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 TouchCast

July 10, 2014

Erick Schonfeld, Edo Segal,
and Charley Miller
Co-founders, TOUCHCAST
TouchCast
603 Greenwich Street
New York, NY 10014
Erick@touchcast.com

I. TouchCast Makes Digital Videos Interactive

Touchcast is a revolutionary new video platform that brings the interactivity of the web to video. Viewers are able to explore the web, photos, other videos, and interactive graphics (called "video apps") without leaving the original TouchCast video. TouchCast is a new medium that's being explored for the first time just now.

The Internet has enabled a great transformation in video *distribution*: YouTube and Vine have made it possible for virtually anyone to make videos available to anyone else; Hulu and Netflix have made professionally-produced videos available on-demand. But the Internet has not yet transformed video *content.* Most online videos are more or less in the same format as they were 40 years ago: a stream which you can pause, fast-forward, or rewind. TouchCast is changing that. This isn't simply a technological leap; it's a creative and artistic one as well. We are able to completely rethink how people are able to interact with videos and websites. You won't just be watching videos anymore; you'll be experiencing them, and participating in the interaction.

It's become clear very quickly that the public is hungry for a reinterpretation of digital content. Our customers include some of the world's largest media companies, as well as hundreds of thousands of consumers, particularly educators and students who use TouchCast in schools every day. We see demand for advertising, commerce (shoppable videos), and corporate communications.

TouchCast was founded in New York City by Edo Segal, Erick Schonfeld, and Charley Miller. Segal is an inventor and entrepreneur. Schonfeld is a technology journalist (former Editor-in-Chief of TechCrunch), and he also runs the DEMO conference (a launchpad for new technology startups and products). Miller is a game designer, software developer, and former teacher. We founded TouchCast inside bMuse, a startup studio in New York City owned and operated by our CEO, Edo Segal.

In terms of awards and professional recognition, we won the App of the Year from Apple in 2013 and Cool Vendor in Media from Gartner in 2014. We were a finalist for the 2014 Webby (Best Use of Mobile Video) and a nominee for the 2013 Hottest Startup. We were on the AdWeek Hot List and on VideoInk's list of top 5 Breakthrough Video Technologies. In the little time we've been around we have already begun to make a significant impact on what the internet as a whole could look like in the near future.

TouchCast represents the birth of a new medium by combining the visual storytelling of video with the interactivity of the web. Interactive video is finally a reality with TouchCast. We believe it is the next stage of the web.

II. We Would Have Thought Twice About Founding This Company Under the FCC's Proposal

We are self-financed and have not yet raised any venture capital. As such, we could not have afforded to put ourselves in a "fast lane," with rapid and consistent service, as envisioned by the Chairman's proposal. We would have been relegated to a slow lane, and the ISPs have every incentive to make the slow lane unpleasant, so that web companies like us have reason to pay to be in the fast lane. Thus being in the slow lane would have put us at a serious, potentially fatal, disadvantage.

In fact, being confined to a slow lane would hurt us in four ways:

1. **The development of our product might have been compromised.**

Operating TouchCast (both the app and the website) requires us to shuttle ever-increasing amounts of data and video files; if we had to contend with poor service as a design principle, our innovation would not have reached its full potential.

2. **Fast and consistent broadband is crucial for a proper TouchCast viewing experience.**

Assuming we were able to create TouchCast, we would have faced further difficulties once our consumers started to use it. Both creating and consuming TouchCasts takes a significant amount of bandwidth. Web pages and data need to be downloaded in real time from the web during the authoring process. When someone views a TouchCast, they not only stream video, but also download web pages and data from the Internet all at the same time. Any perceived delays in video streaming rates or the presentation of any other information within a TouchCast would result in high consumer abandonment rates.

3. **An uneven Internet hurts our product.**

On the Internet, we are not alone. At this point, even if our access to the Internet were not an issue, the access of countless other organizations could be. In order to experience an interactive TouchCast, our users have to draw large amounts of data from multiple sources—a streamed video, a webpage loading and a Twitter feed, for example. They would not know which companies are paying for faster lanes, but they would notice that some of the videos, websites, and data inside our TouchCasts are downloading slowly and patchily. Often, and understandably, they would blame TouchCast.

4. **Exclusive agreements could shut us out.**

Even if we were able to overcome these difficulties—if we could somehow come up with the money for premium broadband access and our users did not blame us for the delays they suffered in loading others' content—we would have faced a crippling threat from exclusive agreements forged between broadband providers and our competitors. We are hoping to change the way people watch videos and TV. Established broadcast companies are wealthy and powerful, and they could easily forge exclusive agreements with broadband providers and block us from those providers' networks. While the Chairman's proposal prevents NBC from forming an exclusive agreement with its affiliate, Comcast, it does nothing to prevent NBC from forming the same agreement with Verizon, or CBS with both Verizon and Comcast. These exclusive agreements could shut us out of the game entirely.

III. The FCC's Proposal Threatens Our Company's Future

All of the worries that we would have had at our founding are alive today. Two-tiered access to the Internet—where we would have to either pay a fee to each cable and phone company to get the same treatment as our competitors or end up being disadvantaged—would completely change how we do business.

As we remain self-funded, we would not be able to afford fast lanes today. But even if we could find the money for it, that would only slow our growth and hamper our innovation. A significant portion of our funds would either have to be diverted to paying the large cost of staying on the new fast lanes, or to constantly put scarce engineering resources towards compensating for our slower connection compared to our competitors. We would no longer be able to focus on providing our customers a more innovative video web experience. If we can't keep up with the streaming quality of larger video services, viewers will lose patience with us and divert their attention elsewhere.

Keeping a lid on bandwidth streaming costs is a key to our long term financial viability. We are, of course, happy to pay to deliver our service over the Internet, as we do today. But if fast lanes were introduced, those costs would increase substantially and we would have no choice but to divert valuable time and funds towards keeping up with our incumbent competition, towards making sure our website and iPad app had the speed they need to be delivered properly. We are a business that is completely based on a concept that has never been attempted before. Any new fast lanes would seriously affect our business practices and our ability to consistently create new innovations for our customers going forward.

These so-called fast lanes are nothing more than a form of double taxation on the part of the ISPs who are trying to collect from both ends of their pipes. As consumers ourselves who already pay hefty fees for broadband Internet service at our homes and office, we expect to be able to download files from Dropbox or stream videos from YouTube, Netflix, or TouchCast all at the same speeds. If we are paying Verizon FIOS for 50 megabits per second broadband, everything should come at that speed, not just from the bigger web services able to double-pay Verizon on the other end.

IV. Our Concerns Are Real and the "Commercial Reasonableness" Standard Will Not Help Us At All

Having the right to sue broadband providers such as Verizon and AT&T under vague standards which *allow them to discriminate* is not very helpful. We are a small company with just twenty employees spread across the globe. We do not have the resources to engage in a legal battle with broadband providers and ISPs. Not to mention, the distraction of such an effort would take so much of our time and efforts away from improving our product and finding new customers.

Instead, we need *per se* rules against technical discrimination and paid prioritization, on both fixed and mobile connections to the Internet. We urge the FCC to reconsider its proposal, and to classify broadband providers under Title II of the Communications Act. The FCC should encourage innovation, rather than stifle it

.

Respectfully submitted,

<u>\s\Erick Schonfeld, Edo Segal, and Charley Miller</u>

Co-founders, TouchCast