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May 9, 2016

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington D.C., 20554

**Re: MB Docket No. 16-42, *Expanding Consumers' Video Navigation Choices*; CS Docket No. 97-80, *Commercial Availability of Navigation Devices*; WC Docket No. 16-143, *Business Data Services in an Internet Protocol Environment*, WC Docket No. 15-247, WC Docket No. 05-25, RM-10593; CC Docket No. 01-92, *Developing an Unified Intercarrier Compensation Regime*; WC Docket No. 10-90, *Connect America Fund*; and GN Docket No. 13-5, *Technology Transitions*.**

Dear Chairman Wheeler:

I wanted to take the opportunity to thank you for your leadership in promoting competition in the communications industry for residential and business consumers across all networks, platforms and devices. From protecting and promoting an Open Internet, to proposing conditions on several major mergers to ensure Internet interconnection and traffic exchange encourage over-the-top competition, you have continued to enable competition to thrive and consumers to have choices. As the Commission noted recently, “competition is the single best way of ensuring customers benefit.”<sup>1</sup> Additionally, your work to facilitate technology transitions, simultaneously safeguarding consumers and stimulating competition, has struck a necessary balance for providers and consumers alike.<sup>2</sup>

Furthermore, I commend your initiative in promoting set-top box competition, as it will serve to stimulate innovation, afford consumers the video navigation options they deserve, and

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<sup>1</sup> *Business Data Services in an Internet Protocol Environment, et al.*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, FCC 16-54, at ¶ 5 (rel. May 2, 2016).

<sup>2</sup> *In re Technology Transitions*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 15-97 (rel. Aug. 7, 2015).

more easily allow consumers to enjoy video programming.<sup>3</sup> As you know, INCOMPAS stands firm in our support of your actions in this rulemaking, and we were encouraged to see President Obama’s support for unlocking competition for set-top boxes as well.<sup>4</sup> As the White House accurately stated, “stronger competition matters because it can deliver lower prices, higher quality and better customer service for consumers.”<sup>5</sup>

As you contemplate your response to the President’s Executive Order which requests executive and independent agencies to identify specific actions they can take to enhance competition, INCOMPAS urges you to include in your response the proposed reforms in the Business Data Services (BDS) market.<sup>6</sup> The Commission’s recent Order and Further Notice in that proceeding recognizes that BDS is a \$45 billion industry that “is critical to the delivery of innovative broadband services for businesses and government institutions and is a major contributor to the nation’s economy.”<sup>7</sup> We appreciate the Commission’s commitment to promoting competition for BDS in that proceeding and strongly agree with you that “now is the time for action.”<sup>8</sup> INCOMPAS is committed to working for technology-neutral policies that ensure BDS providers do not abuse their market positions in the prices, terms and conditions for BDS services—services that are necessary for wireless backhaul and competitive services to business customers, schools, hospitals, libraries and government buildings.

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<sup>3</sup> *In re Expanding Consumers’ Video Navigation Choices Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking and Memorandum Opinion and Order, FCC 16-18 (rel. Feb. 18, 2016).

<sup>4</sup> Jason Furman & Jeffrey Zients, *Thinking Outside of the Cable Box: How More Competition Gets You a Better Deal*, WHITE HOUSE BLOG (Apr. 15, 2016), available at <https://www.whitehouse.gov/blog/2016/04/15/ending-rotary-rental-phones-thinking-outside-cable-box>.

<sup>5</sup> *Id.*

<sup>6</sup> Exec. Order No. 13,725, *Steps to Increase Competition and Better Inform Consumers and Workers to Support Continued Growth of the American Economy* (Apr. 15, 2016), available at <https://www.whitehouse.gov/the-press-office/2016/04/15/executive-order-steps-increase-competition-and-better-inform-consumers>.

<sup>7</sup> *In re Business Data Services in an Internet Protocol Environment*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, FCC 16-54, ¶ 44 (rel. May 2, 2016).

<sup>8</sup> *Remarks of FCC Chairman Tom Wheeler, INCOMPAS Policy Summit* at 2 (Apr. 11, 2016), available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db0411/DOC-338806A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0411/DOC-338806A1.pdf).

Additionally, I encourage you to include in your response a commitment that the Commission will build on recent actions addressing the interconnection and Internet traffic exchange practices of broadband Internet access service providers. It is critical that the Commission continue the process of ensuring that those providers do not leverage their gatekeeper power over their end users to stifle competition, including competition for over the top video services.<sup>9</sup> Interconnection is the First Amendment of networks; networks cannot function without it. Your continued commitment to preventing anticompetitive abuse of this important part of the broadband ecosystem is critical.

Finally, our members have been at the forefront of the IP transition and support your actions to protect and promote competition during the TDM to IP technology transitions. In order to expedite the evolution to all IP networks, the Commission should work to ensure that VoIP interconnection is occurring at non-discriminatory and just and reasonable rates, as required under Sections 251 and 252 of the Communications Act. Such action is critical to a competitive marketplace for voice services, as it will bring cost effective and innovative solutions to consumers across America.<sup>10</sup>

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<sup>9</sup> See *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd. 5601, ¶¶ 194-206 (2015); *Applications of AT&T Inc. and DIRECTV For Consent to Assign or Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 30 FCC Rcd. 9131, ¶¶ 217-219 (2015) (requiring AT&T to file all Internet interconnection agreements with the Commission and to provide the Commission with certain Internet interconnection performance metrics); see also Statement of FCC Chairman Tom Wheeler on Recommendation Concerning Charter/Time Warner Cable/Bright House Networks, available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db0425/DOC-339028A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0425/DOC-339028A1.pdf) (proposing a condition that will prohibit New Charter from charging interconnection fees, including to online video providers, which deliver large volumes of internet traffic to broadband customers).

<sup>10</sup> Comments of COMPTTEL, *In the Matter of Technology Transitions Policy Task Force*, GN Docket No. 13-5 (July 8, 2013).

INCOMPAS remains steadfast in its commitment to a competitive marketplace and looks forward to continuing to work with the Commission to strengthen and bolster competitive principles to ensure all Americans benefit from innovative communications services.

Sincerely,

A handwritten signature in black ink, appearing to read "Chip Pickering". The signature is fluid and cursive, with the first name "Chip" and last name "Pickering" clearly distinguishable.

Chip Pickering  
Chief Executive Officer

cc: Ruth Milkman  
Philip Verveer  
Jessica Almond  
Stephanie Weiner  
Gigi Sohn