Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage	)	WC Docket No. 18-155
	)	
	)	

COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION

NCTA – The Internet & Television Association (NCTA) supports the Commission taking additional action to eliminate incentives for access charge arbitrage. Specifically, we reiterate our support for the industry proposal that would require local exchange carriers (LECs) that are engaged in access stimulation to bear financial responsibility for the terminating switched access tandem switching or any terminating switched access transport charges between the terminating tandem switch or point of interconnection they designate and their end office.[1] If the Commission adopts its additional proposal to allow access-stimulating LECs to offer direct interconnection in lieu of paying the terminating costs, it must make sure that use of this option does not allow for gaming and continuing arbitrage opportunities.

Although the Commission has adopted rules to curb the ability of carriers to collect inflated access charges through traffic pumping,[2] the Commission recognizes that certain LECs

1 *See* Letter from Michael R. Romano, Senior Vice President – Industry Affairs & Business Development, NTCA–The Rural Broadband Association, *et al.*, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, WC Docket No. 16-363 (Nov. 16, 2017) (Nov. 16 Industry *Ex Parte* Letter); Letter from Michael R. Romano, Senior Vice President – Industry Affairs & Business Development, NTCA–The Rural Broadband Association, *et al.*, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (filed Apr. 11, 2018) (Apr. 11 Industry *Ex Parte* Letter); *see also Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Notice of Proposed Rulemaking, FCC 18-68, ¶¶21-22 (June 5, 2018) (*NPRM*).

2 "Access stimulation (also known as traffic pumping) occurs when a local exchange carrier (LEC) with relatively-high switched access rates enters into an arrangement to terminate calls—often in a remote area—for

are continuing to engage in access arbitrage by "interposing intermediate providers of switched access service not subject to the Commission's existing access stimulation rules in the call route, thereby increasing the access charges interexchange carriers (IXCs) must pay."[3] To combat this problem, a group of industry participants, including NCTA, submitted a proposal to the Commission in which access stimulating carriers would assume financial responsibility for the tandem switching and transport of calls between the terminating tandem switch or point of interconnection and the carriers' end offices.[4] The Commission is proposing to adopt this requirement as a method to combat intermediate provider access arbitrage and we support this action.

To avoid the financial responsibility of the terminating costs of these calls, the Commission proposes to allow access stimulating LECs the option of offering direct interconnection, rather than requiring the use of a specified intermediate provider, to an IXC or the IXC's chosen intermediate provider.[5] If implemented correctly, the option to directly interconnect could help to eliminate intermediate provider access arbitrage. However, given that access stimulating LECs have consistently tried to take advantage of loopholes in the intercarrier compensation rules, the Commission should ensure that access stimulating LECs offer direct interconnection at reasonable rates, terms, and conditions. If access stimulating LECs are allowed to offer direct interconnection at unreasonable rates in an effort to make up for the

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an entity with a high call volume operation, such as a chat line, adult entertainment calls, and 'free' conference calls, collectively high call volume services." *NPRM*, FCC 18-68, ¶2.

3 *Id.*

4 Nov. 16 Industry *Ex Parte* Letter; Apr. 11 Industry *Ex Parte* Letter.

5 *NPRM*, FCC 18-68, ¶¶13-17.

revenue lost from their prior access arbitrage efforts, then this option will not be a viable solution to address terminating access arbitrage.

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As explained above, the Commission should adopt its proposal to require access stimulating LECs to assume financial responsibility for the tandem switching and transport of traffic between their chosen intermediate providers and their end offices. If the Commission provides these LECs an option to offer direct interconnection in place of assuming financial responsibility, then it must ensure that this option does not turn into another opportunity for arbitrage.

Respectfully submitted,

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