Congress of the United States
Washington, DC 20515

October 20, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

Dear Chairman Wheeler:

More than two million Americans are currently incarcerated in our nation's jails and prisons. Their chances for rehabilitation and a successful return to society are vastly improved if they can remain in communication with their families, children, and critical support services. Expensive phone call rates deter such communication and result in recidivism and costly re-incarceration.

For the past decade we, the undersigned Members of Congress, have been imploring the Federal Communications Commission (FCC) to provide a market-based solution to curb these high telephone rates (see the *Family Telephone Connection Protection Act*, first introduced in the 109th Congress). The Commission is poised on October 22, 2015, to approve a final order on comprehensive inmate calling services (ICS) and we firmly believe that such comprehensive reform is needed to rein in the predatory practices in the ICS marketplace. The lack of competition and the out of control site commissions paid to correctional facilities are partly the cause of these skyrocketing costs. Simply put, up to 60 percent of what prisoners' families pay to receive phone calls from their incarcerated loved ones has nothing to do with the cost of the phone services provided. These artificial rates account for hundreds of millions of dollars paid to state prison systems for exclusive contracts.

For several years, the Commission has correctly concluded that unconstrained site commission practices are the most significant contributing factor to high ICS rates. In its 2013 order, *Reducing High Inmate Calling Rates*, the Commission cited many examples demonstrating the correlation of site commission and high phones rates.

On September 15, 2015, the Commission outlined in a fact sheet that it "strongly discourages site commissions" but did not provide any assurance that it plans to eliminate or curb this predatory practice. It also outlined a rate cap of $1.65 for intrastate, interstate, and international calls. Although establishing a rate cap is a step in the right direction, we believe it must be coupled with eliminating site commissions in order to yield the lowest possible phone rates. We, therefore, urge the Commission to use its statutory authority under Sections 201 and 276 to address site commissions when it undertakes comprehensive ICS reform.

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We have all heard the stories and cries of our constituents who, at times, have had to pay up to $17 for a 15 minute call just to stay in touch with their incarcerated loved ones. We know all too well that ongoing contact between the incarcerated and their families reduces the rate of recidivism in our society. Ending these predatory practices of price gouging at the expense of families is a human rights issue. As the Commission moves towards a vote on ICS, we urge you to exercise the fullest extent of your jurisdiction to protect and service more vulnerable consumers.

Sincerely,

Bobby L. Rush
Member of Congress

Charles B. Rangel
Member of Congress

G. K. Butterfield
Member of Congress

Marcia L. Fudge
Member of Congress

Eleanor Holmes Norton
Member of Congress

cc: The Honorable Mignon L. Clyburn
Commissioner, Federal Communications Commission
The Honorable Jessica Rosenworcel
Commissioner, Federal Communications Commission
The Honorable Ajit Pai
Commissioner, Federal Communications Commission
The Honorable Michael O'Rielly
Commissioner, Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Charles Rangel
U.S. House of Representatives
2354 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Rangel:

Thank you for your letter regarding the Commission's ongoing efforts to comprehensively reform inmate calling services (ICS). In your letter, you urge the Commission to use its statutory authority under Sections 201 and 276 of the Communications Act (Act) to address site commissions paid to correctional institutions. Your views are very important and will be included in the record of the proceeding.

Few issues the Commission acts upon have a more direct and meaningful impact on the lives of millions of American than ICS reform. As you note, contact between inmates and their loved ones has been shown to reduce the rate of recidivism, but high inmate calling rates have made that contact unaffordable for many families, who often live in poverty. Therefore, inmate calling reform is not only the right thing to do, it is also good policy.

Our reform efforts have been spearheaded by Commissioner Clyburn, who began championing this issue when she arrived at the Commission in 2009. Under her stewardship as acting Chairwoman in 2013, the FCC adopted interim caps on excessive rates for ICS calls across state lines, and she continues to demonstrate her valiant leadership on this critically important issue, particularly for the 2.7 million children for whom at least one parent is incarcerated.

