



December 15, 2015

**VIA ELECTRONIC FILING**

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

Re: *Consumer and Governmental Affairs Bureau Seeks Comment on Small Business Exemption from Open Internet Enhanced Transparency Requirements*, (GN Docket No. 14-28)

Dear Ms. Dortch,

On Monday, December 14, 2015, representatives of Competitive Carriers Association ("CCA"), CTIA®, National Cable and Telecommunications Association ("NCTA"), the United States Telecom Association ("US-Telecom") and Wireless Internet Service Providers Association ("WISPA") met with Commissioner Ajit Pai and Nicholas Degani in the Office of Commissioner Pai, and separately met with Amy Bender in the Office of Commissioner O'Rielly, to discuss the above-referenced proceeding. A complete list of attendees is included as an attachment to this *ex parte* filing.

During the meeting, the parties highlighted that the enhanced transparency requirements adopted by the Commission in the *Open Internet Order* are inappropriate and unnecessary, particularly for smaller providers, as these providers are locally-based and consistently "touch" their customers. Compliance with the enhanced transparency requirements will be time-consuming and costly, especially for smaller providers that operate with smaller staffs and more limited budgets.

To the extent that the Commission retains the enhanced transparency requirements adopted in the *Open Internet Order*, the parties urged the Commission to permanently exempt smaller providers from such requirements. The enhanced transparency requirements will place significant and ongoing burdens on smaller providers, which will not be eased over time. As a result, no transition period would sufficiently allow smaller providers to efficiently absorb the burdens of the enhanced disclosures. And importantly, the near unanimous record in this proceeding overwhelmingly supports making the small



business exemption permanent. Indeed, all the comments and reply comments submitted in response to the Commission's public notice support a permanent exemption. The eleventh hour filing submitted by Free Press last week is wholly insufficient to counter the weight of the record from the broadband providers that must live with the burdens imposed by these rules and the U.S. Small Business Administration ("SBA"), the expert agency on matters related to small business.<sup>1</sup>

Additionally, in defining smaller providers, parties reiterated that the Commission should use a definition that more adequately captures the range of small broadband providers subject to the Open Internet Order. Specifically, the Commission should base its determination of a small business on metrics previously established by the SBA. To that end, a "small telecommunications carrier" should include entities that meet either of the SBA-approved metrics: providers with fewer than 1,500 employees or providers with 500,000 or fewer subscribers. The Commission has already relied on each of these definitions in the past and both of the metrics conform to the statutory requirements of the Small Business Act and therefore have been subject to appropriate approval processes.<sup>2</sup>

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<sup>1</sup> See Reply Comments of the U.S. Small Business Administration, Office of Advocacy, GN Docket No. 14-28 (filed Sept. 8, 2015) at 2 ("Advocacy encourages the FCC to continue to exempt small broadband providers from the enhanced transparency requirements set forth in the *2015 Open Internet Order*. . . . Advocacy has concerns that compliance with the enhanced transparency requirements under the *2015 Open Internet Order* is not feasible for small broadband providers, particularly small rural providers, and may ultimately degrade the quality of service that consumers receive from small providers.").

<sup>2</sup> *Id.*; 15 U.S.C. § 632(a)(2).



Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed in ECFS. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Krista L. Witanowski

Krista L. Witanowski  
Assistant Vice President, Regulatory Affairs  
CTIA®



**ATTACHMENT**  
**December 14, 2015 Meeting Participants**

**CCA**

Tim Donovan, Vice President, Legislative Affairs  
Rebecca Thompson, General Counsel\*\*

**CTIA®**

Scott Bergmann, Vice President, Regulatory Affairs, CTIA  
Krista Witanowski, Assistant Vice President, Regulatory Affairs, CTIA

**NCTA**

Steven Morris, Vice President and Associate General Counsel\*

**US-Telecom**

Kevin Rupy, Vice President, Law and Policy

**WISPA**

Stephen Coran, Member, (Lerman Senter PLLC)\*\*

**Federal Communications Commission – Office of Commissioner Pai**

Commissioner Ajit Pai  
Nicholas Degani, Legal Advisor, Wireline

**Federal Communications Commission – Office of Commissioner O’Rielly**

Amy Bender, Legal Advisor, Wireline

\*Only attended meeting in Commissioner Pai’s Office.

\*\*Only attended meeting in Commissioner O’Rielly’s Office.