

April 18, 2016

Ex Parte

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

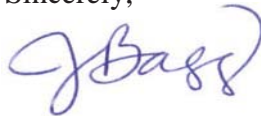
***Re: Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25,
RM-10593; Investigation of Certain Price Cap Local Exchange Carrier
Business Data Services Tariff Pricing Plans, WC Docket No. 15-247***

Dear Ms. Dortch:

On April 14, 2016, Charles McKee and Chris Frentrup of Sprint Corporation (“Sprint”) and Paul Margie and I of Harris, Wiltshire & Grannis LLP met with Jonathan Sallet, General Counsel; Stephanie Weiner, Legal Advisor to Chairman Wheeler; and Bill Dever, Office of the General Counsel. The same group also met separately with Rebekah Goodheart, Legal Advisor to Commissioner Clyburn; Travis Litman, Legal Advisor to Commissioner Rosenworcel; Nick Degani, Legal Advisor to Commissioner Pai; and Amy Bender, Legal Advisor to Commissioner O’Rielly. At each of these meetings, we discussed the attached presentation.

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

cc: meeting participants



Business Data Services: Competition Analysis of the FCC Data Collection

4/14/16

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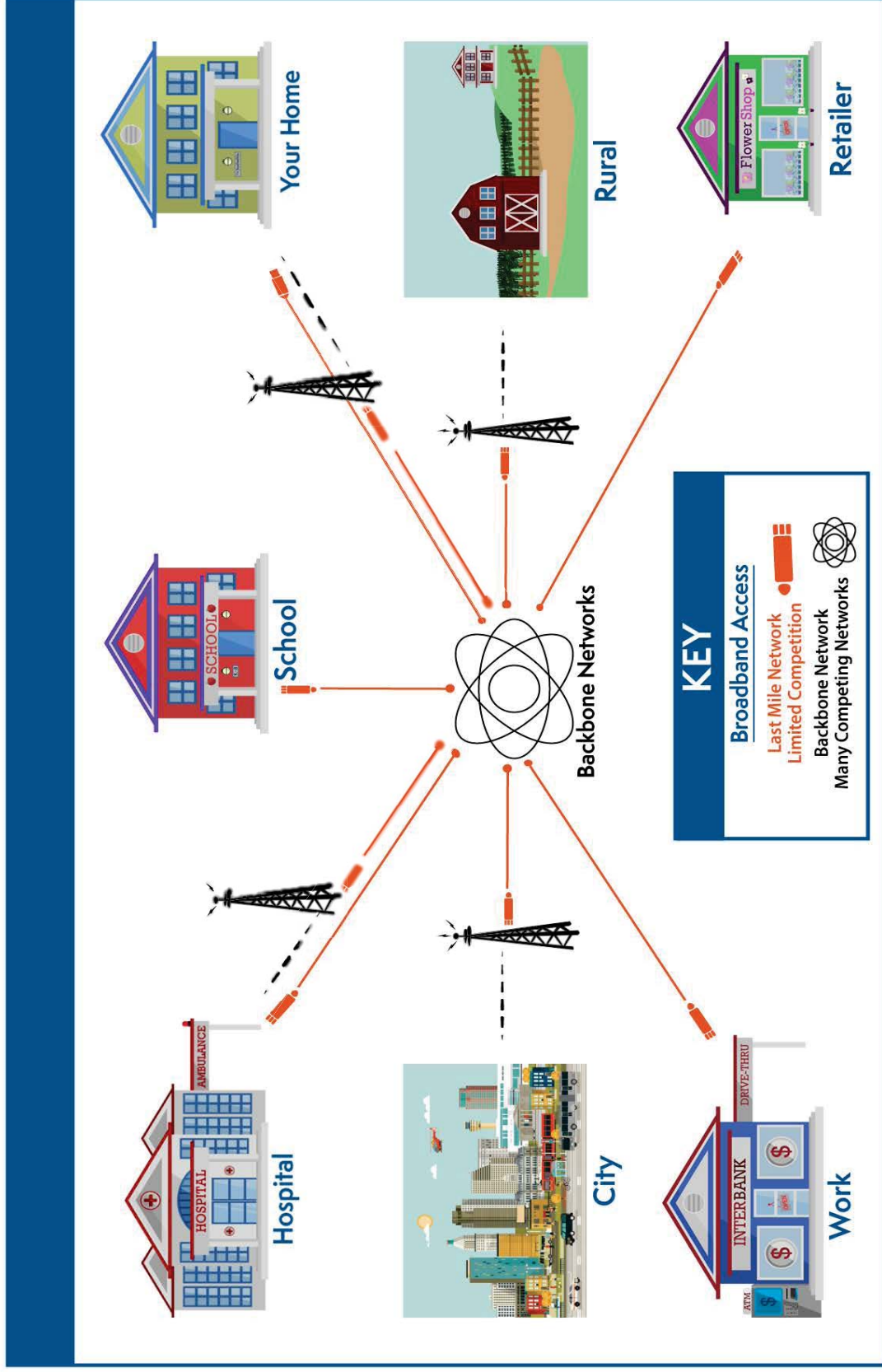
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Business Data Services are Critical to the Economy



