

January 15, 2010

FILED/ACCEPTED

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

JAN 15 2010

Federal Communications Commission
Office of the Secretary

**Re: Notice of Ex Parte Communication
GN Docket No. 09-191; WC Docket No. 07-52**

Dear Ms. Dortch:

On January 14, 2010, a group of social innovators, including Nicholas Reville (Participatory Culture Foundation), Cara Lisa Powers (Press Pass TV), David Weinberger (Berkman Center), and Tim Hwang (Berkman Center) met with Paul de Sa and Zachary Katz, Office of Strategic Planning and Policy; Carol Simpson, Wireline Competition Bureau; David Tannenbaum, Office of General Counsel; and Christi Shewman, Office of Commissioner Baker.

Mr. Reville noted that Miro, the video aggregator created by the Participatory Culture Foundation, relies in part on BitTorrent. He asserted that Comcast's blocking of BitTorrent called into question the reliability of Miro, and that even the threat of blocking unnerves users and video producers.

Mr. Weinberger stated that the openness of the Internet has created the feeling among users and developers that it is a collective project and resource. If users and developers lose the sense of ownership, they will lose the incentive to contribute their resource to innovating and developing content. (Mr. Weinberger has blogged about the meeting here: <http://www.hyperorg.com/blogger/2010/01/14/the-opposite-of-open-is-theirs/>.)

Ms. Powers presented news coverage of the same story by a major network and Press Pass TV, in order to demonstrate the importance of independent media. She stated that if Press Pass TV did not have access to the Internet on the same basis as the networks it would not have the chance to have its news coverage evaluated on its own merit. She asserted that "reasonable network management" had no boundaries and could mean anything. Press Pass TV is concerned that pay-for-priority is analogous to radio payola and creates an uneven playing field. It is worried that just as non-profit groups are getting equal footing in their ability to speak to large audiences, their free speech activities will be undercut by ISPs. Ms. Powers distributed pro-Open-Internet video testimonials from students who work with Press Pass TV. She also noted that low income Internet users rely on Internet services that compete with traditional telephony services.

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Mr. Reville stated that the Participatory Culture Foundation's primary cost is staff, and that it pays between \$4,000-5,000 for bandwidth per month. He reported that Miro was affordable for the Participatory Culture Foundation because it is an aggregator, rather than a video hosting service. He asserted that if developers had known that protocols like BitTorrent were protected under Open Internet rules they likely would have been "baked in" to web browsers. Mr. Reville also expressed concern that the proposed exception for "managed services" is a loophole that could swallow the proposed rule against non-discrimination.

Mr. Weinberger noted that the primary question is how to create an opportunity for challengers to the Googles and the Twitters of the Internet to arise. He also asserted that creating good policy would be significantly easier if there were structural separation.

Ms. Powers stated that she had a sole proprietorship that would not be possible if the costs of distributing content on the Internet were not as low as they are.

Mr. Reville closed by stating that it was difficult for small groups like his to travel to Washington, D.C. to make their views heard on Internet policy.

Sincerely,

David Tannenbaum
Special Counsel
Federal Communications Commission