

June 16, 2014

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

Re: AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Technology Transitions, GN Docket No. 13-5; Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable To Retirement of Copper Loops and Copper Subloops, RM-11358; Letter of US TelePacific Corp. et al. Requesting Commission to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband Over Copper, WC Docket No. 10-188; A National Broadband Plan for Our Future, GN Docket No. 09-51, WB Docket No. 13-306, Petition of Public Knowledge et al. for Declaratory Ruling that Section 222 of the Communications Act Prohibits Telecommunications Providers from Selling Non- Aggregate Call Records Without Customers' Consent

Dear Ms. Dortch:

On June 12, 2014, Harold Feld, Senior Vice President, Jodie Griffin, Senior Staff Attorney, Clarissa Ramon, Government Affairs and Outreach Associate, and Ethan Jeans, Law Clerk, of Public Knowledge (PK) met with Rebekah Goodheart from Commissioner Clyburn's office and Priscilla Argeris from Commissioner Rosenworcel's office respectively.

Public Knowledge expressed concern over complaints it has received that copper in certain areas is no longer being repaired, and that carriers are (a) shifting customers to wireless service, or (b) moving customers to copper while discontinuing Title II TDM service and requiring customers to take "digital voice" service which is not yet classified.<sup>1</sup> While some State PUCs are looking into the matter, not all have the statutory authority, and others have been encouraged not to collect complaints on the matter of rural call completion.<sup>2</sup>

The Commission has three non-exclusive paths forward, each of which it should closely consider. They are: (1) using Letters of Inquiry to find more facts and data on a national scale, as to specific carrier behavior; (2) tracking the number of complaints filed with the FCC over this matter; and (3) pursuing enforcement actions pursuant to accusations that carriers are not meeting their statutory Common Carrier mandate.

---

<sup>1</sup> Letter from Jodie Griffin, Senior Staff Attorney, Public Knowledge, et al. to Julie A. Veach, Chief, Wireline Competition Bureau, FCC (May 12, 2014), *available at* [http://www.publicknowledge.org/assets/uploads/blog/14.05.12\\_Copper\\_Letter.pdf](http://www.publicknowledge.org/assets/uploads/blog/14.05.12_Copper_Letter.pdf).

<sup>2</sup> *Id.* at 2.

Public Knowledge also expressed concern that OGC still has not resolved the confidentiality challenge filed by Public Knowledge and National Consumer Law Center on April 8.<sup>3</sup> Public Knowledge emphasized the importance of quick resolution of these proceedings to maintain public confidence in the Commission's commitment to transparency and leadership in the IP Transition.

Finally, Public Knowledge urged swift resolution of the Petition for Declaratory Ruling (WC Docket No. 13-306) on use of customer proprietary network information (CPNI).<sup>4</sup> As outlined in the original petition and reply comments, the Commission's authority over customer proprietary network information (CPNI) under § 222 of the Communications Act is a vital part of the Commission's consumer protection authority.<sup>5</sup> To the extent that parties have argued that the Commission is confined to the interpretation of "personally identifying information" used by the Federal Trade Commission (FTC), Public Knowledge underscored that Congress delegated to the Commission specific authority reflecting the express concern of Congress for the nature of the information and the unique position of network operators with regard to customers. By contrast, the FTC's authority derives from general statutory authority under the FTC's organic statute. Just as the Commission's public interest authority includes, but is not limited to, competition concerns, the Commission's privacy jurisdiction includes, but far exceeds, the general "fairness" standard used by the FTC.

In accordance with Section 1.1206(b) of the Commission's rules, this letter is being filed with your office. If you have any further questions, please contact me at (202) 861-0020.

Respectfully submitted,

/s/ Ethan Jeans  
*Legal Clerk*  
PUBLIC KNOWLEDGE

---

<sup>3</sup> Challenge to Confidentiality Designation of Public Knowledge & the National Consumer Law Center, *Technology Transitions*, GN Docket No. 13-5, *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353 (Apr. 8, 2014), available at [https://www.publicknowledge.org/assets/uploads/documents/14.04.08\\_PK\\_Confidentiality\\_Challenge\\_Redacted.pdf](https://www.publicknowledge.org/assets/uploads/documents/14.04.08_PK_Confidentiality_Challenge_Redacted.pdf)

<sup>4</sup> Reply Comments of Public Knowledge et al., *Petition of Public Knowledge et al. for Declaratory Ruling that Section 222 of the Communications Act Prohibits Telecommunications Providers from Selling Non-Aggregate Call Records Without Customers' Consent*, WC Docket No. 13-306 (Mar. 4, 2014), available at <http://apps.fcc.gov/ecfs/document/view?id=7521088229>.

<sup>5</sup> 47 U.S.C. § 222 (2008).