and ensuring that Universal Service Funds can be used to support adoption.**
- 2. We urge a strong focus in the Order to ensure that broadband internet service providers (ISPs) do not engage in unreasonable discrimination against any lawful internet content, application, or service that harms competition or consumers. We also urge the Commission to identify a manner in which it may create the strongest anti-discrimination rule possible that will protect our communities of color and allow for unimpeded access, use and entry for small minority entrepreneurs.**
- 3. We urge a strong focus in the Order to ensure that all minority businesses, entrepreneurs and workers are given meaningful opportunities to participate in the build out of high speed networks and the innovation of the internet economy.**
- 4. We urge a strong focus in the Order to ensure that the Internet remains an open and diverse marketplace of ideas.**
- 5. We urge a strong focus in the Order to ensure that open and free internet protections apply to both fixed and mobile broadband.**
- 6. We urge a strong focus in the Order to create a monitoring mechanism that analyzes the efficacy of the rules.**

Sincerely,

Marc H. Morial

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Melanie L. Campbell
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ⁱ Report and Order, 25 FCC Rcd 17905, 17910 (2010).