



September 13, 2016

Chairman Tom Wheeler
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: WC Docket Nos. 16-143, 05-25 & 15-247 and RM-10593

Dear Chairman Wheeler:

The undersigned associations represent competitive communications companies that are bringing competitive networks and services to their communities, serving small and medium-sized businesses, community anchor institutions including schools and libraries, and local, state, and federal government agencies in rural, suburban, and urban areas. Our members bring innovative services and products to the marketplace that provide value to our customers and their communities. Our members build networks where economically feasible and purchase business data services (“BDS”) to serve their customers, and we write today to encourage you to adopt an Order that addresses the harms from the lack of competition in the BDS market.

The Commission’s data collection overwhelmingly shows a broken business data services marketplace. Seventy-seven percent of commercial locations with BDS demand have just one provider, and 22 percent have only two choices. Purchasers of these services are experiencing exorbitant pricing due to the lack of competition. We support the Commission’s current efforts to reform the broken BDS marketplace to provide meaningful price reductions in non-competitive areas for both TDM and packet-based services.

The beneficial effects of BDS reform will reverberate throughout the economy. Competitive wireline and wireless providers will be able to invest more in their own networks and innovative products and services, benefitting customers and competition throughout their communities. Indeed, one study shows that the spill-over effects of price reductions in the broader economy are substantial and an annual boost to GDP 2.6 times as great as the direct reduction in prices.¹

¹ INCOMPAS Reply Comments at 10 (*citing* WIK-Consult Report at 10, filed by INCOMPAS on July 28, 2016). Indeed, these considerable societal benefits need not come at the expense of the

This proceeding has been pending for more than ten years, and there is no reason those benefits should be delayed any further. For these reasons, we support the Commission completing the BDS reform proceeding expeditiously.

We support the adoption of a policy framework for BDS that protects consumers, encourages competition, and is administratively simple and practical. An appropriate framework may rely on competition to protect consumers where robust competition does so, but will provide adequate safeguards for consumers, including through ex ante pricing regulation for both TDM and packet-based services such as Ethernet, in markets in which competition is inadequate. Such a framework of ex ante price regulation should apply only to a single provider in any market. Today, there is no question that, where such regulation is appropriate, it should apply to the price cap incumbent LEC, which has a ubiquitous network in its territory and benefits from, among other things, economies of scale and scope in the provision of BDS that other providers do not. However, the Commission should commit to periodically re-evaluating the state of competition, and it should be prepared to apply regulation to a different provider in an appropriate region to the extent market conditions change such that the other provider is able to exercise the pricing power that today incumbent LECs possess.

We agree with Verizon and INCOMPAS that a competitive market test using three bandwidth tiers is appropriate—it recognizes where it makes economic sense for competitors to build and where it doesn't.² We also agree with Verizon and INCOMPAS about the need to ensure that the price adjustments adopted by the Commission should not merely be paper gains—they should result in significant actual price reductions from current levels for both TDM and packet-based services, including those purchased through discount plans—and that prices for those services should continue to decline over time. Consistent with the Verizon and INCOMPAS proposal, we support reductions in price cap levels for TDM services of at least 15 percent, consistent with Verizon/INCOMPAS proposal; such reductions will be required to achieve the Commission's goals.³ We also support the adoption of an X-Factor that reduces rates annually by 4.4 percent minus inflation, consistent with the Verizon/INCOMPAS proposal.⁴ For Ethernet services, we support the adoption of a framework of ex ante price regulation that would be administrable and enforceable. That framework should result in price reductions for Ethernet

incumbent carriers. As a result of price elasticity of demand for these services, a reduction in price is likely to have little effect on the gross revenues of providers and may even lead to an increase in gross revenue. *Id.* at 10-11.

² See INCOMPAS Comments, WC Docket No. 16-143 at 6 (June 28, 2016).

³ See INCOMPAS Reply Comments, WC Docket No. 16-143 at 12-13 (Aug. 9, 2016) (discussing the rate adjustment).

⁴ See INCOMPAS Comments, WC Docket No. 16-143 at 10-11 (June 28, 2016) (discussing the justification for an ongoing X-factor adjustment).

services that are at least as large as those proposed for TDM services on a one-time and on-going basis.

Finally, we support the Commission extending the *Technology Transitions Order's* requirement that incumbent LECs provide a reasonably comparable replacement product for its wholesale voice platform services when they transition their networks to IP.⁵ This requirement should continue until the Commission takes further action, after analyzing the relevant voice market, as there is a significant risk that competitors will not be able to obtain multi-location IP voice services from incumbent LECs on reasonable rates, terms, and conditions if the Commission allows the reasonably comparable wholesale access requirement to expire at the conclusion of the BDS proceeding.

Respectfully submitted,

/s/ Pamela H. Hollick
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Midwest Association of Competitive Communications

/s/ Sarah DeYoung
Executive Director – CALTEL

/s/ John Liskey
Executive Director—Michigan Internet & Telecommunications Alliance

/s/ Dan Bubb
President—Northwest Telecommunications Association

/s/ Carolyn Ridley
President—CompSouth

⁵ See Wholesale Voice Line Coalition Letter, WC Docket No. 16-143 (filed Aug. 25, 2016); Granite Letter, WC Docket No. 16-143 (filed July 25, 2016).