

September 22, 2013

VIA ELECTRONIC SUBMISSION

Memorandum of Ex Parte Presentation

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

Re: In the Matter of Protecting and Promoting the Open Internet, GN Docket No. 14-28; Framework for Broadband Internet Service, GN Docket No. 10-27; Preserving the Open Internet, GN Docket No. 09-191; Broadband Industry Practices, WC Docket no. 07-52

Dear Ms. Dortch,

On September 12, 2014, Barbara Cherry (Professor, Department of Telecommunications, Indiana University), Julien Mailland (Assistant Professor, Department of Telecommunications, Indiana University), and Matt Pierce (State Representative, Indiana; Lecturer, Department of Telecommunications, Indiana University) met with Gigi Sohn (Special Counsel for External Affairs, Chairman Wheeler's Office), Phil Verveer (Senior Counsel, Chairman Wheeler's Office), Stephanie Weiner (Associate General Counsel), Matt DelNero (Deputy Chief, Wireline Competition Bureau), Claude Aiken, Wireline Competition Bureau), Patrick Halley (Wireline Competition Bureau), and Eric Feigenbaum (Office of Media Relations) regarding the above-referenced proceedings.

Barbara Cherry, Julien Mailland and Matt Pierce discussed mischaracterizations or misrepresentations of common carriage and public utility laws related to the Commission's consideration of network openness. In this regard, a presentation was distributed and is attached. They explained what these mischaracterizations are, who is making them, why they are occurring, and how they are misdirecting policy debate. Prof. Cherry further explained the correct understanding of these bodies of law, and how proper policy analysis should be framed. Representative Pierce described legislative activities that have occurred in Indiana based on certain industry members' mischaracterizations of the law as well as the failure to disclose their efforts to dismantle the federal laws that Indiana legislators were counseled to rely upon. He further explained how this lobbying strategy has been used in numerous states to repeal fundamental protections for consumers and competitors under state law.

Barbara Cherry and Julien Mailland also briefly discussed and referred to their research paper, “Toward Sustainable Network-Openness Obligations on Broadband in the U.S.: Surviving Providers’ First Amendment Challenges,” presented on September 13, 2014, at the 42nd Research Conference on Communication, Information and Internet Policy (known as TPRC42) in Arlington, VA. This research paper is also attached.

Sincerely,

Barbara A. Cherry
Professor, Department of Telecommunications
Radio and Television Center
Indiana University
1229 E. Seventh Str.
Bloomington, IN 47405-5501

cc. Gigi Sohn
Phil Verveer
Stephanie Weiner
Matt DelNero
Claude Aiken
Patrick Halley
Eric Feigenbaum