

1 Michael J. Aschenbrener (admitted pro hac vice)
 2 KAMBEREDELSON, LLC
 3 350 N. LaSalle St., Ste. 1300
 4 Chicago, IL 60654
 5 (312) 589-6379

6 ATTORNEY FOR PLAINTIFFS

7 **UNITED STATES DISTRICT COURT**
 8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 9 **SAN FRANCISCO DIVISION**

10 DAN VALENTINE, DALE MORENSEN,
 11 MELISSA BECKER, SAMUEL GREEN,
 12 SHERRON RIMPSEY, CHARLOTTE
 13 MIRANDA, FRANK MIRANDA, SAUL
 14 DERMER, WAYNE COPELAND, CRYSTAL
 REID, ANDREW PAUL MANARD,
 KATHLEEN KIRCH, TERRY KIRCH NEIL
 DEERING, PAUL DRISCOLL, individuals, on
 behalf of themselves and all others similarly
 situated,

15 Plaintiffs,

16 v.

17 NEBUAD, INC., a Delaware Corporation;
 18 BRESNAN COMMUNICATIONS, a New
 19 York Corporation; CABLE ONE, a Delaware
 20 Corporation; EMBARQ, a Delaware
 21 Corporation; KNOLOGY, a Delaware
 Corporation; WOW!, a Delaware Corporation;
 and JOHN DOES 1-20, corporations,

22 Defendants.

Case No.: 3:08-cv-05113-TEH

**STIPULATION AND [PROPOSED]
 ORDER REGARDING HEARING DATE
 FOR DEFENDANT NEBUAD'S MOTION
 TO DISMISS**

The Honorable Thelton E. Henderson

1 Pursuant to Local Rule 6-1, Plaintiffs and Defendant NebuAd, Inc. hereby stipulate and
2 agree as follows:

3 1. The hearing for NebuAd's Motion to Dismiss (Doc. 4) will occur after Magistrate
4 Judge Chen resolves the pending issues of jurisdictional discovery (*see* Docs. 64 and 70) and at
5 the same time as the hearing on this case's other defendants' pending motions to dismiss, as
6 NebuAd's Motion to Dismiss concerns some of the same issues and the parties wish to keep the
7 proceedings on the same schedule.

8 2. NebuAd is required to file its reply in support of its Motion to Dismiss two weeks
9 before the rescheduled hearing.

10 3. Plaintiffs filed their complaint on November 10, 2008. (Doc. 1).

11 4. NebuAd filed its Motion to Dismiss on December 22, 2008 and re-noticed its
12 motion on January 30, 2009 for March 9, 2009. (Doc. 4)

13 5. Defendants Bresnan, Cable One, CenturyTel, Embarq, Knology, and WOW!
14 (collectively, "ISP Defendants") filed their respective motions to dismiss on January 30, 2009 and
15 noticed them for March 9, 2009. (Docs. 40, 52, 44, and 51). ISP Defendants' motions are based
16 on issues of personal jurisdiction, as well as other Rule 12(b)(6) issues. Defendant Bresnan also
17 filed a Motion to Compel Arbitration on January 30, 2009 and noticed it for March 9, 2009. (Doc.
18 42).

19 6. Plaintiffs filed a Motion for Leave to Conduct Immediate Jurisdictional Discovery
20 on Friday, February 13, 2009. (Doc. 64).

21 7. Plaintiffs filed their response to NebuAd's Motion to Dismiss on Tuesday,
22 February 17, 2009. (Doc. 65).

23 8. This is the first request for an extension of time concerning NebuAd's Motion to
24 Dismiss since NebuAd re-noticed its motion. Plaintiffs previously stipulated with NebuAd to
25 provide time to respond to its previously noticed Motion to Dismiss until January 30, 2009.

26 9. The parties request this extension because NebuAd's Motion to Dismiss raises
27 several of the same Rule 12(b)(6) issues that ISP Defendants raise in their motions to dismiss.

1 12. The parties believe it is in the best interest of the Court and all parties for these
2 issues to be resolved on the same schedule as ISP Defendants' motions to dismiss.

3 13. This requested time modification will require the Court to reschedule the hearing
4 on Defendants' Motions to Dismiss, which is currently scheduled for March 9, 2009 at 10:00 a.m.
5 The parties propose that the Court reschedule the hearing for the same time that ISP Defendants'
6 Motions to Dismiss will be heard.

7
8 Dated: February 20, 2009

By: /s/
MICHAEL J. ASCHENBRENER
KAMBEREDELSON, LLC

Attorney for Plaintiffs

9
10
11
12 Dated: February 20, 2009

By: /s/
MELINDA M. MORTON
BERGESON, LLP

Attorney for Defendant NebuAd, Inc.

13
14
15
16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17
18 Dated: 02/23/09

