

May 4, 2010

Chairman Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: The Path Forward for the National Broadband Plan; Classification of
Broadband Service

Dear Chairman Genachowski:

Our organizations¹ focus on improving the lives of low-income consumers through affordable access to vital services. We view affordable access to communication services, including wireline, wireless and broadband services, as essential for the health and safety of households and communities and the ability of individuals to fully participate as valuable members of society. Lack of affordable access to communication services isolates and further marginalizes struggling consumers and households.

We are encouraged by the bold vision in the National Broadband Plan, as we believe that the Commission must take a hard and fresh look at the Universal Services Fund program. However, we are extremely

¹ **The National Consumer Law Center (NCLC)** is a nonprofit corporation founded in 1969 to assist legal services, consumer law attorneys, consumer advocates and public policy makers in using the powerful and complex tools of consumer law for just and fair treatment for all in the economic marketplace. NCLC has expertise in protecting low-income consumer access to energy, water, and telecommunication services and publishes *Access to Utility Service* (4th edition) as part of its Debtor Rights Series of legal manuals, as well as NCLC's *Guide to The Rights of Utility Consumers* and *Guide to Surviving Debt*.

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The Edgemont Neighborhood Coalition (Edgemont) is a community organization based in the Edgemont neighborhood of Dayton Ohio. That neighborhood is primarily low income and African American. Edgemont has long been concerned about access to telecommunications services and the need to make sure that people in the Edgemont neighborhood are able to affordably access the internet. It operates a community computer center and its experience has caused it to believe that broadband service is now necessary to make full beneficial use of the internet. **Advocates for Basic Legal Equality, Inc.**, is a non-profit law firm that provides high quality legal assistance in civil matters to eligible low-income individuals in western Ohio

concerned that forward movement will be stymied from the outset by the fundamental question of how broadband is to be treated by the FCC.

Recently, the U.S. Court of Appeals significantly narrowed the Commission's legal authority to implement broadband policy using its ancillary authority under Title I of the Communications Act. The limited ability of the Commission to pursue the many valuable goals in the National Broadband Plan under such a narrow legal framework concerns us greatly. We believe the Commission must have flexibility, within appropriate boundaries, to determine the most responsible policy that will meet the goal of delivering affordable broadband service to low-income and rural Americans.

We believe the most responsible and common sense path before the Commission is to revisit its original decision to deregulate broadband services in 2002 and related subsequent decisions, and to define broadband as a telecommunications service under Title II of the Communications Act. This approach will give the Commission the ability to move forward expeditiously on meeting the goals of the National Broadband Plan. Moreover, such an approach will allow the Commission to develop public policy that truly helps secure affordable access to high-speed Internet service for low-income and rural households currently stranded on the wrong side of the digital divide.

Sincerely,

_____/s/
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on behalf of our low-income clients
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Cc: Commissioner Copps
Commissioner McDowell
Commissioner Clyburn
Commissioner Attwell Baker