**IN THE UNITED STATES COURT OF APPEALS**
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

| | |
|---|---|
| UNITED STATES TELECOM ASSOCIATION, *et al.*,<br><br>*Petitioners*,<br><br>v.<br><br>FEDERAL COMMUNICATIONS COMMISSION, and UNITED STATES OF AMERICA,<br><br>*Respondents*. | No. 15-1063 (and consolidated cases) |

**PETITIONERS' JOINT PROPOSED**
**BRIEFING FORMAT AND SCHEDULE**

Pursuant to the Court's Order of June 11, 2015, counsel for the ten Petitioners have conferred with counsel for Respondents and for Intervenors, and Petitioners jointly request that the Court establish the briefing format and schedule set forth below. The proposed format accommodates the divergent interests of the various parties to this complex, consolidated proceeding, while ensuring consolidation among parties wherever possible. The proposed schedule should enable these consolidated petitions for review to be fully briefed by October 2015, just a few months after the Order took effect. Although all Petitioners support the briefing format and schedule, each Petitioner (or group of Petitioners) is separately proposing a word allocation for its (or their) opening brief, as to which each of the

remaining Petitioners (or groups) take no position. Respondents consent to the briefing format and schedule, but take no position on the word allocations in the proposal, and request that Respondents be allocated a reasonable amount of words for their response brief.

**BACKGROUND**

**1.** In the Order under review,[1] the Commission established rules governing providers of "broadband Internet access service," which the Commission defined as a "mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet end points." Order ¶ 187. The Commission reclassified both fixed and mobile broadband Internet access services as telecommunications services subject to common carrier regulation under Title II of the Communications Act of 1934. The Commission also reclassified mobile broadband Internet access as a "commercial mobile radio service" or its functional equivalent under 47 U.S.C. § 332, a requirement for subjecting such services to common carrier regulation under Title II. Additionally, the Commission extended Title II regulation to the terms on which broadband Internet access service providers interconnect their networks with other Internet networks. The Commission exercised its authority

[1] Report and Order on Remand, Declaratory Ruling, and Order, *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, FCC 15-24 (rel. Mar. 12, 2015) ("Order").

under 47 U.S.C. § 160 to forbear from some, but not all, of Title II's statutory provisions and implementing regulations.

The Commission also adopted three bright-line rules prohibiting certain conduct by broadband Internet access providers: no blocking, no throttling, and no paid prioritization. And it adopted an Internet conduct standard that prohibits broadband Internet access service providers from unreasonably interfering or disadvantaging end users' ability to access the Internet or edge providers' ability to supply Internet content.

**2.** Petitions for review have been filed by United States Telecom Association ("USTelecom") (Nos. 15-1063 and 15-1086), Alamo Broadband Inc. (Nos. 15-1078 and 15-1164), National Cable & Telecommunications Association ("NCTA") (No. 15-1090), CTIA – The Wireless Association® ("CTIA") (No. 15-1091), AT&T Inc. (No. 15-1092), American Cable Association ("ACA") (No. 15-1095), CenturyLink (No. 15-1099), Wireless Internet Service Providers Association ("WISPA") (No. 15-1117), Daniel Berninger (No. 15-1128), and Full Service Network, TruConnect Mobile, Sage Telecommunications, LLC, and Telescape Communications, Inc. (collectively, "FSN/TC") (No. 15-1151).

As explained below, the Petitioners present a number of separate — and conflicting —challenges to the Order. Approximately three dozen parties have

intervened, and their interests are similarly divergent. The parties also expect multiple amici with divergent views and interests to file on all sides of the case.

**DISCUSSION**

Counsel for Petitioners have conferred with counsel for Respondents and Intervenors, and Petitioners jointly propose the following briefing schedule and format, although each Petitioner (or group of Petitioners) independently supports its own proposed word allocation. Petitioner FSN/TC's support for this proposal is without prejudice to its oppositions to motions to intervene filed separately in this proceeding. As noted at the outset, Respondents consent to both the proposed schedule and the proposed number of briefs, but take no position on the proposed word allocations. The due dates on the schedule are set based on the date ("Day 0") that the Court issues its briefing order.

| | | |
|---|---|---|
| Day 30 | Joint Brief of Petitioners USTelecom, NCTA, ACA, WISPA, AT&T, and CenturyLink | 18,000 words |
| | Brief of Petitioner CTIA | 10,000 words |
| | Joint Brief of Petitioners Alamo Broadband and Daniel Berninger | 6,000 words |
| | Brief of Petitioners FSN/TC | 14,000 words |
| Day 37[*] | Intervenors' Brief in Support of USTelecom *et al.* | 8,750 words[†] |

[*] Any amicus briefs in support of Petitioners or Respondents would also be due on these dates, to be filed pursuant to Fed. R. App. P. 29 and D.C. Cir. Local R. 29.

