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ELECTRONIC FILING

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

Re: Notice of *Ex Parte* Meeting, GN Docket No. 09-191, GN Docket No. 14-28

Dear Ms. Dortch:

On August 15, I, Barbara van Schewick, met with Commissioner Clyburn, Adonis Hoffman, Chief of Staff and Senior Legal Advisor – Media for Commissioner Clyburn, Rebekah Goodheart, Legal Advisor – Wireline for Commissioner Clyburn, and Louis Peraertz, Legal Advisor - Wireless, International, and Public Safety for Commissioner Clyburn.

We discussed the evidence from Europe suggesting that rules against blocking and application-specific discrimination are needed.¹ We also discussed how allowing ISPs to charge providers of applications, content and services for access to end users or for enhanced or prioritized access to end users (including paid prioritization and zero-rating) would change the economic environment for innovation and investment in Internet applications, content and services.² I explained the limits that Section 706 imposes on the FCC's ability to ban or regulate access fees in the absence of reclassification.³

¹ See van Schewick, *ex parte* Letter, <http://apps.fcc.gov/ecfs/document/view?id=7521087920>; van Schewick, The Case for Rebooting the Network Neutrality Debate, The Atlantic, <http://www.theatlantic.com/technology/archive/2014/05/the-case-for-rebooting-the-network-neutrality-debate/361809/>.

² van Schewick, *The Case for Rebooting the Network Neutrality Debate*, The Atlantic, <http://www.theatlantic.com/technology/archive/2014/05/the-case-for-rebooting-the-network-neutrality-debate/361809/> (attached); van Schewick, *The FCC changed course on network neutrality. Here is why you should care*, Stanford Center for Internet and Society Blog, <http://cyberlaw.stanford.edu/blog/2014/04/fcc-changed-course-network-neutrality-here-why-you-should-care>.

³ *Ibd.* and van Schewick and Weiland, *Evaluating the Chairman's revised net neutrality proposal*, Stanford Center for Internet and Society Blog, <https://cyberlaw.stanford.edu/blog/2014/05/evaluating-chairman%E2%80%99s-revised-net-neutrality-proposal>.

We discussed options for offering prioritized data delivery under the FCC's Open Internet Rules: prioritization under §8.9 of the Open Internet Rules;⁴ offering specific forms of user-controlled Quality of Service under the Open Internet Rules' non-discrimination rule;⁵ and specialized services.⁶

Finally, I provided an overview of the current state of the network neutrality debate in Brazil and in Europe. I summarized the network neutrality rules adopted in Brazil and by the European Parliament, and explained what the next procedural steps will be.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Barbara van Schewick

Barbara van Schewick
Professor of Law and (by courtesy) Electrical Engineering
Helen Crocker Faculty Scholar
Faculty Director, Center for Internet and Society, Stanford Law School

cc:

Commissioner Mignon Clyburn
Adonis Hoffman
Rebekah Goodheart
Louis Peraertz

⁴ See also FCC Open Internet Order, paras 108-110.

⁵ See van Schewick, *Network Neutrality and Quality of Service: What a Non-Discrimination Rule Should Look Like*, Forthcoming Stanford Law Review 2014, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2459568, Section "The Open Internet Order's Non-Discrimination Rule".

⁶ However, an ISP cannot use specialized services to circumvent the Open Internet Rules.