

July 29, 2009

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 Twelfth St., SW  
Washington, DC 20554

Re: *Notice of ex parte* presentation in: WT Docket No. 05-265  
WC Docket No. 08-7  
WC Docket No. 07-52  
ET Docket No. 04-186  
WT Docket No. 08-166  
WT Docket No. 08-167  
CS Docket No. 97-80  
MB Docket No. 08-82  
RM-11361

Dear Ms. Dortch:

On July 28, 2009, Gigi Sohn, Harold Feld, Jef Pearlman, Sherwin Siy, and Matt McHale of Public Knowledge met with Austin Schlick and Joel Kaufman of the FCC's Office of the General Counsel. The purpose of this meeting was discuss issues in the above-referenced dockets, which Public Knowledge believes warrant further Commission action.

Public Knowledge discussed five general areas of interest of interest: promoting wireless competition, open Internet, spectrum reform, cable device competition, and FCC process reform. We reiterated that the Commission should act quickly to eliminate the in-market exception to mandatory roaming. We also observed that the Commission has the authority to compel disclosure of carrier data, and suggested issuing narrowly tailored data requests for the special access market in the near term in order to determine the existence and extent of competition problems. Finally, we reiterated our support for the Skype petition and Carterfone-like regulations for the wireless market and suggested that reimplementing of spectrum caps could help prevent the continued consolidation of and decrease in competition in the that market.

Public Knowledge also discussed the *Petition for Declaratory Ruling* on text messaging and short codes, explaining the structure of the market and the danger the current discriminatory practices present to free speech. We also explained that resolution of the petition by recognizing text messaging with short codes as a Title II service would not require extensive new regulation of text messaging services, but would ensure that §§ 201 and 202's nondiscrimination provisions applied. We further recommended that the Commission revisit unbundling, which has been successful abroad and whose removal in the U.S. has crippled broadband competition.

Turning to the White Spaces-related proceedings, we reiterated our support for issuing a Notice of Inquiry on higher-power uses by devices in the television band in rural areas. We also expressed our continued support for licensing currently-unauthorized wireless microphone users either by rule through § 307 or as Part 15 devices. Regarding cable device competition, Public Knowledge expressed the view that there were a number of problems which needed to be

addressed in order to ensure interoperability and fully comply with § 629 of the Communications Act. We also pointed out that the Motion Picture Association of America had not met its burden for a waiver of the Selectable Output Control ban, and that their petition should therefore be denied.

Finally, Public Knowledge discussed its January 5<sup>th</sup> joint conference on FCC process reform, explaining that a white paper presenting those ideas to the Commission will be completed and submitted shortly.

The remainder of the substance of our discussion is contained in our previous filings in these dockets. In accordance with Section 1.1206(b), 47 C.F.R. § 1.1206, this letter is being filed electronically with your office today.

Respectfully submitted,



Jef Pearlman  
Equal Justice Works Fellow and Staff Attorney

cc:  
Austin Schlick  
Joel Kaufman