October 14, 2011

The Honorable Harry Reid
Majority Leader
United States Senate

The Honorable Mitch McConnell
Minority Leader
United States Senate

The Honorable Jay Rockefeller
Chairman
U.S. Senate Committee on Commerce, Science and Transportation

The Honorable Kay Bailey Hutchison
Ranking Member
U.S. Senate Committee on Commerce, Science and Transportation

Dear Leader Reid, Leader McConnell, Chairman Rockefeller, and Ranking Member Hutchison,

The American Library Association (ALA), the Association of Research Libraries (ARL), and
EDUCAUSE respectfully ask you to oppose S. J. Res. 6 and any other legislation to overturn or
undermine the "Net Neutrality" decision adopted by the Federal Communications Commission
(FCC) in December 2010.

ALA, ARL and EDUCAUSE believe that preserving an open Internet is essential to our nation's
educational achievement, freedom of speech, and economic growth. The Internet has become a
cornerstone of the educational, academic, and computer services that libraries and higher
education offer to students, teachers, and the general public. Libraries and higher education
institutions are prolific generators of Internet content. We rely upon the public availability of
open, affordable Internet access for school homework assignments, distance learning classes, e-
government services, licensed databases, job-training videos, medical and scientific research, and
many other essential services. It is crucial that the Internet remains a "network neutral"
environment so that libraries and higher education institutions have the freedom to create and

provide innovative information services that are central to the growth and development of our democratic culture.

The following data points illustrate why open, non-prioritized Internet access is so critically important to the public that we serve:

    a. 80% of college students live off-campus. Net neutrality is vitally important so that these students receive the same quality of access to web-based information as on-campus students;[1]

    b. 97% of public two-year colleges have online distance education programs;[2]

    c. 99% of public libraries provide patrons with access to the Internet at no charge; in 65% of communities, public libraries are the only provider of such access.[3]

The attachment to this letter provides several specific examples of critical Internet-based applications that our communities have developed to serve students, teachers, the elderly, the disabled and other members of the public. As these examples demonstrate, libraries and higher education increasingly depend on the open Internet to fulfill our missions to serve the general public. Without an open and neutral Internet, there is great risk that *prioritized* delivery to end users will be available only to content, application and service providers who pay extra fees, which would be an enormous disadvantage to libraries, education, and other non-profit institutions. In short, Internet Service Providers (ISPs) should allow users the same priority of access to educational content as to entertainment and other commercial offerings.

The FCC's Net Neutrality decision last December was an important step forward. The decision includes a non-discrimination standard for wireline Internet services, and it limits the opportunities for paid prioritization. The FCC's decision also explicitly protects the rights of libraries, schools, and other Internet users. While the FCC's decision falls short in some other areas, particularly with regard to mobile wireless services, the decision appropriately requires ISPs to keep the Internet open to educational and library content.

For these reasons, ALA, ARL and EDUCAUSE believe that the FCC's decision should be upheld and it should not be overturned by Congressional action. While the FCC's decision can certainly be improved, we strongly believe that the FCC should be able to oversee the broadband marketplace and respond to any efforts by ISPs to skew the Internet in favor of any particular party or user. The Internet functions best when it is open to everyone, without interference by
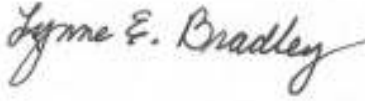
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[1] National Retail Federation 2010 Back-to-School and Back-to-College Surveys, available at http://www.nrf.com/modules.php?name=News&op=viewlive&sp_id=966.

[2] Fast Facts, Institute for Education Sciences, National Center for Education Statistics, U.S. Department of Education, (last visited Dec. 13, 2010) http://nces.ed.gov/fastfacts/display.asp?id=80.