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FCC Data Collection



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The most comprehensive data collection in agency history

- 104 million customer pricing records reported
- 7.2 million circuits reported
- \$40 billion in interstate revenues reported

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Competitive Analysis by Location



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There is inadequate competition to discipline BDS prices, terms, and conditions

- In 73% of locations (buildings and cell sites) where any company offers BDS, the ILEC is the only provider of any BDS product
- In 97% of locations there is only a monopoly or a duopoly that does not discipline anticompetitive behavior
- There are only three or more providers in 3% of such locations

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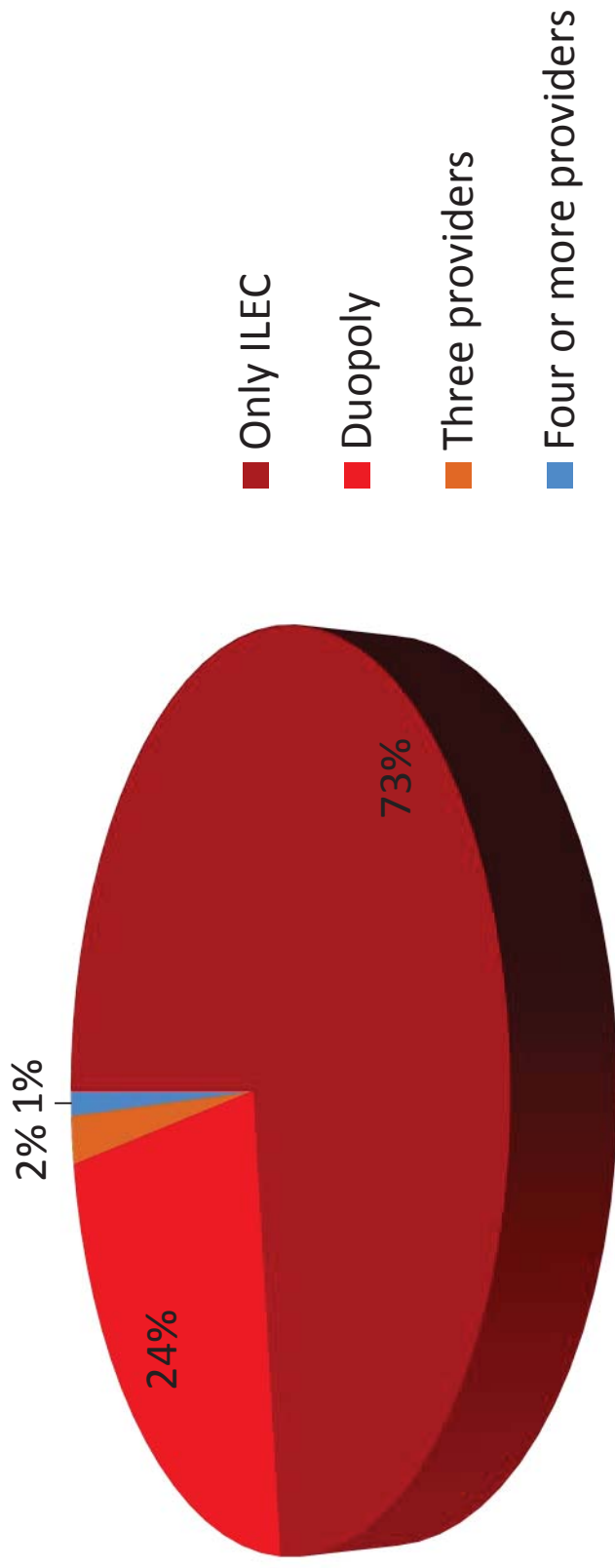
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BDS Competition By Location



