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October 2, 2014

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Notification of Ex Parte Presentations of the National Cable & Telecommunications Association, GN Docket No. 14-28**

Dear Ms. Dortch:

On September 30, 2014, Rick Chessen of the National Cable & Telecommunications Association (“NCTA”), Thomas Larsen of Mediacom, and the undersigned (representing NCTA), met with Daniel Alvarez, from Chairman Wheeler’s office, in connection with the above-referenced proceeding. In addition, the same group together with Michael Zarrilli of Suddenlink met with the following individuals: Nicholas Degani and Erika Shannon, from Commissioner Pai’s office; Amy Bender, from Commissioner O’Rielly’s office; and Clint Odom, from Commissioner Rosenworcel’s office.

At these meetings, we reiterated that the Commission’s consideration of further Open Internet rules in light of the *Verizon* decision<sup>1</sup> should be guided by the basic principles set forth in NCTA’s comments and reply comments in this proceeding, which enjoy broad support in the record. In particular, we urged the Commission to rely on its authority under Section 706 of the Telecommunications Act of 1996 as the basis for new open Internet rules and to reject proposals to reclassify any component of broadband Internet access under Title II. We explained that pursuing any Title II reclassification theory would be immensely destabilizing and would undermine the ongoing network investments necessary to fuel the “virtuous cycle” of deployment, innovation, and adoption that the Commission has long sought to promote. We also noted that a Title II approach (whether involving “full” reclassification or any “hybrid” theory)

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<sup>1</sup> *Verizon v. FCC*, 740 F.3d 623 (D.C. Cir. 2014), *affirming in part, vacating and remanding in part, Preserving the Open Internet; Broadband Industry Practices*, Report and Order, 25 FCC Rcd 7905 (2010).

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would be wholly unnecessary to achieve the Commission's regulatory objectives, and that, as a legal matter, it is doubtful that the Commission could simply abandon its prior classification determinations, especially given that (a) any telecommunications-service classification would rest on "factual findings that contradict those which underlay [the Commission's] prior policy," and (b) the information-service classification has engendered substantial reliance interests.<sup>2</sup> In addition, we reiterated that any new open Internet framework should apply evenhandedly to fixed and mobile broadband providers.

At each meeting, Mr. Larsen of Mediacom discussed an ex parte submission of May 22, 2014, in which Mediacom pointed out that the four leading broadband providers carry net debt of nearly \$200 billion dollars, in contrast to the four largest Internet technology companies' cash balances of \$300 billion, which underscores the need for even the biggest broadband providers to access the capital markets to finance their network deployment. That ex parte further explained that those Internet companies have much higher profit margins than broadband providers. These facts undermine any assertion that broadband providers possess market power or are extracting supracompetitive profits at the expense of edge providers.<sup>3</sup>

In addition, at the three meetings he attended, Mr. Zarrilli of Suddenlink discussed his company's "Operation GigaSpeed" initiative, which will bring 1 Gigabit per second speeds to virtually all of the company's customers, as described in the attached news release and letter to the Commission.<sup>4</sup> Mr. Zarrilli explained that the existing light-touch regulatory regime has made possible the substantial investments required for Operation GigaSpeed, and that any effort to reclassify broadband Internet access under Title II would risk impeding Suddenlink's access to the public debt markets (and equity markets), which in turn would jeopardize the scope and timing of such investments. Mr. Chessen and I noted that other NCTA members have likewise explained that their broadband investment plans would be upended if the Commission were to pursuing a destabilizing reclassification theory.

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<sup>2</sup> *FCC v. Fox Television Stations*, 556 U.S. 502, 515 (2009).

<sup>3</sup> See Ex Parte Letter of Joseph E. Young, Senior Vice President and General Counsel, Mediacom, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-28 (filed May 22, 2014).

<sup>4</sup> While the cover letter addressed to Commissioner Rosenworcel is included as a sample, identical letters were sent to each of the commissioners.

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Please contact the undersigned if you have any questions regarding these issues.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill  
*Counsel for the National Cable &  
Telecommunications Association*

cc: Daniel Alvarez  
Amy Bender  
Nicholas Degani  
Clint Odom

## **Suddenlink Launches ‘Operation GigaSpeed’**

***Quarter-Billion-Dollar Investment to Make 1 Gig Service Widely Available***

**ST. LOUIS (August 11, 2014)** – Suddenlink today announced a program that will progressively boost Internet speeds and make a 1 Gigabit per second service available to virtually all of the company’s customers.

“Earlier this year, *PC Magazine* singled us out as one of the top broadband service providers in the U.S.,” said Suddenlink Chairman and Chief Executive Officer Jerry Kent. “This program will help us build on that distinction, extend our broadband leadership, and continue providing the best customer experience possible.”

To support the effort, known internally as Operation GigaSpeed, Suddenlink’s board of directors last week approved an investment of almost a quarter-billion dollars, above and beyond other capital improvements. The company will use the funds to upgrade network and in-home equipment and complete its conversion to all-digital video.

Kent added: “While companies like Google and AT&T are offering or planning to offer 1 Gigabit service in a relatively few, selected neighborhoods in urban and large suburban cities, we will take it to small and mid-sized markets and rural areas – and in those communities, it will be available to 100 percent of our customers.”

Kent said he expects nearly half of the planned 1 Gigabit launches to be completed next year and most of the remainder the following year. In addition, while Suddenlink already offers its business customers a range of custom services capable of multi-Gigabit speeds, the company also plans to enhance its standard commercial services through this project.

Suddenlink will communicate additional details to customers after the investments are started in each community and again when 1 Gigabit speeds are available.

# # #

Suddenlink ([suddenlink.com](http://suddenlink.com)) is the seventh largest cable broadband company in the United States, supporting the information, communication and entertainment demands of approximately 1.4 million residential and commercial customers in Arkansas, Louisiana, North Carolina, Oklahoma, Texas, West Virginia and elsewhere. Suddenlink simplifies its customers’ lives through one call for support, one connection, and one bill for TV, Internet, phone and other services.

### **Contacts**

|            |              |                                                                          |
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August 11, 2014

Commissioner Jessica Rosenworcel  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Commissioner Rosenworcel:

I'm pleased to share with you the news that our company has initiated a plan to make a **1 Gigabit per second** broadband service available to virtually all of our customers.

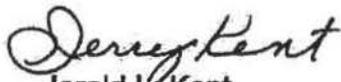
Supported by nearly a quarter-of-a-billion dollars in investments, above and beyond our other capital improvements, this plan will bring 1 Gigabit service to communities in a dozen different states.

Additional details are available in the attached news release, which we are distributing today. As noted in the release, while other companies many times larger than Suddenlink are focusing on a relatively few, selected neighborhoods in major cities, we plan to take our 1 Gigabit service to **mid-sized, small, and rural markets**, and within these communities, we will make the service available to not just a few but **all neighborhoods** we serve.

As we embark on this significant investment, we trust federal and state governments will continue the **longstanding, light regulatory approach** they've taken to the Internet, given that this approach encourages the type of investment described herein.

Thank you for taking time to review this information. Our team would be happy to answer any questions you might have.

Sincerely,

  
Jerald L. Kent  
Chairman and CEO