

September 9, 2011

**VIA ECFS**

***EX PARTE***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

**Re: *Business Broadband Marketplace, WC Docket No. 10-188; A National Broadband Plan for Our Future, GN Docket No. 09-51***

Dear Ms. Dortch:

On September 7, 2011, Jim Geiger, Founder, Chairman, President and CEO of Cbeyond, Inc. (“Cbeyond”), Bill Weber, General Counsel of Cbeyond, Kevin Joseph and the undersigned met with Chairman Julius Genachowski, Eddie Lazarus, Chief of Staff to Chairman Genachowski, Zac Katz, Chief Counsel and Senior Legal Advisor to Chairman Genachowski, Sharon Gillett, Chief of the Wireline Competition Bureau, and Marius Schwartz, Chief Economist of the FCC.

During the meeting, Mr. Geiger explained that Cbeyond has developed significant new offerings for its business customers, such as cloud computing solutions, that will yield substantial efficiencies for small businesses and spur job growth. Those offerings require bandwidth of greater than a DS1 while at the same time not requiring a DS3 of capacity. In order to provide these offerings, Cbeyond has invested heavily in electronics to provide Ethernet over copper to its customers. Ethernet over copper delivers significant value for small business customers. In order to ensure the availability of this service, however, the FCC must prohibit incumbent LECs from unilaterally retiring copper where they deploy fiber in their loop plant.

Mr. Geiger explained further that a large percentage of Cbeyond’s customer base, approximately 50 percent, cannot be served by Ethernet over copper (e.g., because the copper has been removed, the loop is too long, or for other reasons the copper loop is unsuitable for Ethernet transmission). In those locations, Cbeyond has no choice but to rely on insufficient DS1s. Moreover, the Commission is considering the manner in which to phase out regulation of the TDM-based PSTN. If and when it does so, even DS1 and DS3 facilities will be unavailable to competitors as a means of serving end user customers. This would essentially leave competitors with no access to end user locations at all. The FCC must therefore update its unbundling regime to require that incumbent LECs

make available packetized loops at prices equal to the lowest available retail prices for such facilities. Failure to do so will deprive the U.S. economy of major efficiency-enhancing innovations that are critical to economic growth.

Please do not hesitate to contact me at (202) 303-1111 if you have any questions or concerns regarding this submission.

Respectfully submitted,

/s/ Thomas Jones  
Thomas Jones  
*Counsel for Cbeyond, Inc.*

cc (via email): Chairman Julius Genachowski  
Eddie Lazarus  
Zac Katz  
Sharon Gillett  
Marius Schwartz