

**Senator Deb Fischer**  
**Written Questions for the Record to**  
**Mr. W. Thomas Simmons**  
**“Protecting the Internet and Consumers through Congressional Action”**  
**Senate Committee on Commerce, Science, and Transportation**  
**Wednesday, January 21, 2015**

**Question 1** – Mr. Simmons and Mr. McDowell – can you please describe the impacts on a small cable operator in the state of Nebraska of having the FCC force heavy-handed Title II utility regulations. My understanding is the FCC currently has 1,000 active rules based on Title II, occupying nearly 700 pages in the Code of Federal Regulations and that the Progressive Policy Institute recently issued a report highlighting how Title II reclassification of the Internet would add about \$15 billion in user fees to our economy, increasing annual levies on middle class families by \$67 dollars for wireline service and \$72 for wireless broadband.

**Response:** The regulatory burdens and costs associated with a Title II approach would have a significant and disproportionate impact on small- and medium-sized providers’ ability to invest further in our broadband networks. The Federal Communications Commission’s decision a decade ago to lightly regulate Internet service encouraged Midcontinent and other small providers to invest hundreds of millions of dollars in our networks to make those networks increasingly faster and more robust. In rural areas, those investments were risky, but we made them driven by the knowledge that we would not be limited in our ability to use that investment to create and develop the most compelling broadband service offerings possible, the type of service we believe all our customers deserve. Title II reclassification would harm providers’ ability to obtain the capital needed to invest and make obtaining that capital significantly more expensive. It could also open broadband service up to a number of federal and state fees applied to telecommunications services, driving up the cost of broadband and making it more difficult for our subscribers to afford.

**Question 2** – To All Witnesses – While the FCC is in the process of ensuring net neutrality, some want the FCC to impose all of these obligations under the guise of ensuring consumer protection. Some argue that common carrier requirements on broadband providers should include almost most all of Title II, in addition to Sections 201, 202, and 208. Specifically, some activists have suggested the following parts of Title II must be applied to the broadband industry:

*UNIVERSAL SERVICE*

Sec. 214. [47 U.S.C. 214] Extension Of Lines

Sec. 225. [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired and Speech-Impaired Individuals.

Sec. 254. [47 U.S.C. 254] Universal Service.

Sec. 255. [47 U.S.C. 255] Access by Persons With Disabilities.

*CONSUMER PROTECTION*

Sec. 217. [47 U.S.C. 217] Liability of Carrier for Acts and Omissions of Agents.

Sec. 222. [47 U.S.C. 222] Privacy Of Customer Information.

Sec. 230. [47 U.S.C. 230] Protection for Private Blocking and Screening of Offensive Material.

Sec. 258. [47 U.S.C. 258] Illegal Changes in Subscriber Carrier Selections.

*COMPETITION*

Sec. 224. [47 U.S.C. 224] Regulation of Pole Attachments.

Sec. 253. [47 U.S.C. 253] Removal of Barriers to Entry.

Sec. 251. [47 U.S.C. 251] Interconnection

Sec. 256. [47 U.S.C. 256] Coordination for Interconnectivity.

Sec. 257. [47 U.S.C. 257] Market Entry Barriers Proceeding.

Do you agree or disagree that these sections of Title II common carrier regulation are needed? If you agree, please explain why.

**Response:** Generally, we disagree that these provisions should be applied to broadband service, although they should continue to apply to existing telecommunications carriers. Title II of the Communications Act was designed for the 1930s telephone monopoly era, and applying Title II regulations to today's broadband service would be highly disruptive and work against the government's policy goals of increasing broadband deployment and adoption. Importantly, however, while these considerations would support refraining from imposing the unnecessary and burdensome obligations and restrictions contained in Title II, there are a small number of provisions that happen to be codified in Title II and, far from imposing unnecessary restrictions or obligations, actually facilitate broadband investment and deployment goals. Section 224, which establishes a series of rights among different classes of carriers and non-carriers with respect to access to poles, conduits, and rights-of-way, and Section 230, which provides immunity from publisher-related liability for various classes of Internet intermediaries, including ISPs, would fall into this category.