

December 2, 2009

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

RE: Notice of *Ex Parte* presentation in: GN Docket No. 09-51
 GN Docket No. 09-191
 WC Docket No. 07-52

Dear Ms. Dortch:

On behalf of Public Knowledge, this letter is to provide information relating to discussions between Public Knowledge and members of the Commission's staff on December 1, 2009.

Present at the meeting were: Harold Feld, Legal Director of Public Knowledge; Sherwin Siy, Deputy Legal Director, Public Knowledge; Jef Pearlman, Equal Justice Works Fellow, Public Knowledge; Michael Weinberg, Law Clerk, Public Knowledge; Walter Johnston, Office of Engineering and Technology (OET), Federal Communications Commission (FCC); Julius Knapp, OET, FCC; Bill Dever, Wireline Competition Bureau (WCB), FCC; Stagg Newman, Broadband Task Force, FCC; John Peha, Chief Technologist, FCC; Carol Simpson, WCB, FCC; Blaise Scinto, Wireless Telecommunications Bureau (WTB), FCC; Cathy Seidel, WCB, FCC; John Spencer, WTB, FCC; Sharon Gillette, WCB, FCC; Jenny Prime, WCB, FCC; Joel Taubenblatt, WTB, FCC; and Zac Katz, Office of Strategic Planning and Policy Analysis, FCC.

Public Knowledge suggested that, regarding network neutrality, reasonable network management should be viewed as an exclusively technical exception. Reasonable network management should be reserved for actions taken to maintain the integrity and functionality of the network. All other actions that a service provider might take, be they in response to a request by law enforcement, civil subpoena, or similar action, are covered by the law enforcement exception. This dichotomy, similar to categories that already exist in statutes such as the Wiretap Act, will empower network providers to maintain network functionality while protecting consumers.

Additionally, Public Knowledge reiterated that network neutrality must focus on preventing network operators from leveraging their control of the subscriber for economic gain. As such, network neutrality is fundamentally a consumer protection regulation and is relatively limited in scope.

Finally, Public Knowledge highlighted the distinction between allowing a consumer to prioritize some types of his or her own data packets over other types of his or her own data packets (an ability that would not violate network neutrality principles) and allowing a consumer to prioritize his or her data packets over the data packets of another (an ability which may violate network neutrality principles). Just as preventing this type of consumer-over-consumer prioritization did not destroy the cellular telephone network in the late 1990s, preventing this type of consumer-over-consumer prioritization will not destroy consumer broadband today. Instead, it will encourage innovation and allow for more efficient use of available resources.

In accordance with the FCC's *ex parte* rules, this document is being electronically filed in the above-referenced dockets today.

Sincerely,

_____/s/
Michael Weinberg
Law Clerk
Public Knowledge

CC: Bill Dever
Sharon Gillett
Walter Johnston
Zac Katz
Julius Knapp
Stagg Newman
Jon Peha
Jenny Prime
Blaise Scinto
Cathy Seidel
Carol Simpson
John Spencer
Joel Taubenblatt