[†] Intervenors TechFreedom *et al.* in support of all Petitioners except for FSN/TC have asked that Petitioners include the following statement:

| | | |
|---|---|---|
| Day 75‡ | Respondents' Brief | 48,000 words |
| Day 82* | Joint Intervenors' Brief in Support of Respondents [re: USTelecom *et al.*, CTIA, and Alamo Broadband Briefs] | 8,750 words§ |
| | Joint Intervenors' Brief in Support of Respondents [re: FSN/TC Brief] | 8,750 words |
| Day 96 | Joint Reply Brief of Petitioners USTelecom, NCTA, ACA, WISPA, AT&T, and CenturyLink | 9,000 words |
| | Reply Brief of Petitioner CTIA | 5,000 words |
| | Joint Reply Brief of Petitioners Alamo Broadband and Daniel Berninger | 3,000 words |
| | Reply Brief of Petitioner FSN/TC | 7,000 words |
| Day 99 | Joint Appendix | |

---

Intervenors request that the briefing schedule include a reply brief for Intervenors due on the same date as Petitioners' reply briefs per D.C. Circuit Rule 28(d)(5). Intervenors propose that their opening brief be allocated 7,000 words and their reply brief be allocated 3,500 words.

‡ The Commission has requested a 45-day period from Petitioners' opening briefs in which to file the Respondents' brief.

§ Intervenors in support of Respondents in all cases except No. 15-1151 (FSN/TC) have asked that Petitioners include the following statement:

> Intervenors do not agree with Petitioners' proposed format and word limit and instead would ask the Court to require all Petitioners that oppose the Open Internet rules (that is, all Petitioners except FSN/TC) to collaborate on a single, joint opening brief of 14,000 words and a single, joint reply brief of 7,000 words. Intervenors agree that FSN/TC should have separate opening and reply briefs from the other petitioners. Whatever the format and word limit for Petitioners that the Court ultimately adopts, Intervenors would also ask that Respondents be granted a word limit equal to the aggregate words allotted to all Petitioners for their opening brief(s) in these consolidated cases, and that Intervenors be allotted 5/8 of the aggregate words allotted to petitioners that oppose the Open Internet rules for their opening brief(s), consistent with Court's default rules applicable to such briefs.

Day 101 All Final Briefs Filed

***Briefing Schedule.*** The proposed schedule should permit this case to be fully briefed by October 2015 and likely argued before the end of the calendar year. The schedule is thus consistent with this Court's grant of expedition.

***Briefing Format.*** Petitioners respectfully request that the Court permit Petitioners to file the four, separate briefs proposed above, as well as to permit two separate briefs for the two groups of Intervenors supporting Respondents. The briefing format involves substantial consolidation of aligned parties.

**1.** As an initial matter, the interests of FSN/TC are directly adverse to those of the other Petitioners. FSN/TC challenges the Order for asserting unlawful authority to craft an alternative regulatory regime and for not going far enough in regulating broadband Internet access service, insofar as the Order defines that term to exclude certain broadband providers, does not apply statutory definitions, and forbears from certain Title II requirements. In contrast, all of the remaining Petitioners contend that the Order went too far and exceeded the Commission's authority. Moreover, all but two of them (Alamo Broadband and Mr. Berninger) have moved to intervene in support of the Commission in order to respond to FSN/TC's brief. For these reasons, the Court should grant FSN/TC a separate brief from the other Petitioners.[2]

---

[2] For the same reasons, the Court should allow two briefs for the Intervenors in support of the Commission. The Petitioners that also intervened to oppose

**2.** The Court should also permit the remaining nine Petitioners to file three separate briefs, allowing for consolidation where practicable in light of certain conflicting positions within that group of Petitioners. The common-issues brief would be filed by six Petitioners — USTelecom, NCTA, ACA, WISPA, AT&T, and CenturyLink — that either represent fixed broadband providers (wireline, cable, and wireless) or are providers of such service.[3] That brief would set forth the arguments that the Commission's decision to reclassify fixed and mobile broadband Internet access services as telecommunications services subject to common carriage regulation under Title II — rather than as information services exempt from such regulation — is unlawful for multiple reasons. In addition, that brief would challenge the Commission's decision to extend Title II regulation to the interconnection arrangements between broadband Internet access service providers and other Internet networks and edge providers.

