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VIA ELECTRONIC FILING

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

Re: *Ex Parte* Notice

ET Docket No. 04-35, WC Docket No. 05-271, GN Docket Nos. 09-47, 09-51,
09-137

Dear Ms. Dortch:

The Telecommunications Industry Association (TIA) submits this *ex parte* communication in response to the Commission's above-referenced *Notice of Inquiry* as it considers whether to apply network outage reporting requirements to providers of interconnected Voice over Internet Protocol and broadband services.¹

As the Commission duly notes, communications services delivered to end users over broadband technologies have grown in importance and now carry some of our nation's most vital communications.² TIA shares the FCC goal of ensuring reliability and security of these services, and TIA commends the Commission for gathering information before initiating a rulemaking procedure. If current Part 4 rules are extended to broadband service providers, TIA urges that the Commission limit their application to service providers only and remove the requirement to identify a piece of failed equipment.

¹ *Public Safety and Homeland Security Bureau Seeks Comment on Whether the Commission's Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice Over Internet Protocol Service Providers*, Public Notice, ET Docket No. 04-35, WC Docket No. 05-271, GN Docket Nos. 09-47, 09-51, 09-137 (July 2, 2010) (NOI). Unless indicated otherwise, all comments referenced herein were filed in this proceeding.

² *Id.* At 1.

If Adopted, Any Network Outage Reporting Requirements for Broadband ISPs and Interconnected VoIP Operators Should Apply Only to Service Providers

Should the Commission expand its reporting requirements to broadband ISPs and interconnected VoIP operators, TIA again urges the FCC retain the exclusion for “non-affiliated entities that maintain or provide communications systems or services used by the provider in offering such communications” from their definition of broadband and VoIP providers who must report to NORS.³ As previously stressed by TIA, contractual agreements between network operators and equipment suppliers sometimes contain provisions for continued maintenance by the vendor or for the vendor to provide network management services. In all cases, the only parties in a position to supply accurate and complete information about their networks, which typically make use of equipment provided by multiple vendors, are the service providers. The exclusion described above is consistent with the Commission’s policy of holding licensees responsible for adherence to its rules. Intra-industry cooperation between network equipment suppliers and service providers will facilitate necessary information regarding equipment for numerous reasons, including customer-supplier relationships, the service providers’ familiarity with their own equipment, and the likelihood that service or other agreements are in place.⁴

If New Network Reporting Requirements are Adopted, Reporting Templates Should Not Include a Field for Listing Failed Equipment

Under current Part 4 rules, the Network Outage Reporting System (NORS) online form includes a field titled “Name and Type of Equipment that Failed.”⁵ TIA reiterates its previously-expressed belief that it is a grave mistake to include such a field in any outage reporting criteria adopted by the Commission.⁶ Utilization of this field creates an immediate inference that equipment malfunction was a source of a network outage, and that specific equipment will be identifiable. Any network, and especially broadband networks, can have an outage without an attributable failure of a specific piece of equipment. While the Commission does not require the name of the vendor supplying the equipment that is claimed to be the cause of the outage to be provided, it concedes that “the name of the equipment is usually uniquely identified with a particular vendor.”⁷ Therefore, with the “Name and Type of Equipment that Failed” field included, vendor identities are not protected. Further, it is not possible to remedy the impact on vendors whose products were inaccurately attributed to be the cause of an outage, leading to inequitable and unwarranted injury to the equipment supplier's business repute.⁸

³ Telecommunications Industry Association Ex Parte, ET Docket No. 04-35 at 2 (filed July 28, 2004) (TIA 2004 Part 4 Ex Parte).

⁴ *Id.* at 2.

⁵ *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, ET Docket No. 04-35, Report and Order & Further Notice of Proposed Rulemaking, FCC 04-188 at Appendix C (August 19, 2004) (Part 4 Order).

⁶ TIA 2004 Part 4 Ex Parte At 2.

⁷ Part 4 Order at ¶¶ 157.

⁸ TIA 2004 Part 4 Ex Parte at 2-3.

As TIA has noted in the 2004 Part 4 proceeding, even suggesting identification of failed equipment regardless of the outage cause negatively affects service provider-vendor contractual relationships, and gives rise to a forum to voice legal disputes that could arise.⁹ The manufacturer would not have a meaningful opportunity to respond and would be at a disadvantage in defending itself.

Accordingly, TIA strongly supports the position that any standardized reporting forms for broadband outages not include a field for listing “Name and Type of Equipment that Failed.”

Respectfully submitted,

/s/ Danielle Coffey

Danielle Coffey

⁹ *Id.* at 3