



September 8, 2015

Ex Parte Notice

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

RE: Protecting and Promoting the Open Internet, GN Docket No. 14-28

Dear Ms. Dortch:

NTCA–The Rural Broadband Association (NTCA) hereby submits this letter in lieu of formal reply comments in the above-captioned docket.¹ On August 5, 2015, NTCA filed comments in this proceeding urging the Commission to make permanent the small company exemption from enhanced reporting requirements that were adopted in the 2015 Open Internet Order (*Protecting and Promoting the Open Internet: Report and Order on Remand, Declaratory Ruling, and Order*, Docket No. 14-28, FCC 15-24 (2015)). NTCA explained that the costs of compliance outweigh the potential benefits, and illustrated the discussion with a description of packet switched processes in IP networks. NTCA explained that the usefulness of the information proposed to be reported to customers of small providers was not of sufficient proportion to justify costs that would be incurred in tracking, measuring and reporting it.

Numerous other industry participants filed comments in the proceeding, and the overwhelming majority, if not all, support the continuing exemption for small providers. Notably, these commenters, which include other rural representatives, wireless and cable cite both similar and different reasons for maintaining the exemption, but all arrive at the core question of whether the collection and reporting of this information is of any value that would support the costs and burdens undertaken in those regards. For example, CTIA-The Wireless Association echoes certain of the concerns raised by NTCA, specifically, that “because packet loss does not necessarily correlate to better network performance for delay intolerant applications, disclosures about packet loss information will not provide a reliable measure for consumers to evaluate or compare the performance of different networks. *Comments of CTIA-The Wireless Association* at 9. The National Cable & Telecommunications Association describes “daunting challenges” for smaller providers, for whom “the costs . . . could be even more onerous on a per customer basis given their lack of scale and existing internal resources needed to implement the requirements.” *Comments of National Cable & Telecommunications Association* at 5. These costs are specified by GVNW Consulting, Inc., which describes the requisite combined participation of “engineers,

network managers, regulatory specialists, legal counsel, marketing, and other employees.”
Comments of GVNW Consulting, Inc. at 5.

As these and other commenters expose the reasons that justify permanent continuation of the exemption, WTA-Advocates for Rural Broadband add a salient point: the resources that would be dedicated to gathering and reporting information of questionable value would be better spent on infrastructure investment. *Comments of WTA-Advocates for Rural Broadband* at 6. In these regards, the Commission’s focus of where scarce resources should be directed becomes clear: there can be no question that the additional development, deployment, adoption and use of broadband Internet access throughout the Nation is a primary policy. Therefore, as overwhelming information regarding the high costs of gathering and information is contrasted with the low value to consumers who would receive it, NTCA urges the Commission to extend and make permanent the exemption. This will spare small providers of significant financial and administrative burdens, leaving financial and personnel resources available to better meet the challenge of deploying and increasing use of broadband Internet access services.

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/ Joshua Seidemann
Joshua Seidemann
Vice President of Policy

ⁱ If this letter is considered by the Commission as a Reply Comment in this proceeding, its filing date reflects the closure of the Electronic Comments Filing System on the date that Reply Comments were due, and the Commission’s instruction that filings due during that period would be deferred until today. *See*, “Certain FCC Databases Will Be Unavailable and Filing Deadlines Will Be Extended in Early September to Accommodate a Significant FCC IT Upgrade,” Public Notice DA 15-940 (Aug. 20, 2015).