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June 20, 2014

**VIA ECFS**

***EX PARTE NOTICE***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re:** *Technology Transitions, GN Docket No. 13-5; Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Petition of tw telecom inc. et al. to Establish Regulatory Parity in the Provision of Non-TDM-Based Broadband Transmission Services, WC Docket No. 11-188; Petition for Declaratory Ruling That tw telecom inc. Has the Right to Direct IP-to-IP Interconnection Pursuant to Section 251(c)(2) of the Communications Act, as Amended, for the Transmission and Routing of tw telecom's Facilities-Based VoIP Services and IP-in-the-Middle Voice Services, WC Docket No. 11-119; Business Broadband Marketplace, WC Docket No. 10-188; Cbeyond, Inc. Petition for Expedited Rulemaking to Require Unbundling of Hybrid, FTTH, and FTTC Loops Pursuant to 47 U.S.C. § 251(c)(3) of the Act, WC Docket No. 09-223; Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers, RM-11358; Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25*

Dear Ms. Dortch:

On June 18, 2014, Chip Pickering, CEO of COMPTTEL; Chris Ancell, CEO of XO Communications, Inc., Lisa Youngers, Vice President and Assistant General Counsel, Federal Affairs of XO Communications, Inc.; Auzzie K. Brown, Senior Vice President, Chief Information Officer, and Chief Security Officer of WestStar Mortgage; Kelsi Reeves, Vice President, Federal Government Relations of tw telecom, inc.; Oron Strauss, Chairman, Pantheon Software; Jim Butman, Group President of TDS; Eric Einhorn, Senior Vice President, Government Affairs, Windstream Communications, Inc.; Sam Kline, Senior Vice President, Corporate Strategy of Granite; Tim Koxlien, CEO of TeleQuality Communications, Inc.; Deborah Ward, CEO of TSI and Chairwoman of COMPTTEL; Thomas Jones, Partner of Willkie

Farr & Gallagher LLP, Thomas W. Cohen, Partner of Kelley Drye LLP;<sup>1</sup> Kevin Joseph of The Joseph Group, LLC, and the undersigned from COMPTTEL, met with Chairman Wheeler, Jonathan Sallet, General Counsel, and Tim Stelzig, Deputy Chief, Competition Policy Division, Wireline Competition Bureau; then with Commissioner Clyburn and Rebekah Goodheart; and finally with Commissioner Rosenworcel and Priscilla Delgado Argeris.

In the meetings, Mr. Pickering described an event hosted by the Broadband Coalition and COMPTTEL entitled, “Consumers, Competition and the 1996 Telecom Act” earlier that morning at the Library of Congress, where President Clinton signed the bipartisan legislation. At that event, a number of Congressional leaders and former Congressman who supported the 1996 Act spoke about the importance of the Act in ensuring that consumers would benefit from robust competition that has led to significant investment, innovation, and consumer value. For example, Thomas Bliley, former Republican House Commerce Committee Chairman when the Act was passed said, “competition is the answer, and it’s just as true today if not more true than it ever was . . . .” Senator Markey stated it is “the smaller companies who are historically the innovators, not the broadband behemoths.” Senator Pryor noted that “when you have competition, it solves a lot of other problems.” Former Congressman John Shadegg, who is the former Chairman of the Republican Study Committee, said that “the right rules and regulations that promote competition are exactly what we need.” Both Congressman Peter Welch and Senator Pryor focused on the broadband needs in rural America and the importance of the industry in delivering much needed services to rural Americans.

In addition, the members of the BBC and COMPTTEL identified above and their customers described the value that competition has brought to the marketplace both at the morning event and during the meetings. Specifically, Mr. Brown expressed the importance of his relationship with XO Communications to the delivery of his company’s mortgage services to consumers. He noted that a competitive communications marketplace provides small and medium-sized businesses the ability to negotiate what they need and obtain the service levels required for their businesses to be successful. He described how he receives better customer service from XO as compared with the large incumbent LEC, with the capability to reach every level of the management team at XO; how WestStar collaborates with XO to obtain the innovative products that WestStar requires, especially with respect to secured communications; and that XO provides the flexibility and agility that WestStar needs, including the capability to serve throughout the U.S. as WestStar has grown its locations.

