

June 11, 2021

The Honorable Janet T. Mills
Governor of Maine
1 State House Station
Augusta, ME 04333

Re: Maine LD 920

Dear Governor Mills:

INCOMPAS writes to you today to express our opposition to the legislation referenced above. INCOMPAS is the internet and competitive networks association—the preeminent national industry association advocating for streaming, internet content and the deployment of new communications networks, including competitive fiber that is delivering faster, more reliable, affordable and robust broadband across the U.S.¹ Since its inception in 1981, INCOMPAS has been a fierce advocate for a competitive communications marketplace, asserting that consumers and businesses will be better off because more investment and innovation will result with the implementation of pro-competitive policies in the U.S. In particular, INCOMPAS advocates for laws and policies that will enable broadband deployment and competition for residential and business customers and that will allow customers’ access to the online services and applications of their choice, including online video, that are delivered over broadband.

INCOMPAS opposes LD 920 because it will harm the demand for alternative video and broadband choices for Mainers and impede the buildout of competitive broadband throughout Maine, including to its rural areas. Should the legislation reach your desk, INCOMPAS urges you to veto it.

Cable providers were given a monopoly position to offer video programming to users for decades in exchange for franchise fees that are intended to compensate localities for the entry and occupancy of the public rights-of-way (digging up sidewalks and streets) by cable operators’ infrastructure. Cable’s market dominance has now been extended to broadband. In fact, most residential consumers in the U.S. (about 70%) obtain their broadband service from cable

¹ INCOMPAS represents competitive network companies that provide residential broadband internet access service, as well as other mass-market services, such as video programming distribution and voice services in urban, suburban, and rural areas. We also represent companies that are providing business broadband and other communications services to schools, libraries, hospitals and clinics, and businesses of all sizes; transit and backbone providers that carry broadband and internet traffic; online video distributors that offer video programming over the internet to consumers; and a direct broadcast satellite provider. You can find a list of our members [here](#).

operators.² There is a real need for competitive broadband alternatives, such as fiber, to bring more broadband competition, faster speeds, and a more reliable and robust network to meet the needs of communities. Most importantly, broadband competition leads to more affordable pricing, and cost is oftentimes the leading reason for consumers' lack of access to broadband—they cannot afford it. Where new fiber is deployed—consumers see prices drop and speeds increase—including by the incumbent cable operator.³

Moreover, there is significant need to extend fiber broadband networks to Maine's rural areas that do not have any broadband option at all. Deployment of fiber is expensive, and new franchise fees on competitors who offer video service will deter and slow down their deployment efforts. Some competitors offer video specifically to gain customers to their broadband products to compete against cable. Offering video as an option to compete against the dominant broadband provider is critical for any new entrant to gain market share to pay for their construction and operation of their network. Mainers want more competition, not less. Yet, if new franchise fees are adopted, competitive broadband providers will be discouraged from deploying broadband, including hard to reach, rural areas.

We applaud your leadership in establishing the Maine Connectivity Authority for achieving universal availability of high-speed broadband in Maine, and with efforts by Senator Angus King who also worked to ensure that Maine has as much as \$129 million dedicated to rural broadband infrastructure deployment⁴ in the [American Rescue Plan Act of 2021](#), there is great opportunity for broadband expansion in your state. Further, INCOMPAS continues to support additional broadband funding to ensure every American and business has access to high-speed broadband. The White House and Congress are discussing an investment of up to \$100 billion being made available for broadband.

² See Leichtman Research Group, About 4,860,000 Added Broadband From Top Providers in 2020, *available at* <https://www.leichtmanresearch.com/about-4860000-added-broadband-from-top-providers-in-2020/> (finding that of the larger broadband providers, cable “now account[s] for 105.8 million subscribers, with top cable companies having 72.8 million broadband subscribers, and top wireline phone companies having 33 million subscribers”).

³ Fiber is a critical component in delivering reliable broadband infrastructure and 1 gigabit speeds. Everyone needs access to fiber, including fixed broadband, cable, cellular (mobile), and satellite companies. Building fiber helps all, and fiber densification throughout the U.S. is needed for 5G. Fiber also operates more efficiently and is more scalable, allowing providers to handle broadband growth and demand over the long-term. *See also* Chapter 3: Promoting Broadband Competition in Broadband for America's Future: A Vision for the 2020's by Jonathan Sallet published by the Benton Institute for Broadband & Society *available at* https://www.benton.org/sites/default/files/BBA_full_F5_10.30.pdf (explaining that the lack of competition in the U.S. leads to higher pricing as compared to other nations; encouraging the U.S. to implement pro-competitive policies, such as lowering local fees that deters competitive entry, so that U.S. consumers have more than a monopoly or duopoly for broadband; and observing the positive impact in communities where there is a third broadband competitor that leads to incumbents improving their networks and lowering their prices).

⁴ See “American Rescue Plan includes historic broadband investment for Maine,” Senator Angus King, March 19, 2021, *available at* <https://bangordailynews.com/2021/03/19/opinion/contributors/american-rescue-plan-includes-historic-broadband-investment-for-maine/>.

In March, the White House released state-by-state fact sheets that highlight the urgent need in every state across the country for the investments proposed by President Biden in his \$2.3 trillion [American Jobs Plan](#). For Maine, with respect to broadband, the fact sheet states:

8% of Mainers live in areas where, by one definition, there is no broadband infrastructure that provides minimally acceptable speeds. And 85.3% of Mainers live in areas where there is only one such internet provider. Even where infrastructure is available, broadband may be too expensive to be within reach. 15% of Maine households do not have an internet subscription. The American Jobs Plan will invest \$100 billion to bring universal, reliable, high-speed, and affordable coverage to every family in America.⁵

Looking ahead, INCOMPAS supports your office’s work in finding solutions to help bridge the digital divide in Maine and for directing these federal funds most effectively in reaching those communities without any access to broadband. As you recently said in your announcement for creating the Maine Connectivity Authority, “High speed internet is as fundamental as electricity, heat, and water. It is no longer a luxury; it is a necessity. We need to have affordable, high-speed internet throughout our state, and with willpower we will get there.”⁶ We support your sentiments on this issue, and therefore, also believe now is *not* the time to add new franchise fees in those rural areas that still need broadband and for areas that still need competitive broadband. It will only discourage deployment by providers who offer both broadband and video to gain subscribers. Please reject the proposed legislation to impose new franchise fees on broadband providers who offer video service.

Thank you for considering INCOMPAS’ opposition to LD 920. Should you have any questions concerning the foregoing, please do not hesitate to contact me.

Sincerely,



Chip Pickering
CEO
INCOMPAS

⁵ American Jobs Plan, The Need for Action in Maine, *available at* <https://www.whitehouse.gov/wp-content/uploads/2021/04/AJP-State-Fact-Sheet-ME.pdf>.

⁶ *See* Governor Mills, Lawmakers Unveil Bipartisan Legislation to Achieve Universal Availability of Affordable Broadband in Maine, Press Release April 26, 2021, *available at* <https://www.maine.gov/governor/mills/news/governor-mills-lawmakers-unveil-bipartisan-legislation-achieve-universal-availability>.