[3] Center for Library & Information Innovation, *"2011 Public Library Funding & Technology Access Study: Results, Trends, and Resources",* Public Library Technology Landscape, p. 24, available at http://www.ala.org/ala/research/initiatives/plftas/index.cfm.

the broadband provider. We urge you to uphold the FCC's authority to preserve the openness of the Internet and to oppose any proposal to overturn or undermine the FCC's Net Neutrality decision.
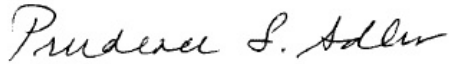
Respectfully Submitted,

Lynne Bradley
American Library Association (ALA)

Gregory A. Jackson
EDUCAUSE

Prudence S. Adler
Association of Research Libraries (ARL)

ATTACHMENT

Network Neutrality is Essential for Libraries and Higher Education Institutions

Libraries, Colleges and Universities Depend Upon the Intellectual Freedom Afforded by the Open Internet to Develop Content and Applications that Serve the Public Interest

The following provides specific examples of how libraries and higher education rely upon an open, neutral Internet in serving the public:

1. **Libraries and Higher Education Institutions are Prolific Providers of Content, Services and Applications on the Open Internet**

   a. Implementation of Distance Learning Services: Educational institutions provide distance learning services and online course instruction over the Internet to reach a growing population of off-campus students.

      i. Ninety-seven percent of 2-year public colleges offer a distance education program. The percentage of undergraduates who took any distance education courses rose from 16 percent in 2003–04 to 20 percent in 2007–08, according to the U.S. Department of Education's National Center for Education Statistics.[4]

      ii. K-12 schools have also long relied upon distance learning and have only increased the use of these programs through Internet technology. For example, over 60% of the school districts in Wisconsin belong to the state's BadgerNet network. This began as a distance learning program in the 1980s via teleconferencing and today offers over 1500 interactive online courses in a typical school year over the Internet.

      iii. *"World Campus,"* created and maintained by Penn State, is essentially "Penn State Online." It delivers more than 50 distance education programs to learners around the world and promotes flexibility in learning by allowing students to participate in classes directly through a home, work, or public Internet connection.

      iv. MIT's "*OpenCourseWare*" offers online video lectures taught by MIT professors and digital copies of class notes to members of the general public, free of charge.

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[4] National Center for Education Statistics, Fast Facts on Distance Education, available at
http://nces.ed.gov/fastfacts/display.asp?id=80.

This online database goes to the heart of creating a more informed citizenry via the open Internet, but it depends on the ability to stream multimedia content without interruption from ISPs.

v. *English ForAll (EFA)*, developed by the National Internet2 K20 Initiative, is a free, multimedia system for older adolescents and adults seeking to learn English as a Second Language (ESL). Because learning to speak English is a complex process, EFA utilizes online streaming video, digitized at a high frame rate, so that learners can see mouth formation and important body language.

b. <u>Development of New Applications and Services:</u> Colleges and universities conduct research and experiment with new network applications to develop services that can ultimately be made available over the public Internet.

i. *Muse* is a new social utility tool that enables educators and practitioners to collaborate, comment, and create online educational services and applications relevant to the "Internet2 K20 community"—institutions and innovators from primary and secondary schools, colleges and universities, libraries, and museums.

ii. *The Digital Corinth Synchronized Database Project*, an Internet2 project, connects two separate online databases, one in Philadelphia and one in Athens, Greece, so that applications may be built for K20 education and tools developed for archaeological research. A user can connect to the database from the public Internet presuming, however, that ISPs allocate the bandwidth necessary for the transmission of content and services.

c. <u>Creation of Digital Data Collections:</u> Libraries and higher education institutions maintain digital data collections to preserve research and scholarly content and to make resources more accessible to off-campus students and faculty, as well as the general public.

i. Institutional repositories, such as Harvard's *DASH Project* and University of Michigan's *Deep Blue,* collect and make available online data sets, scholarly publications, streaming videos and multimedia collections, free of charge, in order to promote access to research and scholarly communication.

ii. Libraries also create digital versions of content for the purposes of preservation and historical reference. The San Francisco Public Library, for example, digitized a collection of over 250,000 historical photographs and provides access to over 10,000 popular songs from the Dorothy Starr Sheet Music Collection through the library's website.

