



Written Testimony of

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Before the

**U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Communications and Technology**

Regarding

“Legislating to Safeguard the Free and Open Internet”

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Chairman Doyle, Ranking Member Latta, and members of the subcommittee, thank you for inviting me to testify. I am Gregory Green, Co-Founder and CEO of Fatbeam. Fatbeam is a small Internet Service Provider (ISP) serving rural America. Fatbeam has long supported net neutrality because it is driving a streaming and cloud revolution, as well as transforming industries across the economy. In turn, the demand for online services and applications is driving the market for deploying more fiber optic broadband networks and growing local rural economies.

Founded in 2010, Fatbeam has evolved from a local Idaho-based competitive fiber provider, to a leading competitive regional network. With 35,000 fiber miles across the Western U.S., Fatbeam delivers fiber optic broadband in 40 cities across seven states, including the states of Washington, Idaho, Montana, Wyoming, Oregon, Arizona, and Nevada, with expansion plans for New Mexico in the future. The 40 cities Fatbeam serves are third and fourth-tier markets with less than 150,000 in population. Fatbeam offers fiber optic bandwidth starting at 1 gigabit Ethernet and extending to 400 gigabit. We also offer dark fiber.

Fatbeam serves a variety of customers including enterprise, healthcare providers, government and educational institutions, as well as other broadband providers through wholesale offerings. The company has an especially strong history with network provisioning for school districts through the E-rate program. Over the last three years, Fatbeam has partnered to delivery over 90 miles of newly constructed fiber-optic network for schools. The resulting fiber optic networks have afforded school districts access to nearly ten times their previous bandwidth and has resulted in a decrease in cost per megabyte of more than 20%, saving taxpayers money.

Over the next few years, Fatbeam is poised to capitalize on its proven track record of success as it continues to expand and deliver reliable fiber-based network services to its

customers. Time and time again, the business and anchor institutions in a community seek better communications infrastructure in order to support growing bandwidth needs for the community, to increase their commerce capacity, and grow their local economies. Once Fatbeam enters a market, communities have been transformed.

Fatbeam supported the FCC's 2015 Order that was twice upheld by the U.S. Court of Appeals for the D.C. Circuit. Fatbeam submitted an affidavit during the litigation affirming our support, noting our obligation to comply with the Order and rules as an E-rate provider, and further stating that:

With the new rules in place, Fatbeam intends to continue to expand its networks, deploy fiber and provide smaller third and fourth tier markets with competitive fiber optic broadband options. The availability of robust, high speed broadband fiber optic access service is a powerful catalyst for economic growth and development and such growth and development benefit all residents of the community.¹

Indeed, Fatbeam deployed approximately 92 miles of fiber and served 8 new cities during the time in which the 2015 Open Internet Order and its rules were in effect. Neither the 2015 Order and rules nor FCC oversight deterred our investment.

At the time that the current FCC was considering its repeal of the Order, I wrote an Open Letter adding my voice to the opposition. I stated "it is a fallacy that investment in broadband by large carriers such as AT&T and Comcast will be slowed unless net neutrality is revoked."²

What is driving investment in broadband is the demand to connect to online services across

¹ See Declaration of Gregory Green, attached as Exhibit 5 to the Opposition of Intervenors to Petitioners' Motion for Stay, Case No. 15-1063 (May 22, 2015).

² Open Letter regarding Net Neutrality (Dec. 11, 2017), *available at* <https://www.fatbeam.com/open-letter-regarding-net-neutrality/>.

many industries, including cloud computing and remote work, telemedicine, and yes, video. The permissionless innovation on the edge that was the result of a long-held, bipartisan consensus of an open internet in the U.S. gave rise to many new opportunities that consumers and businesses rely on and want to connect to. Fatbeam builds in those areas where we can make a business case to do so because there is the demand for high-speed broadband—that demand is for access to all the online content and services that an open internet fostered. Incumbent ISP investments have nothing to do with net neutrality requirements or Title II. They invest in their networks based on demand, and I would be remiss if I did not state that it is my experience that incumbents invest *more* in broadband when competitive fiber providers enter the market.

In my Open Letter, I expressed my concern that without net neutrality rules, the large incumbent telecom and cable companies will interfere with competitors. I still have that concern. Today, the four largest ISPs in the nation have over 70% of residential broadband customers, and the majority of Americans only have one ISP option for residential broadband service. We know that such ISPs have the incentive to block, throttle and demand access fees of edge providers and those providers with which they interconnect as they have done so in the past. However, with rules in place to prevent such conduct, and with strong oversight of interconnection practices by the FCC, ISPs' incentives can be checked so that ISPs cannot discriminate against edge providers or other ISPs they interconnect with.

You have heard from small ISPs that they don't have an incentive to engage in such behavior, and they have asserted that they should not have to abide by the same rules. I can understand that perspective as Fatbeam supports its customers' access to an open internet, and we would not engage in behavior that would hinder their ability to access the online content and services of their choice. However, history has shown that small ISPs also have offended the

principles of an open internet. I believe having rules in place that every ISP has to follow are fair and they benefit all customers who have assurances knowing that no matter who their ISP is, they are protected.

The Save the Internet Act rightfully restores the FCC's 2015 Order and rules. Fatbeam supports the legislation because it will provide the assurance that all ISPs are held to the same rules—no blocking, no throttling, no paid prioritization, and no unreasonable conduct, with strong interconnection oversight. No one ISP could take unfair advantage of their market position by unreasonably discriminating against online competition or another provider with which it interconnects. I am not a lawyer, but as a businessman who has long worked in the industry, I have an appreciation for the fact that many of the market-opening, competition provisions in the 1996 Telecommunications Act reside in Title II. Indeed, I've been surprised by the denigration of that part of the Act which for me affords the protections that have helped me build Fatbeam and my prior ventures so that we can compete and offer customers an alternative to the incumbent. It imposes strong prohibitions on anti-competitive behavior and offers strong pro-consumer, pro-competition incentives. I understand that the Save the Internet Act would encapsulate all of the 2015 protections in the Communications Act, including requiring all ISPs to offer just and reasonable, non-discriminatory service so that their customers can access the online content, applications and services of their choice. Fatbeam supports this approach. It would end the long debate about which protections apply.

As a businessman I can assure you that the entire ISP industry is looking for certainty. Fatbeam encourages you to pass enduring open internet legislation. The Save the Internet Act accomplishes that goal, and I urge you to support it.

Thank you for the opportunity to testify, and I am happy to answer any questions you may have.