



December 5, 2017

Ex Parte Notice

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

RE: *Restoring Internet Freedom, WC Docket No. 17-108*

Dear Ms. Dortch:

On Friday, December 1, 2017, the undersigned, on behalf of NTCA–The Rural Broadband Association (“NTCA”), met with Travis Litman, chief of staff and senior legal advisor to Commissioner Jessica Rosenworcel. On Monday, December 4, 2017, the undersigned also met separately with: (1) Jay Schwarz, wireline advisor to Chairman Ajit Pai; (2) Claude Aiken, wireline legal advisor to Commissioner Mignon Clyburn; (3) Jamie Susskind, chief of staff to Commissioner Brendan Carr; and (4) Amy Bender, wireline legal advisor to Commissioner Michael O’Rielly. Joshua Seidemann, Vice President of Policy for NTCA, also participated in the meetings with Dr. Schwarz and Mr. Aiken.

During these meetings, consistent with prior advocacy, NTCA expressed the importance of an ongoing but carefully structured role for the Federal Communications Commission (the “Commission”) in ensuring that underlying operators interconnect and exchange data in a manner that promotes broadband availability and universal service objectives that are the distinct province and responsibility of this Commission under federal law. This role is critical *regardless* of the classification of retail broadband Internet access service (“BIAS”). Moreover, this position is independent and apart from varying views with respect to what federal agency may be better positioned to address consumer protection and privacy issues in the mass marketplace; NTCA emphasizes that there is no federal agency with greater competency and expertise to address specifically practical technical questions of how networks interconnect and exchange data than this Commission. For these reasons, independent of any determinations made with respect to the classification of retail BIAS, NTCA urged the Commission to ensure that nothing in any order that may be adopted in this proceeding would undermine or abdicate the Commission’s separate authority and distinct mandates under law to ensure seamless connectivity among all Americans, preserve and advance universal service in a broadband world, and encourage the deployment and availability of advanced telecommunications capability for all Americans. *See* Comments of NTCA, WC Docket No. 17-108 (filed July 17, 2017) (“NTCA 2017 Comments”), at 9-17; *see also* Statement by Michael R. Romano, Sr. Vice President, NTCA, before the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Regulatory Reform, Commercial and Antitrust Law (dated Nov. 1, 2017) (“NTCA Testimony”), at 6-8.

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Furthermore, consistent with prior advocacy, NTCA asserted that any ongoing role for the Commission with respect to interconnection and exchange of data need not, and indeed should not, impose significant *ex ante* obligations; rather, any such role should instead be construed and applied in the form of an *ex post* “regulatory backstop” that helps provide certainty in the marketplace by enabling and deferring to individualized negotiations, while still ensuring that underlying communications-specific statutory policy objectives will be taken into account and carried out in good faith as a backdrop to those market-based negotiations. *See* NTCA 2017 Comments, at 12-15; Comments of NTCA, GN Docket No. 14-28 (filed July 28, 2014) (“NTCA 2014 Comments”), at 6-7; *see also* NTCA Testimony, at 6-7; *Ex Parte* Letter from Jeffrey S. Lanning, Vice President, CenturyLink, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 17-108 (filed Nov. 20, 2017) (“CenturyLink *Ex Parte*”), at 1 (highlighting concerns of commercial negotiation in a “vacuum”). NTCA also observed that one of the important benefits of such an approach would be to ensure that *all* entities involved in such data exchanges have mirroring incentives to act in good faith and to achieve and promote statutory objectives in the context of interconnection, in lieu of one-sided interconnection duties that, by definition, cannot capture the full extent of actors in the ecosystem and fully protect consumers. *See, e.g.*, NTCA 2014 Comments, at 3-6 and 14-15; NTCA Testimony, at 2-3; CenturyLink *Ex Parte*, at 2.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

Senior Vice President –

Industry Affairs & Business Development

cc: Jay Schwarz
Claude Aiken
Jamie Susskind
Amy Bender
Travis Litman