



December 5, 2017

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Ex Parte* disclosure pursuant to 47 C.F.R. § 1.1206(b) in WC Docket No. 17-108

Dear Ms. Dortch:

Gloria Tristani, Carmen Scurato, and I of the National Hispanic Media Coalition (NHMC) had two meetings with Federal Communications Commission (FCC or Commission) officials on December 1, 2017. We met with Commissioner Mignon Clyburn and her Chief of Staff & Media Policy Advisor, David Grossman, in addition to a meeting with Travis Litman, Chief of Staff & Senior Legal Advisor for Commissioner Jessica Rosenworcel, regarding the above-referenced proceeding.

Ms. Scurato provided an update on NHMC's efforts to incorporate over 50,000 open Internet consumer complaints, carrier responses, ombudsperson emails, and related documents into the record.<sup>1</sup> NHMC commissioned an expert report on those documents which confirmed that consumers turned to the FCC for assistance in resolving issues with their Internet Service Providers (ISPs).<sup>2</sup> The analysis also revealed that ISPs, like Comcast, AT&T and Verizon, are not acting as neutral conduits to the Internet. Additionally, contrary to the analysis in the draft Order,<sup>3</sup> the complaints and carrier responses show that both consumers and carriers commonly

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<sup>1</sup> See Joint Motion To Make Informal Open Internet Complaint Documents Part of the Record and To Set a Pleading Cycle for Comment on Them, WC Docket No. 17-108 (filed Sept. 18, 2017) (*NHMC's Joint Motion*).

<sup>2</sup> See Reza Rajabiun, LL.M., PhD, Consumer Perspectives on Barriers to Accessing the Open Internet: A Preliminary Analysis of Informal Consumer Complaints to the Federal Communications Commission (FCC) and Related Documents at 9, WC Docket No. 17-108 (filed Nov. 20, 2017), <https://ecfsapi.fcc.gov/file/1121274019518/NHMC%20Expert%20Analysis%20of%20Open%20Internet%20Consumer%20Complaints%2011.20.2017.pdf> (*NHMC Expert Report*).

<sup>3</sup> See *generally Restoring Internet Freedom*, WC Docket No. 17-108, Declaratory Ruling, Report and Order, and Order, FCC-CIRC1712-04 (draft rel. Nov. 22, 2017) (*Draft Order*).

perceive broadband Internet access as a Title II telecommunications service, not a Title I information service.<sup>4</sup>

NHMC also filed an Application for Review (AFR) in response to the FCC's Freedom of Information Act (FOIA) productions due to the large number of documents still held in the FCC's exclusive possession.<sup>5</sup> In its AFR, NHMC outlined all documents still missing, including the majority of the 18,000 carrier responses requested as well as ombudsperson correspondence, and resolution information for open Internet complaints.<sup>6</sup> The documents produced thus far in response to NHMC's FOIA requests are currently available on the FCC's website.<sup>7</sup> Still, the FCC refuses to electronically incorporate the documents produced to NHMC into the record.<sup>8</sup>

On December 1, 2017, Carmen Scurato and Gloria Tristani went to the FCC headquarters in Washington, DC to hand-deliver two filings to be uploaded to the Electronic Comment Filing System (ECFS). Each filing included a USB flash drive, one included all documents received thus far in response to NHMC's FOIA requests,<sup>9</sup> and the other with all 6,868 Net Neutrality consumer complaints filed against AT&T.<sup>10</sup> The clerk on duty confirmed receipt of the cover letters and USB flash drives. When asked if the documents on the USB flash drive would be uploaded to ECFS, Ms. Scurato was directed to speak with FCC staff member Melissa Askew, who explained via phone that the FCC would not upload the documents into the electronic record. Instead, NHMC was informed that the cover letters would be uploaded with a note that the USB flash

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<sup>4</sup> See *NHMC Expert Report* at 2.

<sup>5</sup> See Application of NHMC for Review of Initial Action Re: NHMC FOIA Requests, WC Docket No. 17-108 (filed Nov. 14, 2017), <https://ecfsapi.fcc.gov/file/1114291505044/NHMC%20Application%20For%20Review%2011.14.2017.pdf>.

<sup>6</sup> See *id.*; see also, NMHC Press Release: NHMC Files Application for Review Requesting Additional Documents Owed Under the FCC's FOIA Obligations in the Net Neutrality Proceeding (rel. November 14, 2017), <http://www.nhmc.org/release-nhmc-files-application-review-requesting-additional-documents-owed-fccs-foia-obligations-net-neutrality-proceeding/> (providing a list of all documents still missing from NHMC's FOIA requests).

<sup>7</sup> See FCC, Response to NHMC FOIA Request, <https://www.fcc.gov/response-nhmc-foia-request> (last visited Dec. 5, 2017).

<sup>8</sup> See *Draft Order* at 182, para. 335 (indicating FCC's plan to deny *NHMC's Joint Motion* to make informal complaints part of the record and to set a new comment cycle).

<sup>9</sup> See Letter from Carmen Scurato, National Hispanic Media Coalition to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-108, NHMC FOIA Documents (filed Dec. 1, 2017), <http://www.nhmc.org/wp-content/uploads/2017/08/NHMC-Ex-Parte-FOIA-Documents-12.01.2017-FINAL-as-filed.pdf> (the letter requested that all of NHMC's FOIA documents be incorporated as part of the FCC's electronic record and was hand-delivered to the Commission on December 1, 2017).

<sup>10</sup> See Letter from Carmen Scurato, National Hispanic Media Coalition to Marlene H. Dortch, Secretary, FCC, WC Docket No. 17-108, NHMC Response to AT&T (filed Dec. 1, 2017), <http://www.nhmc.org/wp-content/uploads/2017/08/NHMC-Ex-Parte-FOIA-ATT-12.01.2017.pdf> (the letter requested that the FCC include all of AT&T consumer complaints into the record and was hand-delivered to the Commission on December 1, 2017).

drives and accompanying documents would be available for in-person review at the Commission.

I respectfully submit this notice of ex parte meeting pursuant to 47 C.F.R. § 1.1206(b).

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Ochillo", with a stylized, cursive script.

Francella Ochillo  
Director, Government & Legal Affairs

CC: Commissioner Mignon Clyburn  
David Grossman  
Travis Litman