



June 6, 2019

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

Re: *Ex Parte* Communication: WC Docket No. 10-90

Dear Ms. Dortch:

On June 4, 2019, the undersigned of ITTA, Steve Coran of Lerman Senter PLLC (representing WISPA), Mary Henze of AT&T, and Alan Buzacott of Verizon met with Suzanne Yelen and Stephen Wang of the Wireline Competition Bureau regarding the *Order* in the above-referenced proceeding, as well as the pending petitions for reconsideration and applications for review of it, and responsive pleadings thereto.¹ Also participating by telephone were Cathy Zima and Alec MacDonell of the Office of Economics and Analytics (OEA), Mike Saperstein of USTelecom, Ken Pfister and Dave Junker of Great Plains Communications, Jeff Lanning, Tiffany Smink, and Jamal Boudhaouia of CenturyLink, Ann Morrison and Jason Rokeach of Consolidated Communications, and Hany Fahmy of AT&T.

During the meeting, we focused primarily on following up on previous conversations we have had with the Bureau and OEA regarding the endpoints of speed and latency testing.² We reiterated that the Commission should provide CAF recipients maximum flexibility as to such endpoints consistent with the Commission's requirement in the *USF/ICC Transformation Order* that CAF recipients test to "the nearest Internet access point,"³ as well as goals of better measuring service from the customer's perspective by reflecting where customer traffic is naturally routed to the Internet, diluting opportunities for gaming of the performance measurement regime, and promoting administrability.⁴ We discussed further how the

¹ See *Connect America Fund*, Order, 33 FCC Rcd 6509 (WCB/WTB/OET) (*Order*); see also, e.g., Comments of ITTA – The Voice of America's Broadband Providers, WC Docket No. 10-90 (Nov. 7, 2018) (ITTA Comments); Petition of USTelecom – The Broadband Association, ITTA – The Voice of America's Broadband Providers, and the Wireless Internet Service Providers Association for Reconsideration and Clarification, WC Docket No. 10-90 (Sept. 19, 2018) (Joint Petition); Reply of USTelecom, ITTA, and WISPA to Opposition to Petition for Reconsideration and Clarification, WC Docket No. 10-90 (Nov. 19, 2018) (Joint Reply).

² See, e.g., Letter from Michael J. Jacobs, Vice President, Regulatory Affairs, ITTA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed May 9, 2019) (May 9 Letter)..

³ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17706, para. 111 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

⁴ Cf. May 9 Letter at 2 (discussing goals in establishing testing endpoints definition).

Commission could delineate the *USF/ICC Transformation Order*'s testing endpoint standard pursuant to these objectives.

Specifically, we discussed a conceptualization whereby speed and latency testing could occur "from the end-user interface to the first public Internet gateway in the path of the CAF-supported customer that connects through a transitive Internet Autonomous System (AS)." In association with that conceptualization, we suggested that the Commission establish a safe harbor where the transitive Internet AS which the gateway hosts includes one or more router(s) that advertise(s) AS organizations that are listed on the Center for Applied Internet Data Analysis (CAIDA) "AS Organization Rank List."⁵ Any testing architecture meeting safe harbor criteria would be considered valid without further inquiry.

The safe harbor, however, would not be the only way under this conceptualization for demonstrating a proper testing endpoint. Outside of the safe harbor, satisfying the standard would require a physical connection, and providers planning to test to one or more endpoints not falling within the safe harbor would need to make a showing to the Commission describing the connectivity of the measuring point to the Internet and its suitability as a measuring location.⁶ We also explained that a transitive Internet AS, in this context, connotes an Internet AS of a nationwide or significant regional level, though it does not inherently require the transfer of a provider's traffic to an unaffiliated provider.

Please do not hesitate to contact the undersigned with any questions regarding this submission.

Respectfully submitted,

/s/

Michael J. Jacobs
Vice President, Regulatory Affairs

cc: Suzanne Yelen
Cathy Zima
Alec MacDonell
Stephen Wang

⁵ CAIDA, AS Organization Ranking (Mar. 1, 2019), <http://as-rank.caida.org/>. Any AS that appears anywhere on the "AS Organization Rank List" should qualify for the safe harbor. We also note that to the extent organizations join the list subsequent to the effective date of the Commission's forthcoming order in this proceeding addressing challenges to the *Order*, they should not be precluded from the safe harbor. The methodology underlying compilation of the list is such that any AS appearing on it is a perfectly functional, qualified Internet AS. *See id.*

⁶ *See Order*, 33 FCC Rcd at 6509, para. 2 ("providers will be subject to audit of all testing data"); *USF/ICC Transformation Order*, 26 FCC Rcd at 17705, para. 109 (speed and latency test results will be subject to audit).