



For Immediate Release

INCOMPAS: Merger Info Necessary for Complete Net Neutrality Record

CEO Chip Pickering says, “A closed process threatens to close the internet.”

WASHINGTON DC (August 4, 2017) – INCOMPAS, the internet and competition association, continued to call on the FCC to include information from recent merger investigations in the open internet/net neutrality proceeding in a detailed new filing at the Commission.

In responding to objections from cable and AT&T last week, INCOMPAS makes clear that the FCC already has seen such data and points out the economic analyses, underlying facts, and other data were necessary and crucial for investigators and regulators to examine the mergers that resulted in three companies coming to represent approximately 65% of the broadband market.

This data informed the Department of Justice and FCC in concluding that each of those providers has the incentive and ability to harm online content. The absence of such data in the current rulemaking would prevent the Commission from compiling a record sufficient to support any order or to withstand judicial review.

A copy of the INCOMPAS filing can be found [HERE](#).

[http://www.incompas.org/files/\(as%20filed\)%20INCOMPAS%20Response%20to%20Oppositions-3Aug.pdf](http://www.incompas.org/files/(as%20filed)%20INCOMPAS%20Response%20to%20Oppositions-3Aug.pdf)

“We must have a full and complete net neutrality record. Cable and AT&T’s apocalyptic overreaction to our request for merger information, already available at the FCC, clearly shows they have something to hide,” **said Chip Pickering, CEO of INCOMPAS.** “The courts are destined to review any FCC order, and it doesn’t take Matlock to see cable and AT&T want to hide evidence that will show both the means and the motive to do harm to consumers and competition in the event net neutrality protections are off the books. A closed process threatens to close the internet.”

The merger review information requested by INCOMPAS pertains to the following cases: AT&T-Direct TV, Comcast-Time Warner Cable, Charter-Time Warner Cable-Bright House Network and Comcast-NBCU.

The INCOMPAS filing stresses:

- Narrowly-defined categories of merger data, like the full orders issued by the FCC, are necessary for a full and complete record.
- Merger reviews have concluded, again and again, that broadband providers have the incentive and ability to close the internet.
- Merger information is already protected, private and confidential at the FCC. INCOMPAS asked for this information to be treated under the same standards for all confidential and highly confidential information.

EXAMPLE of these companies saying one thing publicly, and the opposite in internal corporate discussions:

For example, in its application to merge with Time Warner Cable, Charter asserted, “New Charter will lack the ability to adversely impact [online video distributors’] ability to compete...as well as the incentive to do so.”[\[1\]](#)

After reviewing Charter’s own internal documents, however, the Commission’s investigation concluded the opposite: “Many [internal] documents indicate that, despite some instances of [BEGIN HIGHLY CONFIDENTIAL INFORMATION] [END HIGHLY CONFIDENTIAL INFORMATION], New Charter would have an incentive to harm [online video distributors] that could serve as substitutes for some or all of its video products. For instance, Applications have taken steps to [BEGIN HIGHLY CONFIDENTIAL INFORMATION][END HIGHLY CONFIDENTIAL INFORMATION].”[\[2\]](#)

INCOMPAS’s filing juxtaposes numerous such examples where Cable and AT&T’s lawyers and consultants assert only benign intentions and no abilities to harm online content, only to be disproved by their own internal documents and facts after an FCC investigation.

[\[1\]](#) Application of Charter at 44, MB Docket No. 15-149

[\[2\]](#) *Charter/TWC Order*, 31 FCC Rcd. At 6344 Paragraph 42.

About INCOMPAS:

INCOMPAS, the Internet and competitive networks association, is the leading trade group advocating for competition policy across all networks. INCOMPAS represents Internet, streaming, communications and technology

companies large and small, advocating for laws and policies that promote competition, innovation and economic development. Learn more at www.incompas.org or follow us on Twitter: @INCOMPAS @ChipPickering