



Congress of the United States
House of Representatives

July 31, 2008

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Dear Chairman Martin,

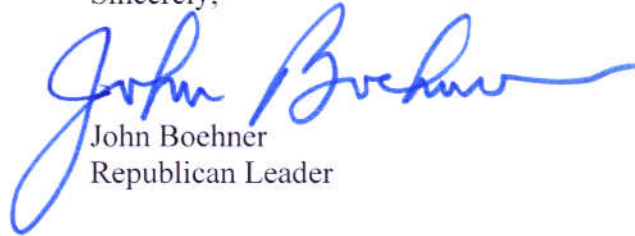
I am dismayed by recent press reports that you intend to interfere with the network management decisions of broadband providers, essentially regulating the Internet. As one of your Republican colleagues at the FCC, Commissioner McDowell, so aptly explained in his July 28 *Washington Post* editorial, “[t]he Internet has flourished because it has operated under the principle that engineers, not politicians or bureaucrats, should solve engineering problems.” Congress has intentionally refrained from imposing the heavy hand of government, which is precisely why we have seen such rapid growth in the Internet. As the *Wall Street Journal* editorial board pointed out July 30, “the FCC’s job is not to determine business models in the private sector. The community of Internet service and content providers has proven itself more than able to work out problems on its own as Web use has exploded.”

As press reports indicate, the current case is no different. Difficulties in quickly transferring large files led to the development of cutting edge peer-to-peer technology. When a small minority of subscribers—often using these applications to share pirated music and movies—began clogging the networks to the harm of the large majority of users, broadband providers began taking steps to alleviate the congestion. This, in turn, has prompted peer-to-peer developers to collaborate with broadband providers to find better ways to manage traffic. It is this market-based, self-governing nature of the Internet that is the key to its success. Your heavy handed attempts to inject the FCC into the middle of that process threaten to hijack the evolution of the Internet to everyone’s detriment. It will also deter the very broadband investment we need for the Internet to continue growing to meet the increasing demands being placed upon it.

Adding insult to injury, it appears you are wading into this debate on very shaky procedural and legal grounds. While the FCC has endorsed certain Internet policy principles, it has never adopted regulations through a proper notice and comment rulemaking. Nor should it, for the reasons I outline above. Nonetheless, your continued pursuit of this matter suggests that you are making not only a poor policy judgment, but a poor legal one, as well. I urge you return

to a sound market-oriented approach, rather than continue down the path you have chosen. It will surely stifle one of the greatest technological and economic success stories our Nation has seen.

Sincerely,

A handwritten signature in blue ink that reads "John Boehner". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Boehner
Republican Leader