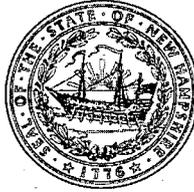


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



ANN M. RICE
DEPUTY ATTORNEY GENERAL

December 18, 2017

Honorable Jeanne Shaheen
United States Senate
Washington, DC 20510

Honorable Margaret Wood Hassan
United States Senate
Washington, DC 20510

Honorable Carol Shea-Porter
United States House of Representatives
Washington, DC 20515

Honorable Ann McLane Kuster
United States House of Representatives
Washington, DC 20515

Dear Members of Congress:

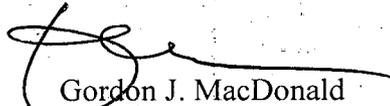
On December 14, 2017, the Federal Communications Commission ("FCC") voted to approve a Declaratory Rule, Report and Order in *In the Matter of Restoring Internet Freedom* (WC Docket No. 17-108). On December 15, 2017, you wrote to me about this rulemaking. You stated, in part: "As we pursue legislative solutions in Congress to protect the rights of Granite Staters on the web, we urge you to join with states across the country that are planning to take legal action against the FCC to block the decision."

The FCC was created by Congress, Congress endowed it with rulemaking authority, and this order rests, in considerable part, on an interpretation of the Telecommunications Act of 1996, which was enacted by Congress in that year. Although federal agencies address many complex issues, Congressional authority remains plenary. As your letter suggests, that is the case here.

To be sure, under the federal Administrative Procedure Act, Congress has provided a means for those with legal standing to seek judicial review where, for example, an agency has exceeded its authority or where there were procedural irregularities with the rulemaking process. But, such a course is by no means reserved for, or limited to, state attorneys general. In any event, it has been the longstanding practice of this Office to undertake litigation on behalf of the State of New Hampshire only after careful consideration and review. That practice rests on a number of considerations, not the least of which are ensuring the judicious use of the limited resources of this Office as well as our professional obligations to ensure that there is a good faith basis to support any claim.

Federal telecommunications policy and regulation is a matter reserved for Congress and federal agencies and, thus, is outside the jurisdiction and expertise of this Office. We will monitor Congress' response to this order. New Hampshire will not be joining a lawsuit on this matter. This Office will continue to enforce vigorously the consumer protection act and all other laws to protect New Hampshire consumers and business.

Sincerely,



Gordon J. MacDonald
Attorney General