Although the remaining three Petitioners support those arguments, each intends to raise arguments as to which there is a conflict that prevents them from including those arguments in the common-issues brief or filing a brief together. First, CTIA — the major trade association representing mobile broadband

---

FSN/TC's arguments should not be required to join a brief with the other Intervenors in support of the Commission, as these other Intervenors are adverse to the Petitioners.

[3] AT&T also provides mobile broadband service and may also join the separate CTIA brief.

providers — intends to argue that mobile broadband should continue to be exempt from common carriage regulation under Title II, *even if* fixed broadband were subject to those common carrier duties. Other Petitioners — including NCTA and CenturyLink — took a conflicting position before the Commission, arguing that if fixed broadband were regulated as a common carrier service, mobile broadband should be regulated in that manner as well.

Second, Alamo Broadband — a small broadband provider — and Mr. Berninger — an Internet entrepreneur — intend to challenge the Commission's authority to adopt each of its "Open Internet" rules, including under Section 706 of the 1996 Act, because, among other things, that provision is not an affirmative grant of authority to the FCC. By contrast, before the Commission, numerous Petitioners — including USTelecom, CTIA, AT&T, NCTA, and ACA — urged the Commission to rely on Section 706 to adopt a limited set of "Open Internet" rules, which is inconsistent with Alamo Broadband/Berninger's challenges to the Order.[4]

---

[4] Although Alamo Broadband/Berninger and FSN/TC intend to challenge the FCC's authority under Section 706, it is not practicable for these parties to join in a single brief because, as explained above, their interests are directly adverse. Alamo/Berninger challenge Section 706 in the context of arguing for *decreased* regulation of broadband Internet access service; FSN/TC challenge Section 706 in the context of arguing for *increased* regulation under Title II. Any duplicative briefing will be minimal because Section 706 fits differently into these parties' opposing challenges to the Order.

For these reasons, the Court should not require either CTIA or Alamo Broadband/Berninger to file a joint brief with the other Petitioners, or with each other.

***Word Allocation***. Although this is the third case before this Court presenting challenges to a Commission order regulating providers of broadband Internet access service, this Order is the most significant and far reaching of the three by any metric. The Order stretches to nearly 300 pages and has 588 paragraphs; it is three times longer than the Order this Court reviewed in *Verizon v. FCC*, 740 F.3d 623 (D.C. Cir. 2014), and eight times longer than the order reviewed in *Comcast Corp. v. FCC*, 600 F.3d 642 (D.C. Cir. 2010).

Even more importantly, the Order raises many more substantive issues and involves many more sections of the Communications Act than the orders the Court previously reviewed in *Verizon* and *Comcast*. The Commission not only asserted authority to regulate broadband providers and to adopt discrete, bright-line "Open Internet" rules as in the past, but also subjected those providers to Title II, reversed its classification of mobile broadband under 47 U.S.C. § 332 to subject those providers to Title II, extended Title II to broadband providers' Internet interconnection arrangements, and issued a series of forbearance decisions to create a "Title II tailored for the 21st Century." Order ¶ 5.

The significance of the Order is reflected in the fact that petitions for review have been filed by five associations that, together, represent the overwhelming majority of fixed and mobile broadband Internet access service providers. Petitions challenging the regulations the FCC imposed have also been filed by three individual broadband Internet access service providers and an Internet entrepreneur, while four competitive local telephone companies have petitioned seeking to impose greater regulation on the broadband Internet access service providers from which they seek to purchase services.

