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ELECTRONIC FILING

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

Re: Notice of *Ex Parte* Meeting, GN Docket No. 09-191, GN Docket No. 14-28

Dear Ms. Dortch:

On October 10, I, Barbara van Schewick, met with Gigi B. Sohn, Special Counsel for External Affairs to Chairman Wheeler, and Philip Verveer, Senior Counselor to the Chairman.

We discussed the Mozilla petition. I made the arguments in the attached report.¹ I explained that Mozilla's proposal would not empower the FCC to enact the network neutrality rules that are needed to effectively protect users and edge providers. These fatal arguments apply equally to other "sender side" proposals that rely on classifying the relationship between access providers and edge providers.

Simply put, the FCC would lose in court a third time if it adopted network neutrality rules based on classification of the "sender side."

First, Mozilla's proposal would not allow the FCC to adopt rules banning blocking and discrimination against edge providers that, like most edge providers, do not pay a fee to their users' ISPs.

Second, Mozilla's proposal would allow the FCC to require ISPs to charge just and reasonable fees to edge providers in return for preferential treatment such as paid prioritization or zero-rating, but it would most likely not allow the FCC to ban access fees altogether.

¹ Barbara van Schewick and Alec Schierenbeck, Comments on the Mozilla Petition, October 30, 2014.

I apologize for the lateness of my filing. A family emergency has kept me from filing it sooner.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Barbara van Schewick

Barbara van Schewick
Professor of Law and (by courtesy) Electrical Engineering
Helen Crocker Faculty Scholar
Faculty Director, Center for Internet and Society, Stanford Law School

cc:

Gigi B. Sohn
Philip Verveer