May 4, 2010

Chairman Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: The Path Forward for the National Broadband Plan; Classification of Broadband Service

Dear Chairman Genachowski:

Our organizations\(^1\) focus on improving the lives of low-income consumers through affordable access to vital services. We view affordable access to communication services, including wireline, wireless and broadband services, as essential for the health and safety of households and communities and the ability of individuals to fully participate as valuable members of society. Lack of affordable access to communication services isolates and further marginalizes struggling consumers and households.

We are encouraged by the bold vision in the National Broadband Plan, as we believe that the Commission must take a hard and fresh look at the Universal Services Fund program. However, we are extremely

\(^1\) The National Consumer Law Center (NCLC) is a nonprofit corporation founded in 1969 to assist legal services, consumer law attorneys, consumer advocates and public policy makers in using the powerful and complex tools of consumer law for just and fair treatment for all in the economic marketplace. NCLC has expertise in protecting low-income consumer access to energy, water, and telecommunications services and publishes *Access to Utility Service* (4th edition) as part of its Debtor Rights Series of legal manuals, as well as NCLC’s *Guide to The Rights of Utility Consumers* and *Guide to Surviving Debt*.

The Edgemont Neighborhood Coalition (Edgemont) is a community organization based in the Edgemont neighborhood of Dayton Ohio. That neighborhood is primarily low income and African American. Edgemont has long been concerned about access to telecommunications services and the need to make sure that people in the Edgemont neighborhood are able to affordably access the internet. It operates a community computer center and its experience has caused it to believe that broadband service is now necessary to make full beneficial use of the internet. Advocates for Basic Legal Equality, Inc., is a non-profit law firm that provides high quality legal assistance in civil matters to eligible low-income individuals in western Ohio.
concerned that forward movement will be stymied from the outset by the
fundamental question of how broadband is to be treated by the FCC.

Recently, the U.S. Court of Appeals significantly narrowed the
Commission’s legal authority to implement broadband policy using its
ancillary authority under Title I of the Communications Act. The limited
ability of the Commission to pursue the many valuable goals in the
National Broadband Plan under such a narrow legal framework concerns
us greatly. We believe the Commission must have flexibility, within
appropriate boundaries, to determine the most responsible policy that will
meet the goal of delivering affordable broadband service to low-income
and rural Americans.

We believe the most responsible and common sense path before
the Commission is to revisit its original decision to deregulate broadband
services in 2002 and related subsequent decisions, and to define
broadband as a telecommunications service under Title II of the
Communications Act. This approach will give the Commission the ability
to move forward expeditiously on meeting the goals of the National
Broadband Plan. Moreover, such an approach will allow the Commission
to develop public policy that truly helps secure affordable access to high-
speed Internet service for low-income and rural households currently
stranded on the wrong side of the digital divide.

Sincerely,

/s/
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Cc: Commissioner Copps  
    Commissioner McDowell  
    Commissioner Clyburn  
    Commissioner Attwell Baker