

May 5, 2010



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

Re: Notice of *Ex Parte* Presentation
GN Docket No. 09-51 (National Broadband Plan)
GN Docket No. 09-191 (Preserving the Open Internet)

Dear Ms. Dortch:

On Tuesday, May 4, 2010, Tyrone Brown, President of Media Access Project (“MAP”), participated in a telephone conversation with Rick Kaplan, Chief of Staff to Commissioner Mignon Clyburn. During that conversation, Mr. Brown explained MAP’s position, as set forth more fully in certain filings in the above-captioned dockets, regarding the proper statutory classification of the transmission component of broadband Internet access service. Contrary to suggestions made by some, the Communications Act is neither unclear nor ambiguous regarding the proper classification and nature of such a transmission capacity offering.

In any event, no matter what the Commission ultimately may decide on this jurisdiction question, the Commission most certainly has the authority to make such determinations for itself in the first place. Mr. Brown noted that there is nothing in the Communications Act, controlling court cases, nor the Commission’s precedents that prohibits the Commission from considering how best to interpret and implement its statutory obligations. As Supreme Court decisions make abundantly clear, it is well within the Commission’s authority to interpret the provisions and definitions in the Act, and it is the Commission’s obligation to consider the continuing vitality and propriety of its past rulings in light of changing circumstances and changes in technology.

We submit this letter to the Secretary’s office today pursuant to Section 1.1206(b) of the Commission’s rules, 47 C.F.R. §1.1206(b). Please contact the undersigned should you have any questions regarding this submission.

Respectfully submitted,

/s/ Matthew F. Wood

Associate Director
Media Access Project

cc: Rick Kaplan