

September 17, 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; PS Docket No. 07-114, Wireless E911 Location Accuracy Requirements

Dear Ms. Dortch:

On September 15, 2014, Harold Feld, Senior Vice President, Jodie Griffin, Senior Staff Attorney, and Clarissa Ramon, Government Affairs and Outreach Associate, of Public Knowledge (PK) met with Priscilla Argeris in Commissioner Rosenworcel's office.

The Commission Should Take Action to Protect Consumers and Competition in the Phone Network Transition

Public Knowledge urged the Commission to take action to set standards for the phone network's transition to new technologies. Carriers are showing increasing interest in moving end-users off of copper networks in certain areas, but we still know little about whether and how the carriers' new technologies will continue to serve customers as well or better than the existing networks do. We are in the midst of this transition, and carriers are only becoming more aggressive in seeking to transition their networks. Now is when we most need the Commission to assert its leadership and ensure the network transition is handled in a way that continues to protect the enduring values of the network.¹

Before policymakers can state with confidence that any new technology is comparable to or better than existing network technology, it must know the metrics by which to compare the two. The Commission should therefore establish the metrics by which it will evaluate new technologies, when, for example, a carrier files an application to change or retire its network under § 214(a).² Consumers, carriers, and policymakers alike will benefit from clear metrics and standards that everyone can use to determine whether a new network passes muster, and stakeholders are looking to the Commission for guidance with increasing urgency.

¹ See Jodie Griffin and Harold Feld, *Five Fundamentals for the Phone Network Transition* PKTHINKS (July 2013), <https://www.publicknowledge.org/news-blog/blogs/five-fundamentals-for-the-phone-network-transition>.

² See 47 U.S.C. § 214(a). The Commission's technical trials would be useful in this endeavor, but as the Commission does not yet have any carrier trial proposals before it that include the necessary data collection and analysis structures, the Commission must not let consumers fall behind while it waits for carriers to catch up.

Public Knowledge also urged the Commission to act to address complaints that have arisen across the country indicating carriers are forcing customers off traditional copper-based service.³ 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 urges 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.

This information will help the Commission and other policymakers fully understand the extent of the complaints we have already seen in several states. As the expert agency at the federal level, the Commission brings unique value and authority to this conversation and should assert its leadership in investigating and evaluating these complaints. 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.

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.⁴ It has now been five months since PK and NCLC filed their challenge. 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

³ 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.

⁴ *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).

important it is for stakeholders to know when the trials will start and stop when they are giving input on the proposal.

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. More carriers may file trial proposals, and more parties will certainly continue to submit confidential information under protective orders in this and other proceedings before the Commission. The Commission's actions in response to each confidentiality challenge will impact companies' boldness in claiming confidentiality and the public's willingness to put in the work of filing a challenge when companies improperly claim confidentiality. PK therefore urged the Commission to officially grant PK and NCLC's confidentiality challenge.

Location Accuracy for Wireless Calls to 911

Finally, Public Knowledge urged the Commission to adopt its proposed rules on location accuracy for wireless 911 calls.⁵ Making sure public safety answering points (PSAPs) can automatically see where a person is calling from can be the difference between life and death. Just as in the network transition as a whole, the people who use the network rely on the Commission's leadership to ensure that new technologies are an actual step forward for everyone.

Especially as so many consumers use mobile phones, either instead of or in addition to a landline phone, it is crucial that those phones will give users the same 911 functionality as the traditional network.⁶ The National Center for Health Statistics recently reported that 41% of U.S. households depend solely on wireless voice service. This makes the prospect of losing location accuracy in the move to wireless technologies take on new proportions. Although the growth rate of wireless-only households was actually lower than in years past, millions of people are still relying on wireless service as their sole primary tool for basic voice service, including 911.

When we look deeper into those numbers, we also realize that the people depending on wireless-only service are disproportionately likely to be low-income (56% of adults living in poverty), members of racial or ethnic minorities (53% of Hispanic adults and 42% of African-American adults), or young (66% of adults age 25-29). If policymakers do not demand the same public safety guarantees in wireless technology that we have come to expect from landline phones, we will only be adding to the burdens of underrepresented communities and widening the digital divide.

More broadly, the transition of many from landline to wireless service is only one facet of several changes we call the "phone network transition." The issues we are seeing now with 911 location accuracy strike at the heart of the debate around our expectations for new technologies

⁵ See *Wireless E911 Location Accuracy Requirements*, Third Further Notice of Proposed Rulemaking, PS Docket No. 07-114 (Feb. 21, 2014).

⁶ See Jodie Griffin, *Wireless Calls to 911 May Not Send Location Information*, PUBLIC KNOWLEDGE BLOG (July 10, 2014), <https://www.publicknowledge.org/news-blog/blogs/wireless-calls-to-911-may-not-send-location-information>.

as our basic communications services move to IP-based technology, fiber or wireless infrastructure, or some combination.

As we see in this wireless location accuracy issue and have seen in past failed attempted transitions to new, untested technologies, we cannot just assume that “new” is always “better.” As we seek ways to maximize the opportunities presented by new technologies, policymakers need to ensure we are not incidentally undermining the basic values of the network that people across the country rely on. The Commission must ensure no one is left behind and new technologies are actually a step forward for the people relying on the network.

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