

April 9, 2015

Alan P. Dye
Heidi K. Abegg
Webster, Chamberlain & Bean, LLP
1747 Pennsylvania Avenue, NW, Suite 1000
Washington, DC 20006

Re: Cease and Desist Letter dated March 5, 2015 to CREDO Action

Dear Mr. Dye and Ms. Abegg:

I am writing in response to your March 5, 2015 cease and desist letter, sent on behalf of your client, the American Legislative Exchange Council (ALEC), directed to CREDO Action. Your letter claims that the CREDO Action petition "Stop AT&T, Verizon and Comcast from blocking fast and affordable internet access" ("Petition") makes claims that are purposely false or exhibit a reckless disregard for the truth. You demand that CREDO Action remove certain material from its website and issue a retraction and correction of statements made on a CREDO Action petition page. CREDO has carefully reviewed your letter and, for the reasons set out below, has determined that our statements, to the extent they constitute factual assertions, are true. Accordingly CREDO declines to comply with your demands.

Your letter objects to the Petition's assertion that ALEC is "working to make sure" that "affordable, lighting fast Internet access at your home" made possible by municipal governments "never happens." Your letter further challenges the Petition's assertion that ALEC "is now pressuring state legislature around the country to ban cities from offering broadband Internet access."

First, contrary to your claim, these statements do not "contradict ALEC's publications" but are entirely consistent with them. ALEC's own Communications and Technology Task Force page on municipal broadband, <http://www.alec.org/task-forces/telecommunications-and-information-technology/municipal-broadband/>, advances the position that broadband should not be provided by local governments:

There is no question that broadband will become as ubiquitous as the traditional household utilities. But does it deserve the same classification as water & sewer, roadways or school systems in being provided by the government? A growing number of municipalities are answering "yes" by building their own networks and offering broadband services to their citizens. *ALEC disagrees with their answer...*

(emphasis added). ALEC's Telecommunications Deregulation Policy Statement, <http://www.alec.org/model-legislation/telecommunications-deregulation-policy-statement/>, goes further in stating that "Local government provision of wholesale or retail telecom, cable TV, Internet or other broadband services in competition with existing private sector providers *should be prohibited*" (emphasis added).

Second, your letter takes issues with the statements that ALEC is “working to make sure it never happens” and “Is now pressuring state legislatures.” You assert that ALEC “does not lobby state legislatures” but is merely “a think tank for state-based public policy issues...” ALEC is not, however, a neutral purveyor of policy solutions. ALEC’s model legislation is designed to promote, among its members who are state legislators, particular policy positions and it is the manifest intent of ALEC to persuade legislators to adopt those particular positions. The Minnesota Campaign Finance and Public Disclosure Board finding, http://www.cfboard.state.mn.us/bdinfo/investigation/02_03_2015_ALEC.pdf, you cite as evidence that ALEC does not lobby state legislatures, itself states that ALEC’s mission “is to *influence public attitudes and legislative action* in the nation as a whole.” To “influence” “legislative action” is to lobby, by any commonsense definition and for purposes of any number of laws as well. That ALEC has (arguably) not been required to register as a lobbyist in certain states does not in any way render untrue what ALEC’s own actions and statements clearly indicate: *ALEC attempts to influence legislative outcomes.*

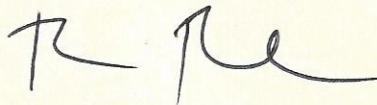
Not only does ALEC attempt to influence legislative outcomes, it clearly succeeds in doing so. As recounted in a 2011 Bloomberg News article, ALEC’s model legislation on municipal broadband was the principal reason why cable companies were able to block Lafayette, Louisiana from offering high speed Internet access to its citizens. “Psst---Wanna buy a law,” <http://www.bloomberg.com/bw/magazine/pssst-wanna-buy-a-law-12012011.html#p1>

Under these circumstances, the language used in the statements you challenge—“working to make sure it never happens” and “pressuring state legislatures”—is well within the bounds of political discourse in making the point that ALEC’s model legislation and positions have the intent and effect of encouraging enactment of state legislation effectively banning cities from offering broadband Internet access.

For these reasons, it is clear that the statements challenged in your letter are not false and not defamatory. Accordingly, CREDO declines to comply with any of your demands.

If you have any questions concerning the above, please contact the undersigned.

Sincerely yours,



Becky Bond
CREDO Action