

August 1, 2014

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 Policy Task Force Notice of *Ex Parte* Meeting

Dear Ms. Dortch:

On July 30, 2014, Jodie Griffin, Senior Staff Attorney and Clarissa Ramon, Government Affairs and Outreach Associate, of Public Knowledge (PK) spoke with Matthew DelNero, Joel Rabinovitz, and Michele Berlove by phone.

Confidentiality Challenge of Public Knowledge and the National Consumer Law Center in AT&T's Proposed Trials

Public Knowledge urged the Commission to grant Public Knowledge and the National Consumer Law Center's (NCLC) request to require AT&T to make public the timeline of AT&T's proposed network transition trials.¹ Short of any official action by the Commission moving forward with or rejecting AT&T's proposal, AT&T's trial proposal is still pending and there is still a significant interest in encouraging public debate on the proposed trials. Public Knowledge emphasized how important it is for stakeholders to know when the trials will start and stop to give meaningful input on the proposal.

AT&T has recently voluntarily disclosed that it will not be ready to seek approval to stop offering traditional TDM-based services until at least the second half of 2015.² This disclosure, however, does not address all of the concerns raised in PK and NCLC's challenge. AT&T's disclosure reveals the general timeframe for its proposed trials but does not allow the public to understand or comment on the proposed timing between various steps in AT&T's trial proposal. If anything, however, AT&T's willingness to publicly disclose more of its timeline calls into question whether the entire timeline is truly deserving of confidential protection.

AT&T simultaneously argues that the information at issue is confidential and also that the Commission need not be concerned about AT&T hiding this information from public

¹ See Challenge to Confidentiality Designation of Public Knowledge and the National Consumer Law Center, on Behalf of Its Low-Income Clients, *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).

² Letter from Frank S. Simone, Assistant Vice President Federal Regulatory, AT&T, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 12-353, 13-5 (June 6, 2014).

disclosure because AT&T will conduct its own public outreach.³ If AT&T is claiming that it will disclose some information, but not all of the information at issue in PK and NCLC's challenge, then its promise does not actually solve the problems identified in the confidentiality challenge. If AT&T is instead indicating it will reveal the full timelines of the proposed trials now, that willingness only bolsters the idea that this is the type of information customarily released to the public and undermines AT&T's contention that the information at issue is actually confidential. And if AT&T's point is that it will only reveal the information after the opportunity for public input has passed, that promise misses the entire point of the confidentiality challenge. The time for public input on proposed trials is *before* they are already underway. Knowing a trial timeline after the fact does not help the public engage in the debate before the trial is accepted or rejected.

If the Commission accepts AT&T's argument that the trial timelines are confidential commercial information because AT&T is generally engaged in commerce and this is information AT&T would rather not disclose, that logic could also encompass much more information than just the timelines at issue here. Such a ruling could risk cutting the public out of important debates in this and other proceedings that need informed public engagement.

Public Knowledge also noted it is important that parties before the Commission know they can rely on the confidentiality challenge process to stop improper redactions. PK therefore urged the Commission to officially grant PK and NCLC's confidentiality challenge.

Complaints from Customers Relying on Service on the Copper Network

Public Knowledge urged the Commission to act to address complaints that have arisen across the country indicating carriers are forcing customers off traditional copper-based service.⁴ Where complaints and evidence call into question whether a carrier is properly maintaining the network for its basic service, or whether a carrier is telling at least some customers they cannot purchase basic voice service, the Commission should initiate enforcement proceedings to ensure carriers continue to fulfill their fundamental obligations as common carriers.

PK also urged the Commission to publicly collect more information about these issues, both in areas where state-level evidence is already available and in areas where state agencies may not have the authority to receive complaints or step in to protect consumers. We have now seen enough complaints appearing across the country that the Commission would be well justified in officially asking for more information from all interested parties about how carriers are maintaining and offering their services. This is particularly important to understand the services available to customers in deregulated states, where state authorities may not be able to collect information and protect network users.

³ AT&T Reply to Challenge to Confidentiality Designation by Public Knowledge and 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, at 3 (Apr. 15, 2014).

⁴ Letter from Jodie Griffin, Public Knowledge, and Regina Costa, The Utility Reform Network, *et al.* to Julie A. Veach, FCC (May 12, 2014), *available at* https://www.publicknowledge.org/assets/uploads/blog/14.05.12_Copper_Letter.pdf.

PK asked the FCC to publicly seek more information on:

- Complaints from all states about network maintenance, call quality, and call reliability.
- Carriers' practices for handling repair requests and requests to purchase or continue using basic service. Is any carrier refusing to repair or unreasonably delaying repairs? Do customers feel pressured to accept higher-priced services or bundles, or to leave TDM-based or copper-based service entirely? Have there been any indications that these practices or policies have changed over the last few years as we moved further into the network transition or in response to regulatory changes?
- Information regarding service quality and pricing that could be analyzed over time and by state.

This information will help the Commission and other policymakers fully understand the extent of the complaints we have now seen in several states. As the expert agency on the federal level, the Commission brings unique value and authority to this conversation and should assert its leadership in investigating and evaluating these complaints on the national level. Just as in rural call completion, 911 access, or privacy, the public is relying on the Commission here to ensure customers still have access to a reliable, affordable network and carriers continue to fulfill their obligations under the law. PK urges the Commission to begin the process of uncovering all of the necessary information to understand the problems that have now been alleged in complaints across the country as a step toward ensuring the network transition is truly a step forward for everyone.

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/ Jodie Griffin
Senior Staff Attorney
PUBLIC KNOWLEDGE