

September 1, 2016

Ex Parte

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

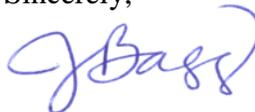
Re: Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593; Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans, WC Docket No. 15-247; Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143

Dear Ms. Dortch:

On August 30, 2016, Charles McKee of Sprint Corporation, Emily Daniels of Lawler, Metzger, Keeney & Logan, LLC, and the undersigned of Harris, Wiltshire & Grannis LLP, met with Billy Layton, Eric Ralph, Irina Asoskov, and Joseph Price of the Wireline Competition Bureau. The attached presentation describing the competitive analysis for all Business Data Services (“BDS”) and competitive market test for BDS above 50 Mbps and at or below 1 Gbps formed the basis of our discussion.

Pursuant to the Commission’s rules, I have filed a copy of this for inclusion in the public record of the above-referenced proceedings. Please contact the undersigned with any questions.

Sincerely,



Jennifer Bagg
Counsel to Sprint Corporation

Attachment

cc: meeting participants



Business Data Services – Competitive Market Test

August 30, 2016

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Overview of Competition Analysis



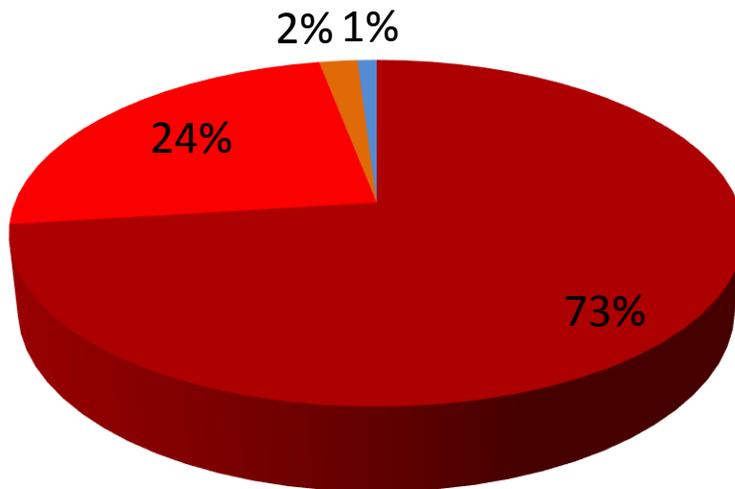
- Presume BDS at or below 50 Mbps is not competitive
- For BDS above 50 Mbps and at or below 1 Gbps, apply a competitive market test (“CMT”) to identify non-competitive markets
- Presume BDS above 1 Gbps is competitive
- Apply remedies to BDS deemed non-competitive by presumption or application of the CMT

State of Competition: All BDS

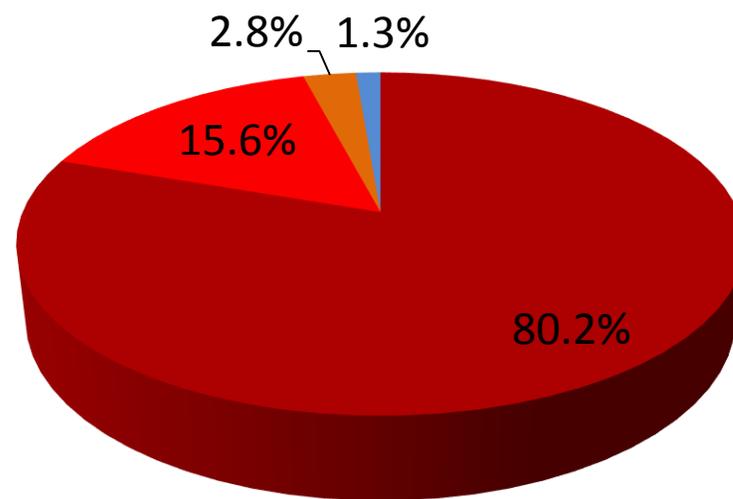


- Highly concentrated market with very few competitive locations:
 - Monopoly or duopoly in 97% of locations and 95% of census blocks
 - 1.3% of census blocks and 1 % of locations are competitive

Competition by BDS Locations



Competition by Census Blocks



■ Monopoly ■ Duopoly ■ Three providers ■ Four or more providers

State of Competition: 50 Mbps and below



- Regressions (Rysman and Baker) reveal market power
- Recent ILEC rate increases also reveal market power
- Build/buy analysis further supports presumption
 - Competitors cannot expand networks to serve low-capacity customers
 - CMT administered at the census block (or adjacent census block) level would overstate potential competition dramatically at low bandwidths

