

December 10, 2010

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



Re: Notice of *Ex Parte* Presentation
GN Docket No. 10-127 (Broadband Internet Service Framework)
GN Docket No. 09-191 (Preserving the Open Internet)

Dear Ms. Dortch:

On Thursday, December 9, 2010, Tyrone Brown and Matt Wood of Media Access Project (“MAP”) met with Commissioner Mignon Clyburn; Angela Kronenberg, the Commissioner’s Wireline Legal Advisor; and Louis Peraertz, the Commissioner’s Legal Advisor for Wireless, International, and Public Safety, regarding matters in the above-captioned dockets.

The MAP participants reiterated their position that the Commission should classify the transmission component of broadband Internet access as a telecommunications service. Recognition of this fundamental character of broadband transmission offerings would represent the surest authority for efforts not only to preserve the open Internet, but also to implement the National Broadband Plan and promote broadband deployment and adoption. The MAP participants noted also that a “Title I” approach to net neutrality could lead to years of uncertainty, as the Commission would need to justify broadband access oversight in the Open Internet proceeding and in a multitude of other contexts as well, rather than clarifying its general authority over broadband transmission services.

Calls for the Commission to adopt the currently proposed net neutrality framework as a starting point, along with suggestions that the Commission should not let the “perfect be the enemy of the good” fail to recognize that *incomplete* protections founded on *unsure* legal grounds cannot rationally be characterized as a good start. In that regard, the MAP participants noted that – like the reported legal authority theories in the Open Internet item on circulation – the reported substance of the rules is in dire need of improvement. The MAP participants suggested that the Commission must revise the reported framework to remove loopholes, exceptions, and indefensible distinctions that could jeopardize the effectiveness of the rules.

In sum, the MAP participants noted that based on reports on the substance of the proposed rules, they could not support the item in its current form for three reasons:

- Differential treatment and diminished protection for mobile wireless broadband Internet access would represent a departure from the statute as well as a bad policy choice, as it would consign those typically underserved and marginalized communities most reliant on mobile broadband access to a closed and second-class Internet experience.

- Vague rules and incomplete protection against unreasonable discrimination could allow for paid prioritization on the open Internet or within potential “specialized services.” Such a regime could allow broadband providers to execute their often discussed plans for creating new revenue streams by charging for prioritized delivery or even merely for termination of traffic to their customers – thereby allowing broadband Internet access service providers to act as gatekeepers that pick winners and losers in the marketplace of ideas.
- Overly broad and loophole-laden definitions for the types of “broadband Internet access services” covered or “reasonable network management practices” permitted by the rules, which could provide openings for broadband providers to exempt themselves from and evade any protections that the Commission may adopt to preserve the open and nondiscriminatory character of Internet transmission services.

MAP submits this letter 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.

Respectfully submitted,

/s/ Matthew F. Wood

Associate Director
Media Access Project

cc: Commissioner Mignon Clyburn
Angela Kronenberg
Louis Peraertz