Below, each Petitioner (or group of Petitioners) independently sets forth its reasons for its proposed word allocation for its opening brief, following the Court's directive that "[r]equests to exceed the standard word allotment must specify the word allotment necessary for each issue." Order at 2, *United States Telecom Ass'n v. FCC*, Nos. 15-1063 *et al.* (D.C. Cir. June 11, 2015).[5]

**1.** Petitioners USTelecom, NCTA, ACA, WISPA, AT&T, and CenturyLink seek to file a joint opening brief of 18,000 words. These six Petitioners require a brief somewhat longer than a single, standard-length brief adequately to present their challenges to the Order. That brief will argue that the Commission's reclassification decision is contrary both to the plain text and any

[5] These issue-by-issue word allotments are approximations that represent counsels' best, good faith estimates, at this stage of the case, of how an overall allocation of words would be divided in order adequately to present each issue.

reasonable reading of the statute (4,000 words); departs from prior precedent without sufficient identification of changed facts or consideration of reliance interests (3,000 words); was adopted without sufficient notice of the rules or legal authority the Commission ultimately promulgated and relied upon (1,500 words); and violates other statutes (500 words). That brief will also challenge: the rules the FCC adopted that must be vacated because they impermissibly impose common carriage duties (750 words); the Commission's decision to extend Title II regulation to broadband Internet access service providers' Internet interconnection arrangements, independent of the arguments regarding the reclassification of the service itself (1,500 words); and the new Internet conduct standard and the clarifications of the transparency rule adopted in the 2010 Order reviewed in *Verizon*, both of which are unlawful independent of the Commission's assertion of authority under Title II (2,000 words together).

In addition, that brief will provide the Court with the necessary background to understand these challenges to the Order. That background covers more than three decades of regulatory and statutory history, from the distinction between information services and telecommunications services established by Judge Greene in the AT&T Consent Decree; through Congress's codification of the information service and telecommunications service terms in the 1996 Act; the Commission's consistent classification of broadband Internet access service as an information

service in decisions upheld by the courts, including the Supreme Court in *NCTA v. Brand X Internet Servs.*, 545 U.S. 967 (2005); and the Commission's more recent efforts to regulate broadband Internet access service providers, culminating in the Order. The background will also include relevant technical information about how Internet access service and the Internet itself operate, as well as about the service that broadband Internet access service providers offer to their customers. That background, along with the other required portions of the brief, such as the statement of issues and summary of argument, will be approximately 4,750 words.

In sum, these six Petitioners respectfully submit that 18,000 words is necessary to present fully their challenges to the Order that has radically altered the regulatory regime in which they provide broadband Internet access service.

**2.** Petitioner CTIA seeks to file a shorter-than-full length opening brief of 10,000 words. That brief will not repeat the background or arguments presented in the joint brief of USTelecom *et al.* It *will* present additional background specific to the competitive conditions and investment in and deployment of mobile broadband marketplace; the operational characteristics of mobile broadband service insofar as the differ from fixed broadband service; as well as the Commission's prior legal conclusions classifying mobile broadband as both an information service and private mobile radio service and, therefore, doubly immune from Title II regulation. That background, along with the other required

portions of the brief, such as the statement of issues and summary of argument, will be approximately 2,500 words.

CTIA then intends to raise legal arguments unique to mobile broadband providers. Specifically, CTIA intends to argue that the Commission's decision to apply Title II to mobile broadband was independently barred by 47 U.S.C. § 332, which prohibits the Commission from regulating private mobile radio services as common carrier services under Title II (3,000 words); that the Commission unreasonably reclassified mobile broadband as commercial mobile radio service or its functional equivalent, both in light of the reasoning in the Order and given the Commission's failure to identify sufficient changed facts specific to mobile broadband or to consider mobile-specific reliance interests (3,000 words); and that the Commission made these revisions to its classification of mobile broadband and its regulations without providing sufficient notice (1,500 words).

In sum, Petitioner CTIA respectfully submits that 10,000 words is necessary to present fully its arguments regarding an Order that not only subjects mobile broadband providers to "Open Internet" regulation for the first time, but also subjects them to a Title II regime and common carrier duties that have never before applied to mobile broadband service.

**3.** Petitioners Alamo Broadband and Mr. Berninger seek to file a shorter-than-full length opening brief of 6,000 words. That brief also will not repeat the

background or arguments presented in the joint brief of USTelecom *et al.* It will address three issues that neither USTelecom *et al.* nor CTIA intends to raise: (1) whether the "Open Internet" rules are subject to and fail strict and intermediate scrutiny under the First Amendment (3,000 words); (2) whether Section 706 of the 1996 Act authorizes any of the Open Internet rules (2,000 words); and (3) whether Section 201(b) or Title III of the Communications Act authorizes the paid prioritization rule (1,000 words). Even if the Court were to reject the challenges by USTelecom *et al.* and CTIA, the Court still must address whether the Open Internet rules are consistent with the First Amendment and grounded in adequate statutory authority.

