

August 1, 2017

**VIA ECFS**

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

*Re: IB Docket Nos. 17-55 and 16-131, Notice of Ex Parte Presentation*

Dear Ms. Dortch:

On July 28, 2017, Nicholas Alexander of Level 3 Communications, LLC (“Level 3”), and Kent Bressie and Colleen Sechrest of Harris, Wiltshire & Grannis LLP met with Denise Coca, Kathleen Collins, Kimberly Cook, Francis Gutierrez, David Krech, Heidi Kroll, James Schlichting, Daniel Shiman, and Troy Tanner of the International Bureau to discuss the positions of the International Carriers and Infrastructure Owners, an informal coalition of providers that includes Level 3 and that filed comments in the above-captioned proceeding.

During the meeting, we communicated the following points with respect to the Section 43.62 International Traffic and Revenue Reports:

- The International Traffic and Revenue Reports are outdated: markets are competitive and most traffic is handled outside the settlement rate system. (We committed to provide data on the record to support this point.)
- The Section 43.62 Filing Manual’s instructions lack clarity and do not correspond to current business models.
- The burdens and costs imposed by the reporting requirements outweigh any observable benefits.
- In the event Commission staff uses the data reported for purposes other than monitoring competition, such purposes need to be disclosed in the rulemaking process so that carriers may comment.

We further communicated the following points with respect to the Section 43.62 Circuit Capacity Reports:

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- The data provided in the reports is not reasonably related to any of the competitive, national security or public safety objectives stated in the Notice of Proposed Rulemaking (“NPRM”). In particular:
  - The Circuit Capacity Reports cannot assist the FCC in understanding facilities deployment, as no deployment data is reported.
  - The Circuit Capacity Reports are not useful for ensuring that U.S. international telecommunications are safe from disruption, as the data reported includes no information about disruptions at all.
  - Similarly, the NPRM’s suggestion that the Circuit Capacity Reports supply information about available alternative cables and satellites is also misplaced, as (a) the Commission does not have the authority to direct carriers to use certain facilities; and (b) carriers in any event make their own continuity and restoration arrangements.
- The Circuit Capacity Reports are only used to support the Commission’s regulatory fee regime. With respect to submarine cables, this rationale makes no sense, as cable operators do not pay fees based on their current operating capacity. With respect to terrestrial and satellite facilities, the reported data is redundant, as carriers must report the same data at the time they make their regulatory fee payments.
- The Circuit Capacity Reports raise potential anti-trust concerns for consortium systems. Under the current rules, a single cable owner files the report for a consortium system. Accordingly, owners must share sensitive information about active capacity and upgrades with their competitors.
- The Circuit Capacity Reports do not accurately reflect how capacity is actually sold. Increasingly, cable owners sell fiber-pairs and/or spectrum to other cable users. These categories are absent from the Commission’s reporting regime. Further, cable owners cannot report the impact that the sale of a fiber pair or spectrum has on the capacity of the cable, as the purchaser of the fiber pair or spectrum may configure the asset in a variety of ways that are not observable by the cable owner.

With respect to both the International Traffic and Revenue Reports and the Circuit Capacity Reports, the International Carriers and Infrastructure Owners further emphasized the following points:

- The NPRM does not discuss meaningful alternative approaches, such as inter-agency information sharing and the availability of public sources of current and accurate market information. Level 3 noted that it relies on data from TeleGeography in the normal course of business. Level 3 further noted that many carriers publish information regarding their services and routes on their websites, and further that most carriers likely

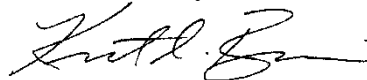
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would be amenable to providing further information to the FCC upon request -- provided that such information is afforded confidential treatment. Level 3 further noted that the Commission has a variety of mechanisms it can use to obtain data necessary to its analyses from reluctant carriers.

- The NPRM's proposal to keep the reporting obligations in place fails to comply with the Paperwork Reduction Act of 1995. In particular, the NPRM fails to show why retention of either reporting requirement is the least burdensome means of accomplishing the Commission's objectives; fails to demonstrate that the reports do not duplicate other recordkeeping obligations; and fails to show that the reports have any practical utility. *See* 5 C.F.R. 1320.5(d)(1)(i)-(iii).

Pursuant to Section 1.1206 of the Commission's rules, we have filed a copy of this letter in ECFS and e-mailed a copy to the International Bureau personnel who participated in the meeting.

Yours sincerely,



Kent Bressie  
Colleen Sechrest

cc: Denise Coca  
Kathleen Collins  
Kimberly Cook  
Veronica Garcia-Ulloa  
Francis Gutierrez  
David Krech  
Heidi Kroll  
Daniel Shiman  
James Schlichting  
Troy Tanner