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May 31, 2018

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Notice of Ex Parte Communication, WC Docket No. 18-155; WC
Docket No. 10-90; CC Docket No. 01-92**

Dear Ms. Dortch:

Bandwidth Inc. (“Bandwidth”) agrees with NTCA that the Commission should be “surgical in its focus upon inefficient arbitrage, defining precisely what it considers to constitute such a practice and crafting remedies specifically to solve for any such concern.”¹

It is imperative that the Commission seek comment on how to adopt clear, easy to administer rules and enforce them. Bandwidth is one of the nation’s largest wholesale service providers and together with its customers has been a victim of persistent fraudulent traffic pumping schemes for years. Bandwidth supports targeted efforts to stem and address fraud in the marketplace so long as the rules do not permit unsubstantiated and self-serving claims of “arbitrage.”



Bandwidth appreciates the Commission’s proposal that access stimulators self-identify their status.² To ensure that any new access stimulation rules do not create increased uncertainty and litigation, ***Bandwidth suggests that the Commission also seek comment on how to preclude carrier self-help against a LEC that does not self-identify as an access stimulator.*** IXC’s should not be permitted to label LECs as “access stimulators” and take unilateral action that would force tandem providers and the wrongly-labeled LECs to divert resources from providing communications networks and services to litigation. Every act of IXC self-help costs Bandwidth time and money in disputed and unpaid access bills, diverting resources from running and growing its business. Rules that are not easy to apply and lack a process for identifying access stimulators effectively reward the IXC’s that engage in self-help, which encourages litigation.

¹ Ex Parte Letter from Michael Romano, NTCA to Marlene Dortch, Secretary, WC Docket Nos. 10-90, 17-206, 18-155, 18-156 at 1 (filed May 22, 2018).

² *In the Matter of Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, Draft Notice of Proposed Rulemaking, WC Docket No. 18-155, ¶ 19.

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Bandwidth has first-hand experience with the largest IXCs engaging in “self-help” (that is, total non-payment) for the traffic they send to Bandwidth.³ A carrier seeking to collect its access charges cannot threaten disconnection or refuse to provide additional service to the recalcitrant IXC because of the carrier’s interconnection obligations. This allows a switched access customer to force a LEC like Bandwidth to undertake expensive, time-consuming, and burdensome court proceedings to collect its bills, while the IXC customer gets to keep the money unless and until the carrier brings suit and obtains a judgment. This problem would be compounded if the IXC were to label a LEC as an “access stimulator” and refuse to pay both the LEC and the tandem provider for traffic delivered to the wrongly-labeled LEC. Because seamless interconnection is in the public interest, the Commission should seek comment on the process of self-identification and an expedited means to resolve any disputes regarding that identification to prevent IXC customers from engaging in self-help tactics.

Very truly yours,

/s/ Tamar E. Finn

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³ See, e.g., Reply Comments of Bandwidth Inc. WC Docket No. 10-90, CC Docket No. 01-92, at 6 (filed Nov. 20, 2017).