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**EX PARTE**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20054

**Re: Broadband Industry Practices; Docket No. 07-52**

Dear Ms. Dortch:

On July 9, 2008, Michael Willner (Vice Chairman and CEO of Insight Communications) and I met with Cristina Pauzé (Legal Advisor to Commissioner McDowell) to discuss the “network management” issues raised in the Petition for Declaratory Ruling of Free Press *et al.* and the Petition for Rulemaking of Vuze, Inc., which have been incorporated into the above-captioned proceeding.

In particular, Mr. Willner described how, in the absence of network management, the usage of P2P services by a very small number of a cable system’s high-speed Internet customers can cause substantial (and sometimes complete) congestion of the system’s upload capacity. As a result, service for the system’s high-speed Internet customers using the Internet for other purposes (such as e-mail, web browsing, e-shopping, streaming music and video, etc.) would be degraded. As Mr. Willner pointed out, network upgrades that are intended to enhance the speed and quality of Internet access would, in the absence of network management, only *exacerbate* this problem because P2P users around the world seek to retrieve files from computers on systems with the fastest upload speeds.

To avoid such a result, network management tools and technology are necessary to regulate the extent to which P2P uploads consume and congest capacity. This enables customers to continue to use P2P services without degrading the quality of Internet access service for the vast majority of customers using the Internet for other purposes. In the fiercely competitive environment facing cable operators today, maximizing the attractiveness, quality and value of the Internet experience is the foremost imperative. Competition drives operators to find the network management techniques that best serve this objective – and the high level of consumer satisfaction with the high-speed Internet service provided by Insight, and by the cable industry

generally, demonstrates that cable's network management techniques have made cable's high speed service the most attractive in the market.

Mr. Willner expressed concerns that regulatory efforts to restrict or pre-determine the tools and technology to be used for network management would thwart investment in network upgrades, slow the rate of growth of high-speed Internet customers, and seriously disrupt and degrade the value of the Internet for all users. He urged that the Commission adhere to its successful policy of "vigilant restraint" and not embark on such a misguided regulatory path.

Respectfully submitted,

**/s/ Michael S. Schooler**

Cc: Cristina Pauzé