



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

September 22, 2014

Re: Promoting and Protecting the Internet, GN Docket No. 14-28; Framework for Broadband Internet Service, GN Docket No. 10-127

EX PARTE COMMUNICATION

Dear Ms. Dortch:

As noted in NASUCA's reply comments of September 15, 2014 in these proceedings,¹ a number of network owners cited a study by Professor Christopher Yoo asserting that there is less investment where there is "public utility" treatment of broadband Internet access service ("broadband").² Professor Yoo based his conclusion on a regression analysis using data on European broadband deployment. NASUCA criticized the Yoo study, and argued that the Commission needed more information before it could assess these assertions.³

NASUCA now presents that information: A study by Dr. Lee Selwyn of Economics and Technology, Inc.,⁴ which thoroughly debunks the methodology and the results of the Yoo study, and challenges Prof. Yoo's conclusion. As stated in the attached Declaration from Dr. Selwyn,

[T]he most glaring deficiency in Prof. Yoo's regression model stems from the fact that the analysis he used to conclude that US-style "facilities-based competition" results in greater NGA coverage does not actually include any US

¹ Accessible at <http://nasuca.org/nwp/wp-content/uploads/2014/02/14-28-NASUCA-Reply-9-15-14.pdf>.

² See <https://www.law.upenn.edu/live/files/3352-us-vs-european-broadband-deployment>.

³ NASUCA Reply Comments at 26-27.

⁴ See <http://www.econtech.com/experts/>.

data. In reaching his conclusion, Prof. Yoo relies exclusively upon observations drawn from European countries, all of which have adopted the “service-based competition” regulatory regime. The US is not included in Prof. Yoo’s regression analysis at all. As such, it is simply not possible for Prof. Yoo’s model to have demonstrated the relationship he claims to have identified. This error by itself provides a fully sufficient basis to dismiss Prof. Yoo’s contentions.

However, the flaws in Prof. Yoo’s analysis do not end with this already-fatal defect. The Yoo model suffers from a number of other data and model specification problems that render the analysis completely unreliable.⁵

Thus on this, as well as their other arguments, the network owners’ contentions fail.⁶ The Commission should, as recommended by NASUCA and many, many others, reclassify broadband as a Title II service, and ensure consumer protections for open networks and an Open Internet.

Respectfully submitted,

/S/

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⁵ Declaration, Executive Summary at i-ii.

⁶ See NASUCA Reply Comments, *supra* footnote 1.