



December 13, 2016

BY ELECTRONIC FILING

Hon. Chairman Tom Wheeler
Hon. Commissioner Mignon Clyburn
Hon. Commissioner Ajit Pai
Hon. Commissioner Jessica Rosenworcel
Hon. Commissioner Mike O’Rielly
Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Re: EX PARTE LETTER
GN Docket No. 14-28: *Protecting and Promoting the Open Internet*

Dear Chairman Wheeler and Commissioners,

The exemption relieving small broadband internet access service (“broadband”) providers from the enhanced transparency rules established by the *2015 Open Internet Order* will expire on December 15, 2016.¹ With days remaining, the undersigned association leaders representing the interests of small broadband companies² urge the Federal Communications Commission (“Commission”) to extend the exemption, affording at least short-term and warranted economic and regulatory relief to thousands of these providers. As indicated by the letter just submitted by eight Senators and Members of Congress from both parties supporting the Commission’s

¹ *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, 30 FCC Rcd 5601 (2015) (“*2015 Open Internet Order*”), *aff’d United States Telecom Association, et al. v. FCC*, No. 15-1063 (D.C. Cir. June 14, 2016); *see id.* at ¶¶162-171 (the “enhanced transparency rules”); *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order, 30 FCC Rcd 14162, ¶ 1 (CGB 2015) (“*Small Provider Exemption Report and Order*”).

² American Cable Association (“ACA”); Competitive Carriers Association (“CCA”); NTCA—The Rural Broadband Association (“NTCA”); and the Wireless Internet Service Providers Association (“WISPA”) (collectively, the “associations”).

extension of the exemption,³ this is not a partisan or controversial issue. Accordingly, it is necessary and consistent with the public interest for you, as Chairman and Commissioners, to reach consensus and act before December 15th to extend the exemption.

Over the last few months, our associations have impressed upon the Commission the importance of this exemption. The associations explained that, to comply with enhanced network performance requirements, some small providers would have to spend tens of thousands of dollars to upgrade their network equipment or pay a third party to take granular network measurements. Each of our associations has explained why complying with new regulatory burdens will harm our members, including because these small providers will incur increased legal and consultant fees. Concerns about these burdens led the Commission to provide the current exemption, and the record justifies an expanded extension.

Congress also is addressing this issue. The Small Business Broadband Deployment Act was passed unanimously by the House, twice, and out of committee in the Senate; both versions of the Act would protect broadband providers serving 250,000 subscribers or less. In testimony before the Senate, there has been bipartisan FCC Commissioner support for a longer exemption that provides certainty for broadband providers.⁴ Just today a bipartisan, bicameral group of Members of Congress wrote to the Commission to underscore that letting the extension lapse, putting small providers at risk, is not the right outcome.⁵

With the exemption set to expire in just two days, the Commission should focus on what it can do now to prevent economic harm and uncertainty for small broadband providers. We urge you to reach consensus on this issue by December 15th and extend the small provider exemption so that it remains effective until the long-term future of the exemption is decided by legislators or the Commission.

³ Letter from Sen. Steve Daines, Sen. Joe Manchin, III, Sen. Heidi Heitkamp, Sen. James E. Risch, Sen. Dan Sullivan, Rep. Greg Walden, Rep. Dave Loebsack, and Rep. Robert E. Latta, to Hon. Tom Wheeler, Chairman, FCC (Dec. 13, 2016).

⁴ *Oversight of the Federal Communications Commission: Hearing before the Committee on Commerce, Science, And Transportation, Senate*, 114th Cong. (Mar. 2, 2016).

⁵ *See, supra*, fn. 3.

This *ex parte* notification is being filed electronically pursuant to Section 1.1206 of the Commission's Rules.

Sincerely,

/s/ Steven K. Berry

Steven K. Berry
President & CEO
Competitive Carriers Association

/s/ Alex Phillips

Alex Phillips
President
Wireless Internet Service Providers Association

/s/ Shirley Bloomfield

Shirley Bloomfield
Chief Executive Officer
NTCA—The Rural Broadband Association

/s/ Matthew M. Polka

Matthew M. Polka
President and Chief Executive Officer
American Cable Association