

February 19, 2010



Marlene Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

RE: Notice of Oral *Ex Parte* Communication  
Docket GN 09-191  
Docket WC 07-52  
Docket GN 09-51

Dear Ms. Dortch:

This notice is submitted in compliance with Section 1.1206(b) of the Commission's Rules.

On February 18, 2010, Andrew Jay Schwartzman of Media Access Project, Joel Kelsey of Consumers Union, Mark Cooper of Consumer Federation of America, Ben Scott of Free Press, Michael Calabrese of New America Foundation and Gigi Sohn of Public Knowledge met with Chairman Genachowski, Chief of Staff Edward Lazarus, Senior Counselor Colin Crowell, and Chief Counsel and Senior Legal Advisor Bruce Gottlieb.

The primary topic of the discussion was the forthcoming National Broadband Plan, although there reference was also made on several occasions to the pending proceeding Open Internet proceeding.

The participants argued that the Commission should include a significant discussion of authority and jurisdiction issues in the National Broadband Plan ("NBP") to recognize the abundant discussion of this topic in the record and the serious implications of its proper resolution. On several different issues core to the NBP, including major USF and consumer protection issues, many commenters have either highlighted the inadequacies of Title I jurisdiction or argued that a Title II classification (with appropriate forbearance) would be a superior path. Because the goals in the NBP require a sound legal foundation, the question of jurisdiction is paramount. Mr. Schwartzman said that, while he thought that the Commission might ultimately prevail in litigation over the scope of the Commission's Title I authority, the uncertainty created by the long duration of such litigation would interfere with the timely accomplishment of the goals of the National Broadband Plan, and therefore argued that the Commission should consider promptly initiating a reclassification proceeding. Mr. Cooper discussed the importance of proceeding quickly to adopt the initiatives which would be proposed in the National Broadband plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Jay Schwartzman".

Andrew Jay Schwartzman

cc. Chairman Genachowski  
Edward Lazarus  
Bruce Gottlieb  
Colin Crowell