

November 23, 2010



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

RE: Notice of Oral *Ex Parte* Communication
Docket GN 10-127
Docket GN 09-191

Dear Ms. Dortch:

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

On November 23, 2010, the following individuals met with Chairman Genachowski, Chief of Staff Edward Lazarus, Chief Counsel and Senior Legal Advisor Rick Kaplan, Legal Advisor Zac Katz and David Tannenbaum of the Office of General Counsel: Gigi Sohn of Public Knowledge, Jeffrey Blum of EchoStar Corporation, Joel Kelsey of Free Press, Mark Cooper of Consumer Federation of America, Andrew Jay Schwartzman of Media Access Project, Parul Desai of Consumers Union, Leslie Harris of Center for Democracy and Technology, Christopher Libertelli of Skype and Markham Erickson of the Open Internet Coalition.

The participants discussed their organizations' positions as set forth in their written comments with respect to the Commission's authority to adopt rules addressing non-discrimination, paid prioritization, managed services and other measures under consideration in the Open Internet proceeding. They argued that there is very strong evidence in the record supporting reclassification of broadband internet services under Title II. By contrast, adopting open internet rules under Title I authority would create endless litigation and, consequently, uncertainty which would adversely affect markets and innovation. They suggested that the Commission consider a middle ground approach under which the Commission would invoke authority under both Title I and Title II, but suspend implementation of the latter for a period of time, perhaps one year.

With respect to the details of the proposed rules, the participants responded to press reports that the Commission is considering measures which would be based upon the legislative framework proposed recently by Representative Waxman. The participants expressed a strong preference for the definition of broadband internet access service proposed in the Commission's Notice of Proposed

Rulemaking rather than the version in Representative Waxman's draft. They also argued that the Commission should afford identical treatment to wired and wireless networks.

Respectfully submitted,

Andrew Jay Schwartzman
Senior Vice President and Policy Director

cc. Chairman Genachowski
Rick Kaplan

Edward Lazarus
Zac Katz