

August 6, 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

Dear Ms. Dortch:

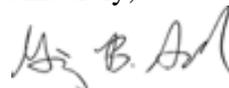
On August 5, 2010, Earl Comstock, Comstock Consulting LLC (representing Data Foundry), Donna Lampert, Lampert, O'Connor & Johnston P.C. (representing XO Communications), Emmett O'Keefe, Amazon.com and I met with Chairman Genachowski, Zac Katz, Legal Advisor to the Chairman and Josh Gottheimer, Senior Counselor. This notice is submitted in compliance with Section 1.1206(b) of the Commission's Rules.

First, I expressed concern about the reports of a network neutrality agreement between Google and Verizon in the *New York Times* and elsewhere. Since the reported agreement would fall far short of including enforceable open Internet principles, we urged that the FCC not seek to use such an agreement as a template for future open Internet rules or for an interim agreement between stakeholders on open Internet principles.

Second, we expressed serious concerns about the legal enforceability of any interim agreement on open Internet principles. In addition, I expressed concern that consumers would not have the ability to bring a complaint to the Commission should they believe that an access provider has engaged in conduct that is harmful to consumers. Third, we reiterated the need for the FCC to exercise its existing authority over broadband transmission, including enforcement authority, and underscored how it would promote investment and innovation and provide the much-needed basis for the FCC to attain vital national broadband goals such as intercarrier compensation and universal service reform.

Finally, I suggested on Public Knowledge's behalf alone, that as an alternative to the interim agreement, the Chairman might consider adopting open Internet rules under Title I as long as such an approach resulted in meaningful and enforceable rules to protect the open Internet. Earl Comstock expressed on behalf of Data Foundry strong concerns with a Title I approach precisely because of the lack of meaningful enforcement authority.

Sincerely,



Gigi B. Sohn
President

cc. Chairman Genachowski
Zac Katz
Josh Gottheimer