

April 20, 2018

**VIA ECFS**

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: Notice of Ex Parte Presentation, Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Petition Filed By Multifamily Broadband Council Seeking Preemption of Article 52 of the San Francisco Police Code, MB Docket No. 17-91; Improving Competitive Broadband Access to Multiple Tenant Environments, GN Docket No. 17-142**

Dear Ms. Dortch,

On April 18, 2018, Chip Pickering, INCOMPAS CEO, Karen Reidy, Vice President of Regulatory Affairs, and the undersigned met with Commissioner Brendan Carr and Jamie Susskind, Chief of Staff and Legal Advisor to Commissioner Carr, concerning the above-referenced proceedings.

We expressed support for the Commission's continued efforts to bridge the digital divide and lower barriers to entry for competitors providing broadband services. INCOMPAS members are building competitive fixed and mobile broadband networks to meet consumer demand. Our companies delivering broadband via fiber are offering one Gig service—driving higher speeds at lower prices for consumers. We urged Commissioner Carr to consider policies that ensure the participation of competitive providers in the Commission's broadband deployment efforts that will lead to investment in next generation networks by incumbents and competitors alike.

We also discussed the importance of expedient Commission action in the wireless and wireline infrastructure deployment proceedings on future 5G deployment. We emphasized that every wireless deployment is also a wireline deployment because you need to have fiber connected to the small cells. As a result, we urged the Commission to address barriers to deploying both fiber and small cells. Specifically, the Commission should use its authority to establish guardrails around what are reasonable fees and timeframes, with an effective enforcement mechanism, for state and local government to act on licensing and franchise agreements to be in rights-of-way, both for small cells and fiber builds.

We also stressed the critical need for the Commission to quickly adopt a one-touch, make-ready (“OTMR”) process for pole attachments in the communication space, as was approved for recommendation by the Commission’s Broadband Advisory Committee on January 23, 2018. The current process of multiple touch and multiple truck-rolls to the pole is inefficient, costly and, as a result, can substantially delay and hinder the expansion of broadband, regardless of how short the time period each existing attacher has to move their equipment since it must be done on a sequential basis.<sup>1</sup> The Commission should reject the proposals by incumbent providers that would gut the OTMR proposal, such as allowing them to escape their public policy obligations through private contracts, indemnification provisions for consequential or punitive damages, and allowing existing attachers to pre-select the contractors used, to name a few of the poison pills that have been proposed in the record.<sup>2</sup>

INCOMPAS also explained that access to multiple tenant environments (“MTEs”) has been challenging for competitive providers, and we discussed how the ability to access MTEs is a significant economic factor for firms and their ability to deliver competitive broadband networks to areas that are lacking competitive broadband choice. We noted that certain practices and agreements between incumbent providers and building owners, such as graduated revenue sharing and exclusive wiring, marketing and rooftop arrangements restrict competitive access, even when consumers have requested service from a competitive provider. We encouraged the Commission to consider a new rulemaking proceeding that would prohibit practices that amount to an end-run around the Commission’s current rules intended to promote competitive options.<sup>3</sup> We also emphasized the need for the Commission to encourage, rather than consider preemption of, competitive access laws that promote competitive entry to MTEs, like Article 52 of the San Francisco Police Code.

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<sup>1</sup> We discussed the impact of the current make-ready process on network builders like Uniti Fiber, which over the last ten years has gone from a 70% aerial network to roughly a 40% aerial network due largely to delays in pole attachments. Because the typical expense per foot for an underground deployment is anywhere from twice to as much as thirty times more expensive than for a typical aerial deployment, foot for foot, it significantly decreases the ability to expand the fiber network. *See* Ex Parte Notice of Karen Reidy to Marlene H. Dortch, WC Docket No. 17-84 (filed Apr. 4, 2018).

<sup>2</sup> *See e.g.*, Letter of Steven F. Morris, NCTA, to Marlene H. Dortch, WC Docket No. 17-84 (filed Mar. 5, 2018); Letter of Frank S. Simone, AT&T, and Debbie Goldman, CWA, to Marlene H. Dortch, WC Docket No. 17-84 (filed Jan. 1, 2018).

<sup>3</sup> *See* Reply Comments of INCOMPAS, GN Docket No. 17-142, at 7-14 (filed Aug. 22, 2017) (describing the many forms of exclusivity agreements that exist between incumbent providers and building owners that prevent competitors from offering services in MTEs).

Respectfully submitted,

*/s/ Christopher Shipley*

Christopher Shipley  
Attorney & Policy Advisor

cc: Commissioner Brendan Carr  
Jamie Susskind