State of Competition: 50 Mbps and below + EoHFC



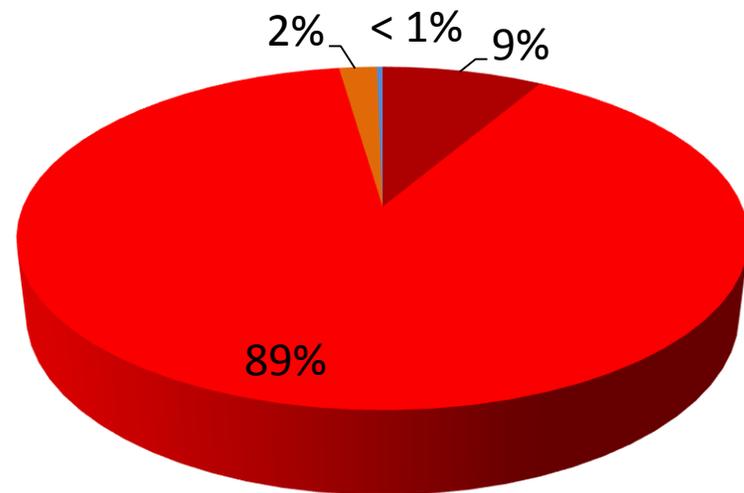
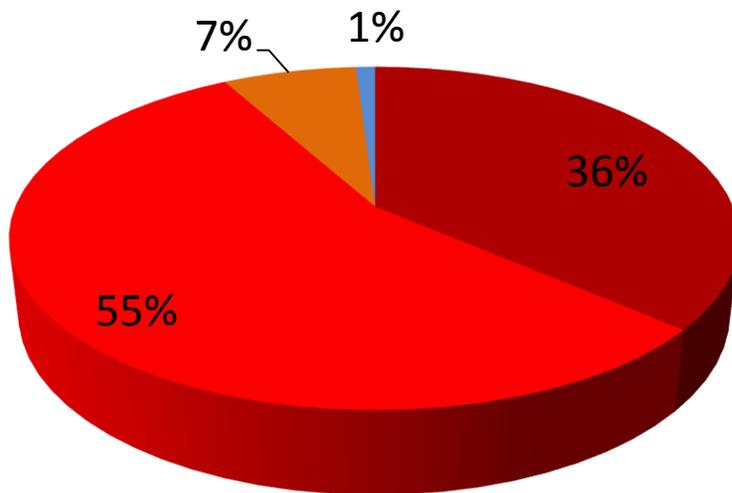
- New cable submissions report CBs with an Ethernet-capable headend. Headend may, but does not always, signal that the cable company can provision BDS using Ethernet over a hybrid fiber coax network (“EoHFC”)
- New data overstates impact of EoHFC because cable cannot provide BDS to all customers using EoHFC in all reported CBs:
 - Cable operators cannot build facilities to all locations within a CB
 - Even if they could, cable networks cannot support EoHFC at scale
 - EoHFC is limited to symmetrical 10 Mbps
 - EoHFC service quality not suitable for all services
- Setting aside buildout, capacity, and performance constraints, new cable data does not change competition analysis
 - No significant differences in regression results
 - Concentration is still very high

BDS Competition + EoHFC (cont'd)



Competition by Census Block (including EoHFC): FCC Data Set

Competition by Census Block (including EoHFC): Expanded Data Set*



■ Monopoly ■ Duopoly ■ Three providers ■ Four or more providers

Note: Percentages may not add up to 100% due to rounding.

* Expanded data set includes all census blocks where cable companies reported they have Ethernet-capable headends located (but not necessarily actual connections or customers). ILEC assumed to have a connection in all CBs.

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State of Competition: Above 50 Mbps through 1 Gbps



- FCC should not presume BDS is competitive at these capacities
- Substantial record evidence demonstrates market power concerns for high-bandwidth BDS:
 - There is, at most, a duopoly in 83% of CBs for BDS above 50 Mbps
 - Entry conditions remain difficult at these capacities
 - Mean and median prices: rates fall as ILECs face high-bandwidth competitors
 - Regressions: disaggregated (Kwoka *et al.*) and refined specifications (Baker) of the regressions for high-bandwidth BDS
 - Sprint's Network Vision data: competition lowered bid rates
 - Current carrier pricing:
 - Tiered pricing based on in-building competition
 - Even in the few places where competition is present, ILEC rates remain higher than CLEC rates

State of Competition: Above 1 Gbps



- A presumption of competition above 1 Gbps is reasonable
- Competitors report that build/buy analysis of ultra-high bandwidth BDS more often supports construction than at services at or below 1 Gbps
- Facilitates administration of the CMT
- FCC should monitor developments in this market and reassess presumption in the future

Competitive Market Test



- Administer CMT by census block or adjacent census blocks
 - The relevant geographic market remains the customer location, but CBs or adjacent CBs ease administrative burden
 - CBs conservatively account for potential competition; assumes nearby competitors can extend networks in response to incumbent behavior
 - Use of adjacent CBs is even more conservative
- Measure competition by connections, not fiber presence
 - Use of connections (rather than presence of paying customer) assigns additional weight to potential competition
 - Fiber presence does not equal competition
 - Splice points present in small % of CBs with competitive fiber
 - Of these, some are on long-haul fiber and nowhere close to a customer
 - Where splice points are near a customer, economics and customer needs must support the build (rare below 1 Gbps)

Competitive Market Test (cont'd)



- The record and FCC precedent supports the use of four actual or potential competitors in this market
- Re-administer CMT periodically
 - Update data on connections with modified Form 477 rather than through comprehensive data collection
 - Revisit core assumptions of analysis (i.e., presumption demarcations, developments in technology and service offerings)



Sprint