

May 14, 2019

**Ex Parte Notice VIA ECFS**

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

Re: *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. §160(c) (WC Docket No. 18-141)*

Dear Ms. Dortch,

On May 10, 2019, the undersigned from INCOMPAS had a phone conversation with Randy Clarke, Legal Advisor for Commission Starks, with regard to the above-referenced proceedings.

In the conversation, I explained how the unbundling and resale provisions of the Telecom Act are finally working as intended – as tools for market entry and the deployment of new networks. Competitors are using unbundled network elements as a bridge to building new fiber networks, bringing gigabit-speed broadband service to small businesses and residential end-users across the country. I discussed the importance of this for supporting a 5G future,<sup>1</sup> and noted that the economic study INCOMPAS submitted in the record shows carriers using unbundled network elements as a bridge to fiber are building more fiber in the areas they operate than either the incumbent or cable.<sup>2</sup>

Competitive carriers are using unbundled network elements to provide service to consumers and to areas of the country the large carriers often ignore, and transforming these communities by bringing innovative, better quality of service in their wake. Nearly ten thousand residential and business consumers from various industries, especially small businesses, have expressed concern with the impact forbearance would have on their operations and their ability to grow in their respective marketplaces, noting the faster speed, better quality of service, more affordability, and a willingness to accommodate the unique needs of growing businesses offered

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<sup>1</sup> Letter from Julie A. Veach, Counsel to Sonic Telecom, LLC, to Marlene H. Dortch, Nov. 29, 2018 (Sonic Nov. Ex Parte).

<sup>2</sup> See Declaration of William P. Zarakas, ¶ 5 Table 1, Attachment 2 to the Opposition of INCOMPAS, FISPA, Midwest Association of Competitive Communications, and the Northwest Telecommunications Association, WC Docket No. 18-141 (filed Aug. 6, 2018) (“Competitive Carriers Group Opposition”).

by competitors. Carriers are also using the resale provisions to provide integrated services across LEC service areas, which is critical to multi-location customers including governmental entities.

We also discussed the limitations already in place on the availability of unbundled network elements. For example they are only available to local exchange carriers—not retail enterprise end-users or wireless carriers as is the case for business data services (“BDS”)—and only where the impairment standard established by the Commission has been met. They are already made available on a wirecenter level, and have specific eligibility requirements when loop and transport UNEs are combined, such that the ability to use them as a replacement for BDS is limited. Locally-based carriers have entered into the record their experiences as to how they utilize UNEs to provide a combination of voice and broadband data services at a local level, and the lack of competitive alternatives in the markets they operate.

Given the critical need for broadband and fiber deployment to all parts of the country, and the need for competitive choice for multi-location customers, the Commission should deny USTelecom’s petition.

Respectfully submitted,

*/s/ Karen Reidy*

Karen Reidy  
Vice President, Regulatory

cc: Randy Clarke