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May 6, 2014

Via ECFS

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: American Cable Association Notice of Ex Parte Presentation; Protecting and Promoting the Open Internet, GN Docket No. 14-28.

Dear Ms. Dortch:

On May 5, 2014, Matthew M. Polka, President and CEO of the American Cable Association (“ACA”), had a teleconference with Gigi Sohn, Special Counsel for External Affairs to Chairman Wheeler, to discuss recent actions by Viacom to deny access to its websites by broadband Internet subscribers served by smaller cable broadband providers who are members of ACA. Mr. Polka explained that Viacom took this punitive step in retaliation for ACA members refusing to sign cable programming renewal contracts seeking exorbitant fee increases for Viacom networks with low ratings and minimal viewer interest. Mr. Polka described how, as a result of this action, all broadband Internet subscribers of two ACA members – Cable ONE and Liberty Cablevision of Puerto Rico – are being blocked, and that the number of small cable operators targeted by Viacom is likely to grow since dozens of other ACA members recently chose not to renew a cable programming carriage agreement with Viacom.

Mr. Polka noted that the Internet has always been a bastion of openness for consumers, who have been allowed to reach the lawful content of their choice. Viacom’s move to block a select group of broadband Internet customers regardless of whether they subscribed to the operators’ video offerings or not is inconsistent with the fundamental tenet of Internet openness that the Commission’s vacated 2010 Open Internet Order championed. Mr. Polka urged the Commission to seek comment in its upcoming Notice of Proposed Rulemaking in this docket on whether the Commission’s decision in its 2010 Open Internet Order that the Open Internet rules should not apply to edge provider activities, such as the provision of content or applications over the Internet, remains appropriate given market conditions and recent actions taken by content providers.¹

If you have any questions, or require further information, please do not hesitate to contact me directly. Pursuant to section 1.1206 of the Commission’s rules, this letter is being filed electronically with the Commission.

Sincerely,

¹ See *In the Matter of Preserving the Open Internet Broadband Industry Practices*, Report and Order in GN Docket No. 09-191 and WC Docket 07-52, 25 F.C.C.R. 17905, at ¶150 (2010).

Barbara Esbin

cc (via email): Gigi Sohn