d. Incorporation of Mobile Wireless Applications and Services: Libraries and higher education institutions increasingly offer resources via mobile wireless platforms to reach a broad range of demographic groups and to ensure that users can access content and services at any time, from any location.

    i. Many university and research libraries now offer mobile online public access catalogs (OPACs), mobile versions of library websites, and text-messaging services to correspond with patrons. For example, Duke University has a free iPhone application that allows patrons to browse the library's digital photo archive, presuming their wireless connection is not throttled or slowed from a network provider.

    ii. Public libraries also provide online library environments in order to improve community access to resources. In Wisconsin, the Outagamie Waupaca regional library system allows both its website and online catalog to be viewed via mobile devices. Similarly, the Orange County (Fla.) Library System utilizes a free mobile application that creates a virtual "shelf browse" for material selection. Using a randomized "shake" feature, users can receive material recommendations for books, audio books, and DVDs. When a match result is displayed, the user touches the material title to be taken to the mobile catalog. From there they have access to the title's availability, ratings, and library location, as well as the ability to place the title on hold.

    iii. Through the adoption of mobile wireless technology, libraries, colleges and universities can more effectively deliver content and services to traditionally underserved groups. While ethnic minority populations are connected to broadband at home less than are other demographic groups, they access the Internet via the mobile platform at higher rates than whites. For example, according to 2010 study by John Horrigan, "for African-Americans, home broadband adoption trails the national average by six percentage points; for mobile Internet use, African-Americans outpace the national average by nine percentage points."[5]

    iv. In particular, minority Americans lead the way when it comes to mobile access using a hand-held device. A 2010 study by the Pew Research Center notes that "[n]early two-thirds of African-Americans (64%) and Latinos (63%) are wireless Internet users, and minority Americans are significantly more likely to own a cell phone than are their white counterparts (87% of blacks and Hispanics own a cell

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[5] John B. Horrigan, "Broadband Adoption and Use in America," FCC, OBI Working Paper Series No. 1, February 2010, pp. 35-37, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf.

phone, compared with 80% of whites). Additionally, black and Latino cell phone owners take advantage of a much wider array of their phones' data functions compared to white cell phone owners."[6] The ability of these groups to access higher education and library resources over the Internet depends on successful transmission via mobile wireless platforms.

2. Research Libraries and Institutions Rely on the Open Internet as End-Users in Order to Collaborate with and Obtain Content and Services from Outside Sources

a. Access to Outside Resources: Research libraries dedicate significant funds to licensing electronic resources that they make available to students, and faculty, and other off-campus users. For example, the *MESL* Project—the Getty's Museum Education Site Licensing Project—provided access to over 4,500 digital images of paintings, photos, textiles, ceremonial objects, and other cultural artifacts through a collaborative effort of the Getty Information Institute, several museums, the U.S. Library of Congress, and seven universities. More than 45 state libraries now provide their states' residents with access to thousands of online magazines, newspapers and other reference resources. Without net neutrality, libraries will need to judge the brokers of this content not based on the quality of their online resources but based on whether they have paid to ensure their resources are accessible in a timely manner.

b. Use of Online Communication Services: Universities rely on Internet access to communicate with students and faculty. Currently, more than 750 colleges and universities subscribe to *e2Campus*, a web-based application that simultaneously broadcasts alerts to school websites, student email-accounts, wireless PDA's, Facebook, and many other devices that rely on Internet access.

c. Collaboration with Outside Institutions: The Smithsonian Institute has partnered with Arizona State University to implement a wireless connection in Barro Colorado—an island in the middle of the Panama Canal's Gatun Lake where the Smithsonian manages its Institute for Tropical Research—that transmits images and data back to the University and K-12 classrooms in Arizona.

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[6] Aaron Smith, "Mobile Access 2010," Pew Research Center, Pew Internet and American Life Project, July 2010, pp. 3, http://pewresearch.org/pubs/1654/wireless-internet-users-cell-phone-mobile-data-applications.