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11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 **AMERICAN CABLE ASSOCIATION, et al.,**

14 Plaintiffs,

15 v.

16 **XAVIER BECERRA, in his official capacity**
 17 **as Attorney General of California,**

18 Defendant.

2:18-cv-02684-JAM-DB

JOINT STATUS REPORT

Judge: The Hon. John A. Mendez
 Actions Filed: Oct. 1, 2018; Oct. 3, 2018

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17 Plaintiffs American Cable Association, CTIA – The Wireless Association, NCTA – The
18 Internet & Television Association, and USTelecom – The Broadband Association (collectively,
19 “Plaintiffs”), and Defendant Attorney General Xavier Becerra (“Defendant,” collectively with
20 Plaintiffs, the “Parties”) hereby provide a joint status report in accordance with the Court’s
21 minute order (ECF No. 75), stating their position as to whether the voluntary dismissal of *United*
22 *States of America v. California, et al.*, Case No. 18-cv-02660 (“*United States v. California*”),
23 affects this matter in any way, and, if so, how.

24 Defendant’s position is that the United States’ voluntary dismissal of its lawsuit
25 underscores Defendant’s arguments that SB 822 is not preempted. In light of that voluntary
26 dismissal and the D.C. Circuit’s vacatur of the Federal Communications Commission’s
27 Preemption Directive, *see Mozilla Corp. v. FCC*, 940 F.3d 1, 74-86 (D.C. Cir. 2019), there is no
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1 currently operative statement from the Commission or the United States suggesting that SB 822 is
2 preempted.

3 Plaintiffs' position is that the United States' voluntary dismissal of its lawsuit has no
4 bearing on Plaintiffs' claims that SB 822 violates the Supremacy Clause. The Communications
5 Act of 1934, as amended, and the portions of the FCC's 2018 Order that the D.C. Circuit upheld
6 give rise to field, express, and conflict preemption, and neither the federal statute nor the
7 Commission's order requires a further "operative statement" to have preemptive effect.

8 The Parties are in agreement that the voluntary dismissal of *United States v. California* does
9 not require postponement of the February 23, 2021 hearing on the pending preliminary injunction
10 motion in the instant case.

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Respectfully Submitted,

Dated: Feb. 16, 2021

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1 Dated: Feb. 16, 2021

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