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January 14, 2011

**EX PARTE**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**RE: National Broadband Plan, GN Docket No. 09-51  
Consumer Information and Disclosure, CG Docket No. 09-158**

Dear Ms. Dortch:

On January 14, 2011, Jeb Benedict (CenturyLink), Jennie Chandra (Windstream), Donna Epps (Verizon), Mary McManus (Comcast), Steve Morris (NCTA), and Terri Natoli (Time Warner Cable) (collectively the ISP Representatives) met with Margaret McCarthy, Policy Advisor to Commissioner Copps. The purpose of the meeting was to discuss the broadband performance measurement issues raised in the above-referenced proceedings.

The ISP Representatives described the extensive efforts they have undertaken to help develop a testing regime that would accurately measure broadband performance across providers that use different fixed technologies. We explained that network engineers and technical experts from a number of ISPs have been meeting with consumer groups and equipment manufacturers since January 2010 to discuss the complex technical issues associated with developing a sound testing program. In addition, we discussed our ongoing efforts to work with Commission staff and with SamKnows, the contractor selected by the Commission to conduct a test of broadband performance. We acknowledged the efforts of the Commission staff and expressed our hope that productive discussions would continue.

In the meeting, we noted the tension between the experimental nature of the SamKnows testing process and the Commission's apparent intent to publish provider-specific test results. We stressed the importance of the Commission ensuring the accuracy of the test results to avoid misleading consumers by distorting true network performance. We also noted that there are still a number of outstanding issues that SamKnows and the Commission need to address in advance of any public disclosure of data, including issues regarding the sampling methodology used to select panelists and the validation of panelists' service tiers. We expressed concerns about the damaging consequences to consumers and providers alike that potentially could result if the

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Commission rushed to release data publicly before resolving these critical technical and operational issues surrounding the testing process. We are continuing to work diligently and cooperatively with the Commission, Sam Knows, and other industry participants to resolve outstanding issues associated with the testing process and subsequent data reporting.

Please do not hesitate to call should you have any questions regarding this filing.

Respectfully submitted,

**/s/ Steven F. Morris**

Steven F. Morris

cc: M. McCarthy