

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Preserving the Open Internet ) GN Docket No. 09-191  
 )  
Broadband Industry Practices ) WC Docket No. 07-52

To: The Commission

**CTIA – THE WIRELESS ASSOCIATION® AND UNITED STATES TELECOM  
ASSOCIATION  
REQUEST FOR EXTENSION OF REPLY COMMENT DEADLINE**

CTIA – The Wireless Association® (“CTIA”) and the United States Telecom Association (jointly “the Associations”) respectfully submit the following request for an extension of the reply comment deadline in response to the Notice of Proposed Rulemaking in the above-captioned proceeding, currently set for tomorrow, Thursday, April 8, 2010.<sup>1</sup> An extension is necessary to enable *all* interested parties to evaluate and consider the legal implications of the decision issued yesterday, Tuesday, April 6, 2010, by the United States Court of Appeals for the District of Columbia Circuit in *Comcast Corp. v. FCC*.<sup>2</sup> The court’s decision vacated the Commission’s 2008 *Comcast Order*, concluding that the agency had not tied its assertion of ancillary authority to any statutorily mandated responsibility.<sup>3</sup> The *NPRM*’s analysis of the Commission’s authority to adopt the proposed regulations makes references to the analysis

---

<sup>1</sup> See *In the Matter of Preserving the Open Internet, Broadband Industry Practices*, Notice of Proposed Rulemaking, GN Docket No. 09-191 and WC Docket No. 07-52, 24 FCC Rcd 13064 (2009) (“*NPRM*”); Order, DA 10-306 (WCB rel. Feb. 23, 2010).

<sup>2</sup> *Comcast Corp. v. FCC*, No. 08-1291, Slip Op. (D.C. Cir. April 6, 2010).

<sup>3</sup> *Id.* at 36.

articulated in the 2008 *Comcast Order*.<sup>4</sup> While the court's decision will have no impact whatsoever on consumers' Internet experience – as broadband providers will continue to compete vigorously to meet consumer demand for access to the Internet whenever and wherever they want -- an extension of the deadline would nevertheless serve the public interest by providing parties additional time to evaluate the legal implications of the court's decision, and incorporate their conclusions into their reply comments as appropriate.

The Associations recognize that requests to extend filing deadlines are not routinely granted, but the Commission has often found that a pleading cycle extension is warranted when necessary to ensure that the Commission receives full and informed responses and that affected parties have a meaningful opportunity to develop a complete record for the Commission's consideration.<sup>5</sup> Indeed, the Commission has previously extended a pleading cycle where, as here, an intervening court decision has potentially wide-ranging impact on the Commission's authority to promulgate rules in the pending proceeding.<sup>6</sup>

---

<sup>4</sup> See *NPRM* at ¶¶ 83-84.

<sup>5</sup> See, e.g., *Media Bureau Grants Extension of Time to File Comments and Reply Comments In Response to Broadcast Localism Notice of Proposed Rulemaking*, Public Notice, MB Docket No. 04-233, DA 08-515 (MB 2008) (“we agree that an extension of the comment and reply comment period is warranted to enable commenters to adequately review, investigate, and comment on the specific issues raised in the *NPRM* and respond to the extensive comments filed in response thereto); *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, Order, 20 FCC Rcd 19868, ¶ 3 (WTB 2005); *Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*, Order, 23 FCC Rcd 10527, ¶ 4 (WTB 2008); *Elimination of Rate-of-Return Regulation of Incumbent Local Exchange Carriers, Federal-State Joint Board on Universal Service*, Order, 18 FCC Rcd. 26307, ¶ 2 (WCB 2003); *Telephone Number Portability*, Order, 18 FCC Rcd. 26604, ¶ 2 (WCB 2003).

<sup>6</sup> See Public Notice, *Wireline Competition Bureau Extends Reply Comment Deadline for the Triennial Review Proceedings*, 17 FCC Rcd. 10512 (WCB 2002) (extending reply comment deadline in light of D.C. Circuit decision in *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) (subsequent history omitted)); *Amendment of Rules and Policies Governing Pole Attachments*, Order, 12 FCC Rcd. 10527 (Cab. Svcs. Bur. 1997) (extending reply comment  
(continued on next page)

The Associations thus submit that, consistent with Commission precedent, an extension of the reply comment deadline is appropriate to enable affected stakeholders – industry and consumer groups alike – to more thoroughly evaluate the issues raised by the proceeding in light of the court’s decision and, in turn, provide more relevant analysis in the reply comment cycle. No parties will be prejudiced by such an extension.

For the foregoing reasons, the Associations request that the Commission promptly issue an extension of the reply comment deadline.

Respectfully submitted,

/s/ Christopher Guttman-McCabe

Christopher Guttman-McCabe  
Vice President, Regulatory Affairs

**CTIA – THE WIRELESS ASSOCIATION®**  
1400 16<sup>th</sup> Street, NW  
Suite 600  
Washington, DC 20036  
(202) 785-0081

/s/ Glenn Reynolds

Glenn Reynolds  
**United States Telecom Association**  
607 14<sup>th</sup> Street, N.W.  
Suite 400  
Washington, D.C. 20005  
(202) 326-7271

April 7, 2010

---

deadline in light of Eighth Circuit’s decision in *Iowa Utilities Board v. FCC*, 120 F.3d 753, 804 (8th Cir. 1997) (subsequent history omitted)).