The First Amendment issue presents an important question of first impression that no circuit court, including *Verizon*, has ever addressed. The brief will require approximately 3,000 words to address whether First Amendment protections apply to broadband providers, the appropriate level of scrutiny, and whether the rules satisfy that standard. In addressing Section 706, the brief will argue that *Verizon*'s discussion of Section 706 was unnecessary to the judgment and thus is not binding on future panels of this Court.[6] The brief will require approximately 2,000 words to argue that the FCC's interpretation of Section 706 is

[6] *See Verizon*, 740 F.3d at 668 n.9 (Silberman, J., dissenting) (agreeing that the transparency rule was "reasonably ancillary" to Section 257); *see also* Order ¶ 297 (conceding that *Verizon* "did not expressly opine on the legal authority for the Commission's prior transparency rule").

not entitled to *Chevron* deference and that Section 706 — in light of its text, structure, purpose, and history — confers no authority to adopt Open Internet regulations. The paid prioritization issue presents another novel question, because *Verizon* did not address the FCC's authority to regulate prioritization arrangements under either Section 201(b) or Title III. The brief will require approximately 1,000 words to argue that the FCC cannot impose a categorical ban on these arrangements consistent with either Section 201(b) or Title III. We note that, in *Verizon*, the Court permitted MetroPCS to file a separate brief of 4,000 words to address the FCC's authority under Title III, but Alamo Broadband/Berninger's challenges to the Order are more extensive than MetroPCS's challenge to the 2010 rules. For these reasons, Alamo Broadband and Mr. Berninger respectfully submit that 6,000 words is necessary to present fully these additional challenges to the Order.

**4.** FSN/TC seeks to file a separate standard length 14,000 word opening brief. FSN/TC is adverse to the other Petitioners in arguing that reclassification is compelled by the statute and that the Commission acted contrary to law in removing regulation of broadband Internet access service required by statute. The brief will address the four issues FSN/TC raised in their Statement of Issues.

First, the FSN/TC brief will argue that the Commission's assertion of authority to craft an alternative Communications Act under Section 706 of the

1996 Act, 47 U.S.C. § 1302, is contrary to law under both prongs of a *Chevron* analysis. The existence of this vague free-standing authority has been used by the Commission to justify not applying the detailed, comprehensive pro-competitive requirements Congress expressly added to Title II of the Communications Act in 1996. FSN/TC will also argue that *Verizon* is not binding precedent because that panel addressed a different regulatory framework (broadband Internet access service as an information service rather than a telecommunications service) and did not have before it the Commission's sweeping new assertions of authority under Section 706, including enforcement authority, Order ¶ 298, and implied authority to impose or not impose an amorphous array of unspecified regulation under Section 706 on issues as diverse as interconnection, customer privacy, disability access, pole attachments and universal service (4,000 words).

Second, FSN/TC will argue that it is contrary to law for the Commission to use its ancillary authority under Section 4(i) of the Communications Act, 47 U.S.C. § 154(i), to implement and enforce Section 706 of the 1996 Act. The Commission's interpretation conflicts with the plain language of the statute and, if upheld, would vastly expand the Commission's authority by allowing it to use the Communications Act to adopt regulations and enforce any other Act of Congress (1,000 words).

Third, the FSN/TC brief will argue that the Commission in the Order has unlawfully limited the application of the Communications Act by failing to apply statutory provisions to broadband Internet access service and by using Commission created definitions to circumvent statutory ones. The 1996 Act was a cohesive statutory scheme and the Commission is obligated to apply the law as Congress wrote it rather than as the Commission prefers it to be (2,000 words).

Fourth, FSN/TC will argue that the Commission failed to follow its own regulations and acted contrary to the plain language of the Communications Act when it forbore from applying Sections 251 and 252 of the Act, 47 U.S.C. §§ 251 and 252, and other requirements that Congress adopted in 1996 expressly to promote competition and regulatory parity in the provision of the "information superhighway" over cable and telephone networks. The Commission must apply the statutory tests in Section 10 of the Act, 47 U.S.C. § 160, using the markets Congress defined and cannot use one provision of the Communications Act to justify forbearing from another provision of that same Act (4,000 words).

