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January 18, 2010

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

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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 network equipment providers and analysts, including Susan Riley and Randall Fuller (Camiant), Kenneth Kuenzel (Acme Packet), Catherine Trebnick (Avian Securities), and Fred Kemmerer (Genband) met with Paul de Sa and Zachary Katz, Office of Strategic Planning and Policy Analysis; Carol Simpson, Wireline Competition Bureau; David Tannenbaum, Office of General Counsel; and Christi Shewman, Office of Commissioner Baker. Mark Horan of the Massachusetts Technology Leadership Council also attended.

Mr. Kemmerer stated that Genband seeks rules that provide incentives for buildout of infrastructure, and give end users control, while maintaining a basic hands-off policy. He expressed support for the reasonable network management exception. He noted that when metered usage was offered in Europe demand did not fall off, and suggested that metered usage represented the kind of model that rules should support. He expressed the view that it was unfair for application providers to keep all the profits from advertising on their sites even though they did not invest in the underlying infrastructure.

Ms. Riley and Mr. Fuller expressed the view that if quality of service is not allowed, the network will go backwards and will not offer adequate support for voice and video applications.

Mr. Kemmerer reiterated the importance of giving users control and choice in whether traffic is prioritized, and asserted that services should not be separated from the underlying infrastructure.

Ms. Trebnick noted that Google offers tailored content to users based on their behavior.

Mr. Kemmerer asserted that the major challenge of policymaking is to provide incentives for infrastructure providers to invest in the network.

Ms. Trebnick asserted that the U.S. is losing jobs because it is emphasizing openness, and Mr. Kemmerer agreed. He stated that Genband is under intense pressure

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from competitors abroad and there is a need to create a more robust industry around infrastructure and engineering.

Ms. Riley and Mr. Fuller asserted that if networks are forced to be “dumb pipes,” ISPs will buy commodity gear. They stated that potential customers of Camiant had turned down projects because they worried about network neutrality regulations. For example, ISPs have declined to implement parental controls.

Mr. Kemmerer asserted the necessity of a framework for deep packet inspection and a policy that gives industry clear guidelines for permissible practices. He contended that if ISPs could track user behavior they could reap significant revenues from advertising.

Ms. Riley and Mr. Fuller contended that it would be fair to offer prioritization to all application and content providers on the same terms, as CDNs do. They also asserted that discrimination and anti-competitive behavior should be dealt with using an ex post facto approach.

Sincerely,

David Tannenbaum
Special Counsel
Federal Communications Commission