

**Before the  
Federal Communications Commission**

**In the Matter of**

**Open Internet Remand  
GN Docket 14-28**

**Framework for Broadband Internet Service  
GN Docket 10-127**

**Comments of Kickstarter, Inc.**

**July 10, 2014**

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## **Introduction and Impact of Rules**

I am submitting these comments on behalf of Kickstarter's employees and users; together, we urge you to protect a free and open Internet. We have grave concerns about your proposed rules and the two-tiered Internet that a paid prioritization model would create. We fear the chilling effect these rules would have on innovation, the negative impact they would have on our culture, and the real harm they would do to companies like ours.

Kickstarter, like Wikipedia, Twitter, and every other service on the web, was built on the foundation of an open Internet. We would not exist without it. The more than 65,000 creative ideas that have been brought to life using Kickstarter — from new technologies to new restaurants to new symphonies — also depend on a free and open Internet.

Our ability to provide an excellent product and services to the creators of those 65,000 ideas is what we devote all of our work to. This proposed system would incentivize entrepreneurs to divert resources away from their customers and staff so that they could make paid deals with Internet Service Providers. Trading healthy competition for deep pockets is a terrible way to create an innovative, competitive economy.

## **Background on Kickstarter**

Kickstarter is a funding platform for creative projects. Thousands of projects are raising money and finding support on Kickstarter at any given moment. The entrepreneurs, filmmakers, musicians, and designers using Kickstarter have complete control and responsibility over their projects. Every project creator sets their project's funding goal and deadline. If people like the project, they can pledge money to make it happen and receive rewards in exchange. Funding on Kickstarter is all-or-nothing: if the project succeeds in reaching its funding goal, all backers' credit cards are charged when time expires; if the project falls short, no one is charged. If a project is successfully funded, Kickstarter applies a 5 percent fee to the funds collected.

My co-founder Perry Chen first conceived of the idea for Kickstarter in 2001. He was living in New Orleans and wanted to bring a pair of DJs down to play a show, but it was just too much money. The fact that the potential audience had no say in this decision stuck uncomfortably in his brain. He thought: "What if people could go online and pledge to buy tickets for a show? And if enough money was pledged they would be charged and the show would happen. If not, it wouldn't."

In the spring of 2005 he moved back to New York City to try and tackle the next steps: Who would be able to build the website? How much it would cost? Never once did he worry about negotiating a deal with an ISP for access to the fast lane of the Web. Never once did he fear that the site's content would be blocked or slowed by an ISP.

In the fall of 2005, Perry and I became friends. About a year later, we met Charles Adler. It took us years of work to build the site. Finally, on April 28, 2009, we launched Kickstarter to the public.

Since that day, over \$1.2 billion has been pledged by more than 6.5 million people, funding more than 65,000 projects. Amazing things have come to life via Kickstarter: sixth-grade girls have sent objects into space; hundreds of mini libraries have been built; new restaurants have opened all around the country; game-changing technologies like Oculus Rift have gotten their start; and some of the greatest artists of the 20th Century, like Neil Young, Spike Lee and Marina Abramovic, have used Kickstarter to create new things.

## Competition

Though Kickstarter is the largest and most well-known platform, there are now dozens of other “crowdfunding” sites out there. Competition is good — it inspires a better experience for customers. We’re happy to compete on the basis of our product. Under a paid prioritization system, however, this kind of competition would end.

Once a fast lane exists, it will become the de facto standard on the web. Sites unwilling to pay up will be buffered to death: unloadable, unwatchable, and left out in the cold. Sites like ours will succeed or fail not on the basis of our passion or service, but based on whether we have the resources and desire to pay the ISPs.

The situation will be even worse for newer and smaller companies. It won’t be enough to have a great idea and execute it well. New entrepreneurs will have to pay their cable company tax, too.

One of our board members, Fred Wilson, described how venture capital pitches would go, in this nightmare scenario: “Telcos will pick their preferred partners, subsidize the data costs for those apps, and make it much harder for new entrants to compete with the incumbents.”<sup>1</sup>

## Real Impacts of Paid Prioritization and Commercial Reasonableness Standard

Paying for access to a fast lane would require a reevaluation of our business model to generate the money and resources to negotiate with an ISP. We would have no real recourse if we were offered an unfair price. Using our small legal team or hiring outside counsel to prove that an offered deal was “commercially unreasonable,” as proposed in your rules, would take far too long and cost far too much to be a feasible option. Even working with the ombudsman you propose would be too onerous.

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<sup>1</sup> <http://avc.com/2014/01/vc-pitches-in-a-year-or-two/>

Again, for smaller or newer companies, this situation would be even worse. Adding the burden of negotiating with ISPs to small businesses would clearly tilt the balance toward big companies with resources to spend on legal fees and lobbying.

If Kickstarter were left in the slow lane, users of our site would be directly impacted. Creators on Kickstarter present their projects through text, photos and, most importantly, video. People from all over the world see these projects and can choose to fund them. It is a basic fact of the Web that in order for videos to be effective and compelling, they must play smoothly. Users will not accept slow load times and choppy videos. If Kickstarter content were slowed or blocked by an ISP, creators seeking funding for their projects would be harmed.

### **Reclassification Under Title II**

We believe that the surest way to avoid paid prioritization deals and keep the Internet open and free is to reclassify the ISPs as common carriers under Title II of the Communications Act. Title II reclassification would give the Commission the proper tools to enforce net neutrality, whereas other paths would not. As the courts recently held, the Commission simply cannot exercise these tools under Section 706. Crucially, reclassifying ISPs under Title II would allow the Commission to prohibit unreasonable discrimination, and to clearly define that standard in its implementing regulations as banning paid prioritization, application-specific technical discrimination, and access fees.

### **Conclusion**

Destroying Net Neutrality has implications far beyond Kickstarter. Allowing paid priority access and content discrimination would threaten the free exchange of ideas that takes place online, between people from all around the world, every second of every day.

We know that you and others in Washington hear from lobbyists for the cable industry on a daily basis. While we do not have Washington lobbyists, we represent millions of Internet users who feel strongly about this issue. We hope you will consider the opinions of the people who rely on the Internet to communicate, stay informed, and help innovate our culture and economy.

President Obama recently said that we need to be a nation of makers, not buyers. We couldn't agree more. That's why we support a culture where entrepreneurs, artists, and others are making their own success, not buying it.

Sincerely,  
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Kickstarter, Inc.