Mr. Strauss described how his company, Pantheon Software, has grown rapidly over the last ten years, and when it moved to a new location in Clarendon, Virginia, tw telecom was willing to make the investments necessary to serve Pantheon. Pantheon has been served by tw telecom for several years, which accommodated its growth and enabled it to deliver to his clients the services they need for their businesses.

Both of these customers, and the other testimonials conveyed at the event earlier in the day demonstrate that a robust competitive marketplace best ensures consumer benefits, including investment, innovation, and valued services. The policies enacted by Congress in the 1996 Telecom Act that provide access to last mile facilities and interconnection have been instrumental to competitive carriers’ capabilities to serve their customers. However, there are a

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<sup>1</sup> Mr. Cohen only participated in the meeting with the Chairman.

number of outstanding proceedings concerning these issues. As such, we discussed the timeline for Commission action in the above-referenced proceedings to ensure that consumers will continue to have access to competitive carriers. Some of these issues have been pending for a number of years and are in need of speedy resolution to ensure a competitive marketplace, especially with respect America's businesses, and to provide a stable investment environment for all carriers and their investors. Indeed, we discussed how regulatory delay negatively impacts the ability to plan to meet our customers' needs in the three-to-five year timeframes that they typically require.

In particular, it is imperative that the Commission follow through with its finding that, when an incumbent discontinues a service/facility, an equivalent service/facilities should be made available on comparable rates, terms, and conditions, as identified in the *Technology Transitions Order*.<sup>2</sup> We emphasized the need for a last mile access solution to ensure that business consumers can have competitive choice, and competition will flourish, when all networks have transitioned to IP.<sup>3</sup> We also discussed the importance of the Commission confirming IP interconnection rights for managed voice services pursuant to Sections 251 and 252 of the Act. We stated that this issue should be addressed given that large ILECs continue to refuse to negotiate such interconnection arrangements in good faith within the framework established in Section 252 of the Act; that large ILECs seek to avoid the ICC reforms, including the bill and keep rate, that the Commission already unanimously agreed should ultimately apply to all voice calls; and that the Commission has a complete record on this matter, as well as significant support from the rural incumbent, wireless, cable, and competitive carriers to address this outstanding legal issue.

In closing, it is imperative that the Commission protect the wholesale marketplace and promote competition for business consumers. These consumers matter in the discussion. As such, they are mobilizing and have launched a campaign called Customers 4 Competition that was announced at the morning event celebrating the impact of the 1996 Telecom Act.<sup>4</sup> Customers are offering their perspective on how competitive providers best meet their needs. The Commission must do all it can to promote competitive policies that will continue to ensure consumers can access competitive offerings.

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<sup>2</sup> See Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, *Technology Transitions et al*, GN Docket No. 13-5 *et al*, FCC 14-5, ¶ 59, rel. Jan. 31, 2014 (“*Technology Transitions Order*”).

<sup>3</sup> See, e.g., COMPTTEL *Ex Parte* Letter to Marlene H. Dortch, GN Docket No. 13-5 *et al.*, dated Apr. 2, 2014; Windstream *Ex Parte* Letter to Jonathan Sallet and Julie Veach, GN Docket No. 13-5 *et al.*, dated Apr. 28, 2014; See XO Communications *Ex Parte* Letter, GN Docket No. 13-5 *et al*, dated Jun. 4, 2014.

<sup>4</sup> See <http://customers4competition.com/>. To view the event, please visit <https://www.youtube.com/watch?v=7TGgx-7yaik>

Please do not hesitate to contact me if you have any questions about this submission.

Respectfully submitted,

*/s/ Angie Kronenberg*

cc: Chairman Wheeler  
Commissioner Clyburn  
Commissioner Rosenworcel  
Jonathan Sallet  
Rebekah Goodheart  
Priscilla Delgado Argeris  
Tim Stelzig