

December 8, 2017

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* Filing of Sjoberg's, Inc. on Restoring Internet Freedom, WC Docket No. 17-108

Dear Ms. Dortch:

On December 7, 2017, I spoke via telephone with Chairman Ajit Pai about the impact that the Commission's 2015 Open Internet Order¹ has had on Sjoberg's, Inc. ("Sjoberg's"), a small, rural company that provides broadband Internet access service to roughly 6,800 subscribers in Northwest Minnesota. The discussion was consistent with my sworn declaration that the American Cable Association included in its comments in this proceeding.²

During the call, I explained that Sjoberg's has never throttled, blocked, or impaired our customers' access to any lawful Internet content, nor have we ever engaged in paid prioritization or intend to do so in the future. I also described how the Commission's decision in 2015 to reclassify Internet access service as a telecommunications service regulated under Title II and to impose a new Internet General Conduct standard has had a profound and negative impact on our business, restricting our access to capital and lessening our appetite for investment.

The Title II decision has had a chilling effect on Sjoberg's ability to innovate and invest. Whenever we are presented with a business opportunity that we think may benefit our customers, we must filter our decision through the lens of Title II and the Internet General Conduct standard. For example, at one point we considered hosting a caching device, which would lower our cost of transport and improve our customer experience. Ultimately, we decided not to make this investment out of concern that the Commission would retroactively determine that use of such a device violated the Commission's rules. This was unfortunate. We want to do what's right for our customers. However, as a small company, we also must make sure we're following the law because we are unable to bear the burden of a government inquiry into our business practices or, even worse, to pay a fine. Either event would be crippling. Sadly, the uncertainty created by the Commission's 2015 Open Internet Order made it difficult for us to be sure that business decisions made with the best of intentions would not run afoul of the Commission's rules.

The Title II decision also made it significantly harder for us to borrow money for equipment replacements and network upgrades. Following the Title II reclassification, we found that our borrowing costs, both at a large national bank and at a small local bank, increased substantially. There were no other

¹ *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015) ("2015 Open Internet Order").

² Comments of the American Cable Association, WC Docket No. 17-108, Exhibit D, Declaration of Richard Sjoberg, Sjoberg's Inc.

major changes in our business to account for this increase, other than the reclassification of broadband as a Title II service.

The threat of future rate regulation also has had a definite chilling effect on our investment decisions and expansion plans. We have opportunities to extend our network further into rural areas with fewer households, but we currently must consider whether we want to borrow money (and at a higher rates due to Title II) in order to execute an 8 to 10-year deployment plan with potential further Title II regulation looming overhead. While we are interested in serving additional rural areas that are currently unserved by high-speed broadband, we cannot take the risk of borrowing money that Title II regulation might make it harder to repay in the future.

Finally, I told the Chairman that Sjoberg's strongly supports the proposed Restoring Internet Freedom Order.³ By freeing my company from the heavy-handed regulation of Title II, my community and customers will be best served because Sjoberg won't be blocking, throttling, or engaging in any anticompetitive paid prioritization, and will be investing in our network and innovating.

Pursuant to section 1.1206 of the Commission's rules, this letter is being filed electronically with the Commission.⁴

Sincerely,

Richard Sjoberg
President & Chief Executive Officer
Sjoberg's, Inc.

cc: Chairman Ajit Pai

³ *Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, FCC-CIRC1712-04 (Nov. 22, 2017) ("Restoring Internet Freedom Order").

⁴ 47 C.F.R. § 1.1206. This *ex parte* filing is made in accordance with Section 1.1206(b)(2)(iv), which applies to presentations made on the day the Commission releases the Sunshine Notice in a proceeding. 47 C.F.R. § 1.1206(b)(2)(iv).