FSN/TC note again that they are adverse to the other Petitioners in this proceeding, all but two of which have asked leave of the Court to intervene and file an additional 8,750 word brief in opposition to FSN/TC. As a result it is not possible for FSN/TC to consolidate its arguments with other Petitioners or rely on their briefs to incorporate arguments by reference. FSN/TC does agree that the

necessary background to understand these challenges is lengthy and complex, but fundamentally disagrees with other Petitioners' representations of that background in the proceeding below. To present its alternative background along with other required portions of the brief, including the statement of issues and summary of argument, FSN/TC seeks 3,000 words.

In the proceeding below FSN/TC and its counsel submitted more than 14,000 words of concise statutory and legal analysis on Section 706 and an additional 15,000 words of succinct analysis on application of the statutory definitions and forbearance. The FSN/TC proposed word limits will require considerable further economy while allowing FSN/TC to adequately present its arguments. In addition, FSN/TC will need to devote its reply brief, at least in part, to responding to the other Petitioners' Intervenor arguments. For these reasons Petitioner FSN/TC respectfully submits that a 14,000 word initial brief and 7,000 word reply brief is necessary and appropriate.

## CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court adopt the joint proposed briefing format, schedule, and word allocation.

Dated: June 19, 2015

Respectfully submitted,

/s/ *Michael K. Kellogg*

Michael K. Kellogg
Scott H. Angstreich
Kellogg, Huber, Hansen, Todd,
Evans & Figel, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

*Counsel for USTelecom, CTIA, and AT&T*

Earl W. Comstock
Robert Gastner
Michael Graziano
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Avenue, N.W.
12th Floor
Washington, D.C. 20006
(202) 659-6600

*Counsel for Full Service Network, TruConnect Mobile, Sage Telecommunications, LLC, and Telescape Communications Inc.*

Helgi C. Walker
Michael R. Huston
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
(202) 887-3599

*Counsel for CTIA*

Richard E. Wiley
Bennett L. Ross
Brett A. Shumate
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.DC. 20006
(202) 719-7000

*Counsel for Daniel Berninger*

Stephen E. Coran
Lerman Senter PLLC
2000 K Street, N.W., Suite 600
Washington, D.C. 20006
(202) 429-8970

*Counsel for WISPA*

Andrew G. McBride
Brett A. Shumate
Eve Klindera Reed
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

*Counsel for Alamo Broadband Inc.*

Miguel A. Estrada
Theodore B. Olson
Jonathan C. Bond
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500

*Counsel for NCTA*

Jeffrey A. Lamken
MoloLamken LLP
The Watergate, Suite 660
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037
(202) 556-2000

*Counsel for ACA*

Peter D. Keisler
James P. Young
C. Frederick Beckner III
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Wayne Watts
David R. McAtee II
David L. Lawson
Gary L. Phillips
Christopher M. Heimann
AT&T Services, Inc.
1120 20th Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 457-3055

*Counsel for AT&T*

David H. Solomon
Russell P. Hanser
Wilkinson Barker Knauer, LLP
2300 N Street, N.W., Suite 700
Washington, D.C. 20037
(202) 783-4141

Timothy M. Boucher
CenturyLink
1099 New York Avenue, N.W.
Suite 250
Washington, D.C. 20001
(303) 992-5751

*Counsel for CenturyLink*

Ross J. Lieberman
American Cable Association
2415 39th Place, N.W.
Washington, D.C. 20007
(202) 494-5661

*Counsel for ACA*

Kathleen M. Sullivan
Quinn, Emanuel, Urquhart &
Sullivan LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000

Jonathan Banks
United States Telecom Association
607 14th Street, N.W., Suite 400
Washington, D.C. 20005
(202) 326-7272

*Counsel for USTelecom*

Matthew A. Brill
Matthew T. Murchison
Jonathan Y. Ellis
Latham & Watkins LLP
555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004
(202) 637-2200

Rick C. Chessen
Neal M. Goldberg
Michael S. Schooler
National Cable & Telecommunications
Association
25 Massachusetts Avenue, N.W.
Suite 100
Washington, D.C. 20001
(202) 222-2445

*Counsel for NCTA*

**RULE ECF-3(B) ATTESTATION**

In accordance with D.C. Circuit Rule ECF-3(B), I hereby attest that all other parties on whose behalf this joint opposition is submitted concur in its content.

/s/ *Michael K. Kellogg*
Michael K. Kellogg

June 19, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that, on June 19, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

/s/ *Michael K. Kellogg*
Michael K. Kellogg