

April 14, 2023

VIA ECFS – Notice of Ex Parte Communications

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

Re: Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, Order and Notice of Proposed Rulemaking, IB Docket No. 23-119

Dear Ms. Dortch:

On April 12, 2023, the undersigned and Christopher Shipley, INCOMPAS' Executive Director of Public Policy, met separately with Justin Faulb, Chief of Staff to Commissioner Starks, and Greg Watson, Policy Advisor to Commissioner Carr. On April 13, 2023, we separately met over video with Ethan Lucarelli, Chief of the Office of International Affairs, and with Marco Peraza, Wireline Advisor to Commissioner Simington. In these meetings we discussed the proposed Order and Notice of Proposed Rulemaking ("NPRM") concerning international Section 214 authorizations that is on the tentative agenda for the Commission's upcoming April 20 Open Meeting.

INCOMPAS expressed its support for the Commission to open this rulemaking to ensure that the agency has the information it needs to take the appropriate steps to protect telecommunications infrastructure from certain threats that could harm the nation's security. We offered several suggestions to assist the Commission in its efforts, but that also would help lower the burden on industry. With respect to the Order, we stated that the Commission has had the opportunity to review a number of transactions involving international Section 214 authorizations, requiring that the authorization holder submit the latest ownership information to the FCC as part of the approval process. Thus, we respectfully request that if the international Section 214 authorization holder has had an application to transfer control or assign the authorization in the last five years and ownership has not materially changed,¹ that the Order provide a process by which the authorization holder may certify to this and identify the application number with the provider's ownership information that the Commission already

¹ For purposes of identifying a material change, INCOMPAS suggests that the agency only require a new ownership filing where there is a new reportable ownership interest that has been added since the application was approved by the agency.

possesses.² This proposed modification would significantly lower the burden and outside counsel costs that authorization holders would incur to comply with the proposed Order, and it would ensure that the Commission knows where it has the ownership information it is seeking in its records so that it can review it, as well as the assurance that there are no material changes in that ownership.

With respect to the proposed NPRM, INCOMPAS expressed its support for including an additional option for further record development on how the Commission can ensure that it continues to obtain information from international Section 214 authorization holders that it needs as a potential alternative to a ten-year renewal or three-year submission of information. To that end, INCOMPAS discussed that a number of authorization holders have national security agreements with the agencies that require them to keep information about their ownership and operations current. As such, the Commission should consider exploring whether it can attain information that it seeks through this process. For example, the Commission should consider asking whether it can attain the information from these authorization holders from the national security agencies, or whether the authorization holders could provide ownership information that is updated at the same time if the FCC cannot obtain the information from the agencies. Further, we explored whether the FCC should consider streamlining the renewal process for those with national security agreements, and particularly those whose foreign ownership is from non-adversarial countries. We emphasized that providers are seeking to ensure that they are not incurring significant costs for complying with the proposed regime in the NPRM, and additional questions in the NPRM that seek information about alternatives would ensure that the FCC can obtain the information it needs, but also will help keep the burden on authorization holders as low as possible.

Finally, we requested that the proposed NPRM further clarify what situations potentially would be covered by Managed Network Service Providers that the FCC seeks to address.

² To the extent the Office of International Affairs is tasked with the responsibility to formulate the form by which authorization holders would use to submit information, INCOMPAS would recommend allowing authorization holders the ability to reference FCC file numbers of relevant filings and certify to their accurateness for their information and that no material changes have occurred also would be helpful in lowering the barriers to comply with the proposed Order.

If you have any questions about this filing, please feel free to contact me.

Respectfully submitted,

/s/ Angie Kronenberg

Angie Kronenberg
President

cc: Ethan Lucarelli
Justin Faulb
Greg Watson
Marco Peraza