



WASHINGTON, DC

STEPHEN E. CORAN
202.416.6744
SCORAN@LERMANCENTER.COM

February 13, 2015

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

Re: **GN Docket No. 14-28**
Notice of Oral Ex Parte Presentation

Dear Ms. Dortch:

On February 11, 2015, representatives of the Wireless Internet Service Providers Association (“WISPA”) met with Gigi Sohn, Daniel Alvarez, Renee Gregory, Yenu Wodajo and Rosita Lopez of Chairman Tom Wheeler’s office to discuss the above-referenced proceeding.¹ In addition to the undersigned, the WISPA representatives included Elizabeth Bowles, WISPA Legislative Committee Chair, and Alex Phillips, WISPA Vice President and FCC Committee Chair.

The WISPA representatives discussed the impact that new open Internet rules would have on small broadband providers, explaining that all but a few of its members would be classified as small businesses under the Small Business Act and the U.S. Small Business Administration’s size standards.² The WISPA representatives reiterated WISPA’s position that, for a number of reasons, the “light touch” regulatory approach adopted in 2010³ should be retained and that small broadband Internet access providers should be exempt from any new rules the Commission may adopt.⁴

The WISPA representatives explained that increasing disclosure and reporting obligations would require small broadband providers to increase staff, which would divert time, money and other resources away from build-out to compliance, a result that would slow deployment to rural, unserved and underserved areas in contravention to Commission policies. The WISPA representatives further stated that increasing disclosure and reporting obligations would increase the enforcement risk, a result that would be inconsistent with a record that does

¹ See *Protecting and Promoting the Open Internet*, Notice of Proposed Rulemaking, 29 FCC Rcd 5561 (2014) (“NPRM”).

² For a more complete discussion, see Comments of WISPA, GN Docket No. 14-28 (filed July 16, 2014) (“WISPA Comments”) at 9.

³ See *Preserving the Open Internet*, Report and Order, 25 FCC Rcd 17905 (2010), *aff’d in part, vacated and remanded in part sub nom. Verizon v. FCC*, 740 F.3d 623 (D.C. Cir 2014) (“2010 Order”).

⁴ See WISPA Comments; Reply Comments of WISPA, GN Docket No. 14-28 (filed Sept. 15, 2014); Letter dated from Stephen E. Coran, Counsel to, to Marlene H. Dortch, FCC Secretary, GN Docket No. 14-28 (filed Nov. 14, 2014).



not demonstrate bad behavior by small businesses. Regarding enforcement, WISPA reiterated its view that the Commission's rules should require consumers to negotiate in good faith for 30 days before they would be permitted to file any administrative complaint or lawsuit.⁵

The WISPA representatives also explained their opposition to Title II authority. In particular, the WISPA representatives pointed to Sections 206 and 207 of the Communications Act of 1934, as amended, which allows private parties to collect damages and to sue in federal court. We explained that this would be an invitation for consumers to file uninformed or frivolous complaints with the Commission that the small broadband provider would be ill-equipped to defend. We added that small broadband Internet access providers would more likely be the targets of such complaints because they would be least able to expend the resources necessary to endure complaint proceedings.

The WISPA representatives expressed their support for a flexible definition of "reasonable network management" that takes into account differing network architectures and technology platforms, similar to the Commission's recognition of "unique network management challenges" facing WISPs that the Commission acknowledged in the *2010 Order*. The WISPA representatives also stated that, if the Commission proceeds to adopt rules under Title II, WISPA supported non-forbearance of Section 224 so that WISPs can have statutory access to utility poles.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceeding.

Respectfully submitted,

Stephen E. Coran
*Counsel to the Wireless Internet Service
Providers Association*

cc: Gigi Sohn
Daniel Alvarez
Renee Gregory
Yenu Wodajo
Rosita Lopez

⁵ See WISPA Comments at 36.