

# United States Senate

WASHINGTON, DC 20510

July 12, 2011

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington DC 20554

Dear Mr. Chairman:

As a Member of the Senate Commerce Committee, I write to you today regarding President Obama's Memorandum for the Heads of Independent Regulatory Agencies issued on July 11, 2011 and the Federal Communications Commission's (FCC's) Internet network regulatory regime, also known as "net neutrality."

As you know, on July 11, 2011, President Obama formally asked independent agencies to join executive agencies in reducing regulations that place unnecessary burdens on American businesses and the American people that was outlined in Executive Order 13563. The President was right to ask independent agencies such as the FCC to join in this effort.

In your press release regarding this announcement yesterday, you stated: "I welcome the President's request today. Since my first day as Chairman, I have made regulatory reform a top priority, improving FCC processes and decisions to support innovation."

I am glad to hear your embrace of the President's request issued yesterday. You and I agree that regulatory reform is a top priority and we both know it will increase investment, spur innovation, increase competition and create jobs, especially in my home state of Nevada.

It is in that spirit that I request the FCC apply a retrospective review towards the Internet network regulatory regime approved 3-2 by the FCC on December 21, 2010. Executive Order 13563 stated that each agency must, among other things, propose or adopt a regulation only upon a reasoned determination that its benefits justify the costs. However, the language in the net neutrality order conceded that the Commission did not conduct a market power analysis or make a market power finding.

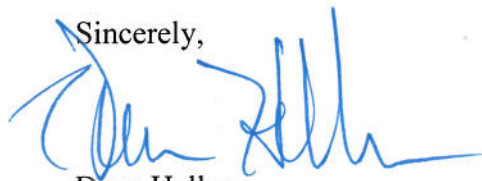
It is important to understand the implications of the FCC's net neutrality order and its impact on jobs. Over the last fifteen years, we have all witnessed an explosive growth in innovation and investment in infrastructure. Before this rule goes into effect, it is imperative that we fully

understand the impact this regulation will have on our economy. Failure to fully understand the cost benefits of this rule could slow our economic recovery and harm job creation.

In light of your support of the President's request and the fact that net neutrality rules are not yet in effect, would you consider revisiting the net neutrality order and pursuing a cost benefit analysis pursuant to the format outlined in the President's Executive Order? If not, please provide me with a detailed explanation why.

I request your response to these questions in writing within two weeks of the date of this letter. If you have any questions, please contact Josh Finestone with my office at (202) 224-6244.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dean Heller", with a stylized flourish extending to the right.

Dean Heller  
U.S. Senator