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Number of Business Data Services Providers at All Locations (Percentage)



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Competitive Analysis by Census Block



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Even analysis using larger census blocks shows inadequate competition

- Use of CBs overstates competitiveness of the BDS marketplace
 - Erroneously assumes competitor can, in all cases, rapidly and with low cost extend service to a new location
 - Proper geographic area is the building/cell site
- But, even using CBs, the lack of competition is striking

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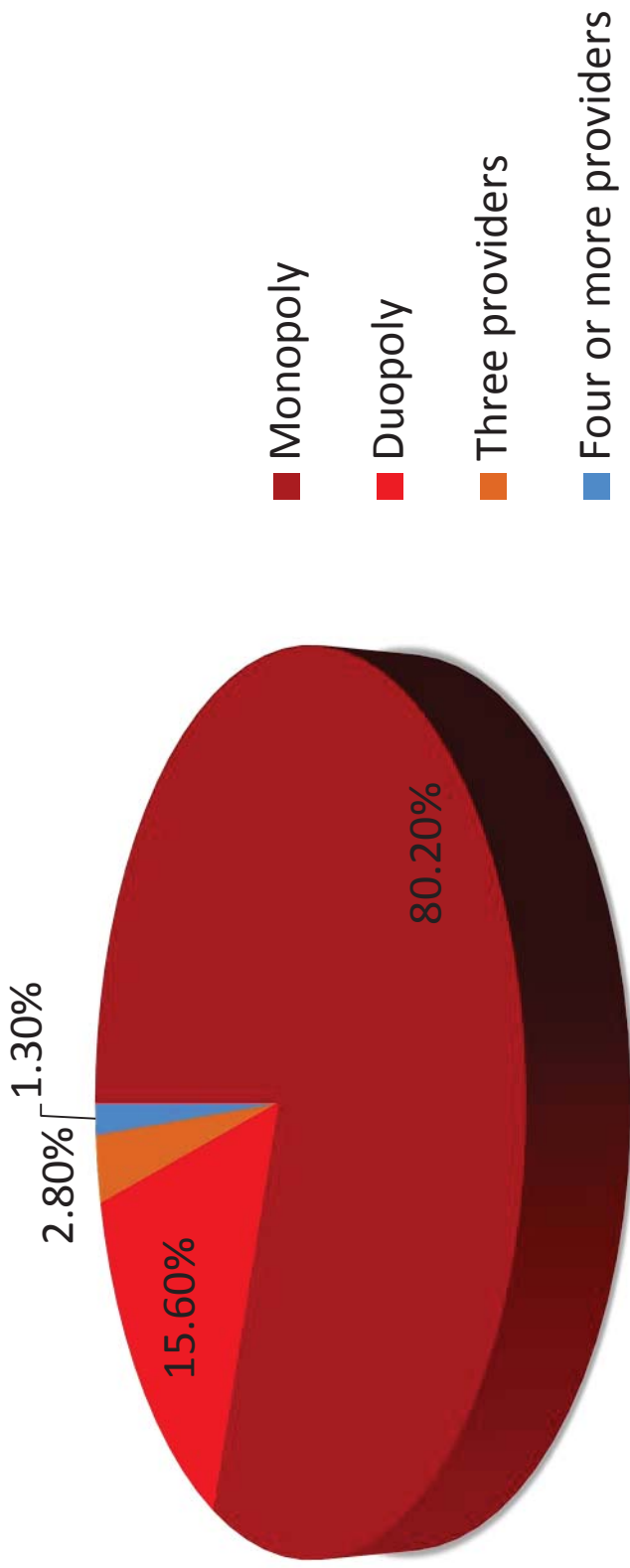
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BDS Competition By Census Block



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Competitors by census block



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HHI and Revenue Share Analysis



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- HHI exceeds the “Highly Concentrated” level in 99% of census blocks
- ILECs control 85% of revenues for BDS products offering 50 Mbps or lower
- Even including very high-capacity BDS, ILECs control 73% of all revenues reported in response to the FCC data request

