



Center for Technology, Innovation and Competition



<http://www.law.upenn.edu/academics/institutes/ctic/>

University of Pennsylvania Law School
3400 Chestnut Street
Philadelphia, PA 19104-6204

June 10, 2014

Via ECFS

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

Re: *Notice of Ex Parte Presentation*
Protecting and Promoting the Open Internet, GN Docket 14-28; Preserving the Open Internet, GN Docket 09-191; Framework for Broadband Internet Service, GN Docket 10-127

Dear Ms. Dortch:

On Friday, June 6, 2014, I, the undersigned of the Center for Technology, Innovation and Competition at the University of Pennsylvania, met separately with 1) Commissioner Ajit Pai and his chief of staff, Matthew Berry and 2) Commissioner Michael O’Rielly and his chief of staff / senior legal advisor Courtney Reinhard to discuss issues related to the open Internet and the paper I recently released, which is entitled, “U.S. vs. European Broadband Deployment: What Do the Data Say?” A copy of the paper is filed with this *ex parte* notice.

During the meetings, I discussed the paper’s findings, including that the U.S. has led Europe in many broadband metrics, contrary to some reports that the European model of service-based competition outperforms the facilities-based competition in the U.S. For example, the paper finds that a far greater percentage of U.S. households were served by Next Generation Access (NGA) Networks (25 Mbps) than in Europe.

I noted the regression analysis in the paper, which indicated that the U.S. approach of promoting facilities-based competition has proven more effective in promoting NGA coverage than the European approach of service-based competition and unbundling. I discussed the paper’s finding that these distinctions in regulatory approaches influenced the level of broadband investment: the U.S. approach promoted broadband investment, while the European approach had the opposite effect (\$562 of broadband investment per U.S. household vs. \$244 per European household).

Furthermore, I discussed the economics and bargaining dynamics of peering and interconnection, arguing that the FCC should not extend its regulation to the interconnection marketplace. I also stated my view that Title II reclassification of broadband service would not

survive judicial review because broadband Internet access does not fall within the statutory definition of a “telecommunications service” contained in 47 U.S.C. § 153(50) and (53) in that the domain name system (DNS) specifies the points between which the information is transmitted rather than the end user.

Pursuant to Section 1.1206 of the Commission’s Rules, this letter is being filed electronically. Please contact the undersigned if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Christopher S. Yoo". The signature is written in a cursive, slightly slanted style.

Christopher S. Yoo
John H. Chestnut Professor of Law
Professor of Communication
Professor of Computer and Information Science
Founding Director, Center for Technology, Innovation, and Competition

cc: Ajit Pai, Commissioner;
Michael O’Rielly, Commissioner
Matthew Berry
Courtney Reinhard