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Via ECFS

April 10, 2017

Chairman Ajit Pai
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: *Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143; Technology Transitions, GN Docket No. 13-5; Special Access Rates for Price Cap Local Exchange Carriers, WC Docket No. 05-25; and AT&T Corp. Petition for Rulemaking, RM-10593*

Dear Chairman Pai:

I write to you in response to the letter sent to me last Friday evening by Mr. Brendan Carr, General Counsel of the Federal Communications Commission. The bottom line of Mr. Carr's letter is that the Commission at this time cannot release the list of counties that would be deemed "competitive" under the proposed Broadband Data Services order until some time after the Commission votes to adopt new rules on April 20. This is the case even though the Commission plans to make the information public after the order is adopted and new rules are promulgated.

I respectfully suggest that there is a different, and more orderly way to proceed here. Rather than continue with a headlong rush to a vote on April 20, the Commission should take a pause, undertake the processes that it would otherwise implement after the vote in order to be able to publish its list of affected counties, and then provide a brief period for all affected entities to assess the impact of the Commission's proposed actions. This will allow the Commission to act with full knowledge of its proposed actions – including the removal of protections against monopoly and duopoly pricing in areas that may be far from urban centers. It will also provide time for the Chairman's newly formed Office of Economics and Data to perform and publish a cost-benefit analysis of the Chairman's proposal – something the Chairman has expressed a need for with any major Commission action, yet is lacking in this Report and Order despite its certain extraordinary impact on the economy. After all, this will be a shocking blow to nearly every business, wireless user, anchor institution, and governmental agency.

There is no exigency that compels action on this draft Order on April 20. It could just as easily be acted upon at the Commission's open meetings scheduled on June 15, July 13 or August 3. In light of the potential stakes for main street businesses and community anchor

institutions – which could see price increases of 25 percent or more as a result of this Order – a few additional months to vet the results is warranted.

I do need to point out that the alternatives suggested by Mr. Carr are not adequate to allow proper vetting of the draft proposal. While INCOMPAS' lawyers, and the outside counsel representing its members, could review the Highly Confidential data submitted in response to the 2015 data request, and could themselves develop a list of the counties that they believed met the proposed criteria, those lawyers could not share the list of counties they developed with affected stakeholders. They could not share the list with their clients, and thus their clients would not be able to conduct a full review of the business consequences of the order in advance of its adoption. No customers of those competitive business solutions providers – no local banks, no local fast food chains, no local retailers selling auto parts, toys or sporting goods – could be informed of the potential for the draft Order to raise their costs. The lawyers privileged to be able to review the data and any list also could not share the list with members of Congress, who have a strong interest in preserving and promoting local economic development.

You have championed transparency, including sharing drafts of Commission orders prior to their adoption. That is commendable. I urge you to demonstrate further commitment to open and informed decisionmaking by taking the time to clear the publication of the list of affected counties and to provide the public a reasonable opportunity for review and comment *prior to* proceeding to a final vote. In this way, you can ensure that all affected parties, including providers, consumers and Members of Congress – and not just a few lawyers – can evaluate the results of what you are proposing.

Thank you again for your prompt attention to this request.

Respectfully submitted,

/s/ Chip Pickering

Chip Pickering
CEO

cc: Brendan Carr