

**The Free State Foundation**  
**P. O. Box 60680**  
**Potomac, MD 20859**  
**301-984-8253**

April 4, 2024

**Re: WC Docket No. 23-320; Safeguarding and Securing the Open Internet**

**NOTICE OF EX PARTE MEETING VIA VIDEOCONFERENCE**

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Ms. Dortch:

On April 4, 2024, I, along with Free State Foundation Senior Fellow Seth Cooper, met with Commissioner Nathan Simington, and his Wireless Advisor Marco Peraza, to discuss the above-referenced proceeding.

We discussed legal and policy contentions contained in the Free State Foundation's initial and reply comments and a written ex parte submission, dated April 3, 2024, to which a paper titled [“The ‘Network Slicing’ Debate Exposes How Title II Will Kill Innovation.”](#) all of which have been filed in the public record. We discussed the extent to which, considering the technological and competition developments since 2015, the proposal to classify Internet service providers as “telecommunications carriers” subject to Title II public utility regulation is even more ill-advised now than it was then. We discussed how extraordinary it is for an agency to propose burdensome restrictive regulatory mandates without any meaningful evidence of any present harm to consumers or competition. We discussed why the Supreme Court's Major Questions Doctrine renders the Commission's proposal so legally vulnerable. We discussed why the newly-found public safety and national security rationale offered in the proposal should be rejected.

Thank you for including this ex parte submission in the record.

**Sincerely,**

/s/ Randolph J. May

Randolph J. May

President, The Free State Foundation  
The Free State Foundation

cc: Commissioner Nathan Simington, Marco Peraza, Seth Cooper