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March 22, 2010

Ex Parte via Electronic Filing

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

Re: Authorized Ex Parte Contact – GN Docket No. 09-51; GN Docket No. 09-191; WC Docket No. 07-52

Dear Ms. Dortch:

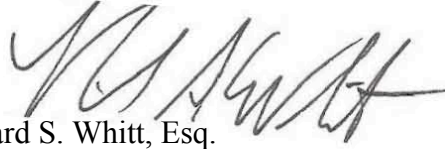
On March 19, 2010, the undersigned representatives from Google Inc. (“Google”), along with Linda Kinney from DISH Network (“DISH”), and Andrew Jay Schwartzman from Media Access Project (“MAP”), met with Austin Schlick, General Counsel, Julie Veach, Deputy General Counsel, David Tannenbaum, Special Counsel, and Zach Katz, Deputy Chief of the Office of Strategic Planning and Policy Analysis, to discuss certain matters related to the proper legal and regulatory classification of broadband networks.

In particular, the representatives explained that the FCC possesses affirmative oversight authority regarding consumer broadband transmission and connectivity services. Such authority is crucial to ensure that, among other things, the numerous important policy objectives laid out in the just-released National Broadband Plan successfully can be achieved. We noted that, especially in light of recent uncertainty surrounding the extent of the FCC’s broadband jurisdiction under the Communications Act, the FCC should take the steps necessary to build a complete legal and evidentiary record to confirm the agency’s oversight authority, whether under Title I, Title II, Title VI, or other pertinent provisions.

In the course of the discussion, the representatives referred to the attached document to explain some of the possible legal options available to the Commission. We observed that, whether from the perspective of the end user customer (how the broadband entity is viewed externally), the network itself (how the broadband entity functions internally), or the Commission’s past predictive judgments (how the broadband market actually has evolved), the Commission has ample room to clarify its appropriate oversight jurisdiction concerning last-mile broadband transmission and connectivity services.

Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. S. Whitt', written in a cursive style.

Richard S. Whitt, Esq.
Washington Telecom and Media Counsel

cc: Austin Schlick
Julie Veach
David Tannenbaum
Zach Katz

Attachment: Chart, "Potential Basis for Government Oversight of Broadband Networks"

Potential Basis for Government Oversight of Broadband Networks

	Three Options under Communications Act	... or the FTC	... or Congress
Net Access	Title I	?	Title VII?
	Title I	?	Title VII?
Broadband	Title I	?	Title VII?
	Current FCC (230, 706)		
	Classification A		
	Classification B		
	Computer III Redux		
	Computer IV		
	Werbach (251, 256)		
	Other		