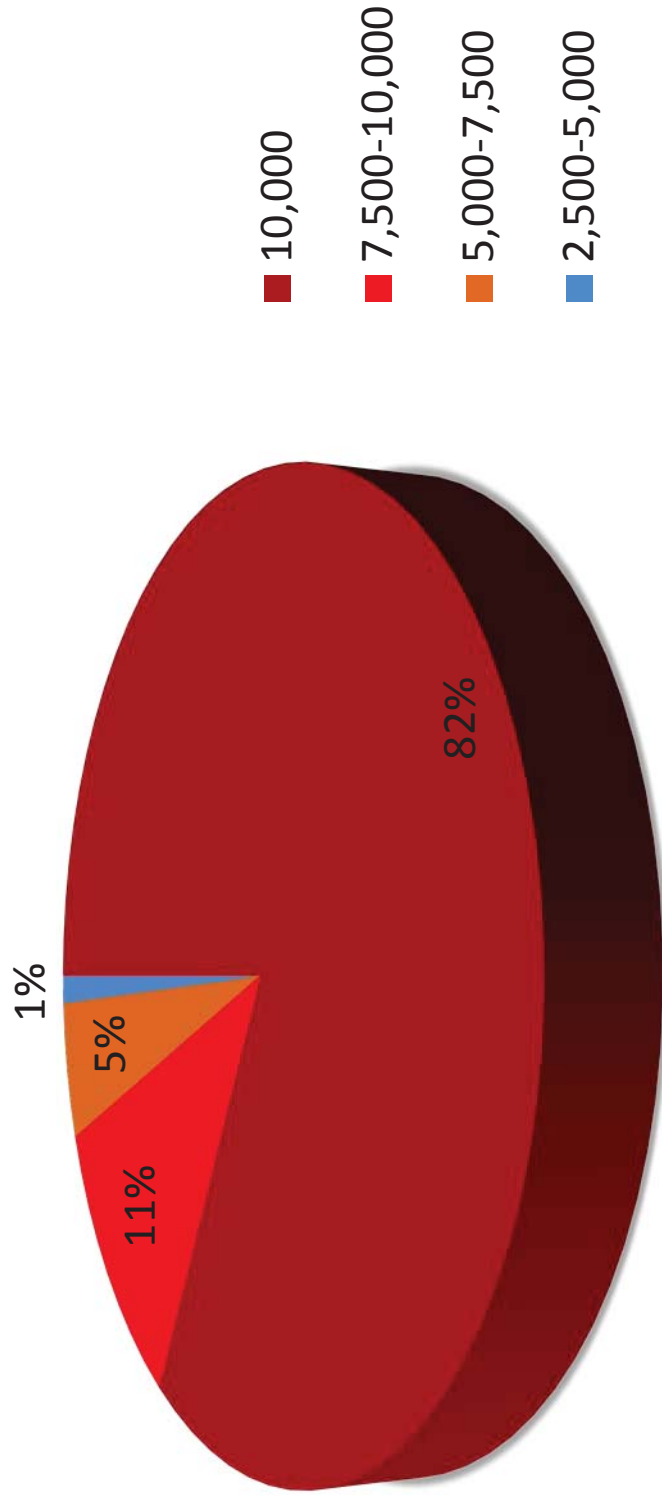
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Bandwidth-Based HHI Concentration Levels By Census Block



**Percent of CBs with various HHI Levels;
DOJ defines HHI above 5,000 to be “Highly Concentrated”**



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Data Collection Results: Terms and Conditions



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The data collection also revealed widespread ILEC use of anticompetitive terms and conditions

- Loyalty mandates
- Overage and shortfall penalties
- All-or-nothing commitments
- Use of terms to undermine Ethernet market entry

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Cable does not discipline ILEC behavior



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Faced with this data, the ILECs' last ditch argument is that cable entry solves everything

- This is just the latest in a long line of baseless ILEC claims that a new entrant is about to transform the BDS marketplace instantly from a monopoly to a robustly competitive arena – remember broadband over powerline?
- Cable HFC is unsuitable in many cases because of capacity limits and refusals to guarantee key quality elements – especially for wireless
- Even if cable were magically to compete everywhere with a substitute product, which is not the case, this would still produce only a duopoly in 90% of locations – and a duopoly is inadequate to protect competition

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