



October 26, 2016

Ex Parte Notice

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

**RE: *Expanding Consumers' Video Navigation Choices, MB Docket No. 16-42
Commercial Availability of Navigation Devices, CS Docket No. 97-80***

Dear Ms. Dortch:

On Tuesday, October 25, 2016 the undersigned and Brian Ford with NTCA–The Rural Broadband Association (“NTCA”) met with David Grossman, Chief of Staff and Media Policy Advisor to Commissioner Mignon Clyburn to discuss matters in the above-referenced proceedings.

NTCA stated that the Commission should refrain from adopting any regulation related to the provision of broadband Internet access services (“BIAS”) in the context of a proceeding that has been noticed as related specifically to competitive video navigation and which is being carried out expressly pursuant to Section 629 of the Communications Act. Section 629(a) by its plain language is applicable specifically to the use of equipment used in the transmission of video programming to consumers. Nothing in Section 629 provides authority to regulate the facilities of an Internet Service Provider (“ISP”) used in the provision of BIAS that is subject to the common carrier provisions of Title II of the Communications Act. The mere fact that an ISP might happen also to be a multichannel video programming distributor does not enable the use of Section 629 to regulate equipment and facilities not actually used in video programming distribution.

NTCA closed by making clear that its intent was not to dispute any potential consumer benefits of the proposal at issue; we acknowledged that there may be very good questions worthy of possible exploration and debate. NTCA’s sole observation is that any such examination should only be conducted pursuant to proper notice and comment rulemaking procedures that clearly and expressly identify the specific kinds of devices and services potentially subject to such regulation, and by reference to the specific statutory authority that the Commission itself has found to govern with respect to BIAS regulation.

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: David Grossman