On October 22, 2015, the Commission adopted the *Second Inmate Calling Services Report and Order* (Order) and *Third Further Notice of Proposed Rulemaking* (FNPRM). In this Order, the Commission adopted additional ICS reforms to ensure a reasonable rate structure for phone calls from inmates at correctional facilities, including tiered rate caps that apply to all interstate and intrastate inmate calling. These tiered rate caps are sufficient to allow providers to continue to receive fair compensation and a reasonable return on investment and, at the same time, fully cover the enhanced security requirements of inmate calling. The tiered rate caps are based on facility size and type and grounded in the data received in response to the Commission's 2014 Mandatory Data Collection, which demonstrated a difference in costs to serve facilities of different types and sizes.

The new rules also close loopholes by barring most add-on fees imposed by ICS providers and set strict limits on the few fees that remain. This includes prohibiting mandatory minimum payments and placing a floor on mandatory maximum account deposits. Furthermore,

the rules prohibit providers from imposing so-called "flat-rate calling," which is a flat-rate for a call up to 15 minutes regardless of actual call duration. Extra fees and charges can increase by as much as 40 percent the cost of families staying in touch by phone with loved ones who are incarcerated. In addition, the Order mandates discounted rates for disability-access calls, requires annual reporting and certification by inmate calling providers, and establishes periodic reviews of these reforms.

With respect to your concerns regarding site commissions, while the Commission did not prohibit providers from paying site commissions, the Order excluded site commission payments from the cost data the Commission used in setting the rate caps. It also made clear that providers may not exceed the rate caps or ancillary service charge caps, even if they have agreed to pay site commissions. Furthermore, the associated FNPRM seeks comment on how to encourage parties to move away from site commissions and urges states to take action on this issue. Additionally, the Commission committed to monitor site commission payments and stated that it will not hesitate to re-evaluate the Commission's findings and take further action if necessary.

The FNPRM also seeks additional comment on rates for international calls, promoting competition in the ICS industry, the benefits of a recurring Mandatory Data Collection, requiring ICS providers to file their ICS contracts with the Commission, and video visitation and other newer technologies to increase ICS options.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Eleanor Holmes Norton
U.S. House of Representatives
2136 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Norton:

Thank you for your letter regarding the Commission's ongoing efforts to comprehensively reform inmate calling services (ICS). In your letter, you urge the Commission to use its statutory authority under Sections 201 and 276 of the Communications Act (Act) to address site commissions paid to correctional institutions. Your views are very important and will be included in the record of the proceeding.

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Sincerely,

Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Marcia Fudge
U.S. House of Representatives
2344 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Fudge:

Thank you for your letter regarding the Commission's ongoing efforts to comprehensively reform inmate calling services (ICS). In your letter, you urge the Commission to use its statutory authority under Sections 201 and 276 of the Communications Act (Act) to address site commissions paid to correctional institutions. Your views are very important and will be included in the record of the proceeding.

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Sincerely,

Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable G.K. Butterfield
U.S. House of Representatives
2305 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Butterfield:

Thank you for your letter regarding the Commission's ongoing efforts to comprehensively reform inmate calling services (ICS). In your letter, you urge the Commission to use its statutory authority under Sections 201 and 276 of the Communications Act (Act) to address site commissions paid to correctional institutions. Your views are very important and will be included in the record of the proceeding.

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Tom Wheeler

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 16, 2015

The Honorable Bobby Rush
U.S. House of Representatives
2188 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Rush:

Thank you for your letter regarding the Commission's ongoing efforts to comprehensively reform inmate calling services (ICS). In your letter, you urge the Commission to use its statutory authority under Sections 201 and 276 of the Communications Act (Act) to address site commissions paid to correctional institutions. Your views are very important and will be included in the record of the proceeding.

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