

May 6, 2015

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

Re: GN Docket No. 12-353, Comment Sought on the Technological Transition of the Nation's Communications Infrastructure; GN Docket No. 13-5, Technology Transitions

Dear Ms. Dortch:

On May 4, Harold Feld, Senior Vice President, Jodie Griffin, Senior Staff Attorney, John Bergmayer, Senior Staff Attorney, and Edyael Casaperalta, Internet Rights Fellow, of Public Knowledge (PK) met with Matt DelNero, Michele Berlove, and Daniel Kahn from the Wireline Competition Bureau.

Public Knowledge emphasized that we are already in the midst of the phone network's technology transitions, and carriers are increasingly seeking to transition their networks. Now is when we most need the Commission to ensure consumers are protected and understand how the transitions will affect the communications services available to them, and to take steps to ensure the transitions are handled in a way that continues to protect the enduring values of the network.¹

The Commission Should Establish Strong Enforcement Mechanisms to Effectuate Technology Transitions Rules.

Public Knowledge urged the Commission to match strong standards for technology transitions with enforcement mechanisms and procedures that protect consumers from the loss of service and provide effective redress to complaints. The Commission's role in enforcement is vital in light of the growing number of state governments that have chosen to deregulate basic telephone service and preemptively deregulate broadband services. These states have chosen to leave their residents without a Public Utilities Commission or other local or state entity that can receive and resolve consumer complaints. The Commission must ensure its enforcement procedures and remedies sufficiently deter carriers from engaging in harmful behavior, including failing to maintain adequate service quality or respond to consumer complaints, particularly in states where consumers have no other recourse.

Effective enforcement mechanisms must also include transparency measures. Requiring reports on service quality, consumer and competitor complaints, and carriers' response and repair times will allow the Commission to determine when consumers are experiencing degraded service or when the carrier may be neglecting its network. Transparency will allow all parties

¹ See Jodie Griffin and Harold Feld, *Five Fundamentals for the Phone Network Transition*, PKTHINKS (July 2013), <https://www.publicknowledge.org/news-blog/blogs/five-fundamentals-for-the-phone-network-transition>.

involved to more fully understand the impact of the tech transitions and more easily detect inadequate or discriminatory service.

The Commission Has And Should Use Its Broad Authority to Implement Strong Enforcement Mechanisms for the Technology Transitions.

The Commission has broad enforcement authority to ensure carriers follow the law,² including requirements ensuring: that telecommunications carriers provide communications service upon reasonable request;³ that charges and practices for and in connection with telecommunications services are just and reasonable;⁴ that common carriers do not unjustly or unreasonably discriminate in their charges or practices;⁵ and that carriers do not discontinue, reduce, or impair service without the Commission first certifying that doing so will not adversely affect the public convenience and necessity.⁶

The Commission should also consider enforcement tools like adjudication and private rights of action that can help ensure the transitions are a step forward for everyone, or at the very least do not leave consumers with worse service than they were able to access before the transitions.⁷ Public Knowledge urged the Commission to keep in mind that without strong enforcement mechanisms, vulnerable populations such as low-income, rural, and Native consumers are less likely to have access to the information and communications services that will help them reach the Commission to report and resolve any violations they might encounter during the technology transitions. For that reason it is critical for the Commission to establish and use enforcement tools that encourage carriers to comply with the Commission's rules and provide effective redress when violations do occur.

The Commission Should Move Forward with § 214(a) Guidance.

Carriers are increasingly interested in switching consumers to new services, and more states are eliminating carriers' requirements to notify consumers of changes that affect their telephone service. This trend in limiting requirements or fully eliminating carriers' responsibility to notify customers makes it even more important to establish guidance for the federal § 214(a) process to ensure consumers continue to have access to comparable or better basic services. Public Knowledge urges the Commission to provide guidance by establishing the metrics by which new technologies will be evaluated.

The Commission Should Require Carriers to Fully Notify Their Customers About Technology Transitions.

Hurricane season is quickly approaching, and we want to prevent potential harm to consumers living in and near coastal areas caused by a lack of information about the technology

² See, e.g., 47 U.S.C. §§ 208, 501-504; 47 C.F.R. §§ 1.80-1.95.

³ 47 U.S.C. § 201(a).

⁴ 47 U.S.C. § 201(b).

⁵ 47 U.S.C. § 202.

⁶ 47 U.S.C. § 214(a).

⁷ Section 203 and Title III serve as additional authority for the Commission to require consumer notification during network changes.

transitions. It is timely and necessary for the Commission to begin to take steps that require carriers to fully notify their customers about any changes to their telephone service as a result of technology transitions. The online public notice that some carriers provide cannot be considered full notification, particularly for consumers that only subscribe to voice service or have limited access to the Internet, such as low-income consumers and those living in rural and Tribal areas. Moreover, even consumer with reliable Internet access cannot be expected to check their carrier's website every day on the off chance they are about to undergo a network change.

Public Knowledge stressed the importance of finding out what carriers are doing to fully inform their customers about technology changes and how they impact the services consumers rely on. As we detailed in a letter sent to the Commission with other public interest groups on May 12, 2014, we have heard reports of carriers failing to inform their customers of the option to keep basic stand-alone telephone service and instead try to push them to sign up for bundled or new services. This push to new services is particularly concerning when carriers do not fully explain that some of the features of the existing technology are not available with new technologies, such as backup power during outages or compatibility with heart monitors and home alarms.⁸

Public Knowledge also informed the Commission of a congressional briefing it will host on May 12 focused on the impact of the technology transitions in rural communities. We shared a document describing the event and the issues a panel of rural advocates will address at the briefing. The document has been submitted along with this *ex parte*.

Public Knowledge looks forward to continuing to work with all interested stakeholders to ensure consumers are protected and informed during the technology transitions, to create a network that maintains affordable, reliable, communications services that observes the consumer's right to privacy.

Respectfully submitted,

/s/ Edyael Casaperalta
Internet Rights Fellow
PUBLIC KNOWLEDGE

⁸ See Letter of Public Knowledge, et. al, to Julie Veach, Chief of the Wireline Competition Bureau, (May 12, 2014), <http://apps.fcc.gov/ecfs/comment/view?id=6017635315>.