

# Congress of the United States

Washington, DC 20515

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September 6, 2018

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

Dear Chairman Pai,

We write you today in support of the motions to summarily deny the forbearance petition filed by USTelecom with the FCC (“the Petition”).<sup>1</sup> The Petition essentially seeks to repeal key provisions of the bipartisan Telecommunications Act of 1996. These provisions are critical to enabling competition for telecommunications and broadband services. If the petition is approved, competition will be stymied, raising prices on consumers, small businesses, schools, libraries, public safety networks and other institutions vital to our economy and democracy.

As you know, the 1996 Act was instrumental in enabling alternative competitive providers to enter the marketplace and compete. Pursuant to the 1996 Act, the FCC has an ongoing obligation to ensure that competition in the telecommunications marketplace is taking place. For the vast majority of United States households there is only one, and at most two, providers of high-speed broadband service. Similarly, small businesses and community anchor institutions face limited choices for their unique telecommunications needs. Impeding competition before it has truly had a chance to take off is not in the interest of consumers, businesses, or Congress and the Commission’s deployment agenda.

Competitive providers have used the provisions of the 1996 Act to access the market and provide alternative telecommunications and broadband services to consumers and businesses throughout the U.S. Small, local providers operate in urban, suburban, and rural areas. Not only are they leveraging existing infrastructure to provide service, but they are notably investing significantly in these communities. Often, they are the first to construct fiber in local markets and offer higher-speed broadband service or are the only competitive alternative to the incumbent provider. This market pressure effectively lowers prices, compelling the incumbent provider to respond by investing in its own facilities, increasing speeds and lowering prices. This leads to a virtuous cycle of innovation and deployment.

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<sup>1</sup> Motion for Partial Summary Denial and Comments of Cox Communications, Inc., WC Docket No. 18-141 (filed Aug. 6, 2018); Motion for Summary Denial of INCOMPAS, FISPA, Midwest Association of Competitive Communications, and Northwest Telecommunications Association, WC Docket No. 18-141 (filed Aug. 6, 2018).

USTelecom's proposal to remove the market entry provisions of the 1996 Act—which are instrumental in facilitating what little competition and pressure exist in the marketplace today—is very troubling. While the 1996 Act allows for consideration of forbearance on these obligations, neither the limited evidence USTelecom has provided, nor the current state of competition is sufficient for granting the Petition. In fact, USTelecom fails to offer evidence as to the state of the market for each network element, or for avoided cost resale, covered in the petition, in addition to providing no evidence as to impact on competition in local markets as required by the Commission.

USTelecom suggests that competitors will be able to continue to offer services via commercial agreements with incumbents. This is simply not the case. The record shows that incumbents do not offer commercial products for every service from which they seek forbearance—especially bare copper lines that alternative providers can use to provide higher speed broadband services than the incumbents may offer or for services currently available through avoided cost resale. And where incumbents do offer alternatives, we are very concerned that those prices are unaffordable. Indeed, the record evidence shows potential increases of over 400 percent which will cripple competition. Even if competitors are able to pass along the rate increase to customers (which is highly doubtful), forcing customers to pay price hikes for their service is not in concert with the Commission's purported agenda. USTelecom fails to provide persuasive evidence that granting its petition serves any interest other than its own members.

Constituents from all of our districts have already weighed in on this docket pleading with the FCC to reject the Petition.<sup>2</sup> Consumers want choice, and high quality customer support and

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<sup>2</sup> See Letter from S. Sud, a customer of Sonic for ten years, *available at* <https://ecfsapi.fcc.gov/file/1083122568240/DOC-59635bf646800000-X.pdf> (filed Aug. 31, 2018) (“Sonic is responsive, dependable and much cheaper than ATT (even when they lease ATT networks to provide service). ... I am in favor of more competition to thrive and help drive a better quality of service that is dependable at rates that don't keep climbing every year.”); Letter from Andrei Broder, a computer scientist in Palo Alto and customer of Sonic, *available at* <https://ecfsapi.fcc.gov/file/108292653121911/DOC-5960ff35cc000000-X.pdf> (filed Aug. 29, 2018) (“I need high reliability, so I use two ISPs—both cable and VDSL and a dual WAN router with a cellular modem fallback. For cable my only choice is Comcast although it is both expensive and unreliable even with a business line, which I have. For VDSL I used to have ATT U-verse but it was a mess—could never get the promised speed, their interface was not working correctly with my dual wan router, etc. ... Now I use Sonic, a local provider. They provide both VDSL and POTS—I am very happy with them, they give excellent service, a relatively fair price, and their techies know their job. ... Bottom line, please maintain a competitive market in broadband services! It is the only way we will get better and less expensive service.”); Letter from Francoise Tourniaire, *available at* <https://ecfsapi.fcc.gov/file/1083095429212/DOC-59621ad649c00000-X.pdf> (filed Aug. 30, 2018) (“After years of terrible service for my business and my home with AT&T (the only local service available at the time), I signed up with Sonic, which uses AT&T lines to deliver phone and internet service. It's been a wonderful experience: great performance, not a single outage, and perfect service. I want to be able to continue to have a choice in providers, and my experience has proven that, without a choice, service will be mediocre at best.”); Letter from Judith Windt, *available at* <https://ecfsapi.fcc.gov/file/108281743030914/DOC-595fa091f0800000-X.pdf> (filed Aug. 28, 2018) (“I have an excellent internet provider, Sonic.net. They need to be able to access customers like me, and to stay competitive, in order to deploy the last-mile copper and inter-city fiber that reaches my house and provides me with excellent connectivity for my home business, research, and personal use. A price hike would be a hardship for a small home business like mine.”); Letter from Helen Vanderberg, *available at* <https://ecfsapi.fcc.gov/file/1082979788015/DOC-5961235c2d400000-X.pdf> (filed Aug. 29, 2018) (“I chose a competitive provider because I'm elderly, living on Social Security, and there's no way I can afford the stratospheric

service. They want their competitive provider to continue to be able to offer them affordable service, oftentimes with faster speeds and better customer service than the incumbent provides. We urge you to listen to our constituents and deny the Petition.

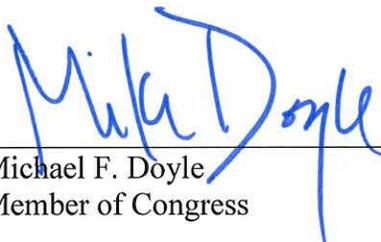
Finally, as you know, both Congress and the FCC are already engaged in comprehensive, bipartisan discussions about addressing barriers to deployment for all providers. Those efforts should be given priority. They must be allowed time to be fully implemented before the Commission considers a petition that removes competition from the broadband market, proposes to raise prices, devastates small businesses, and will adversely affect America's competitiveness on the global stage.

We urge you to grant the motions to summarily deny the USTelecom Petition. Thank you for your consideration, and we look forward to your timely response.

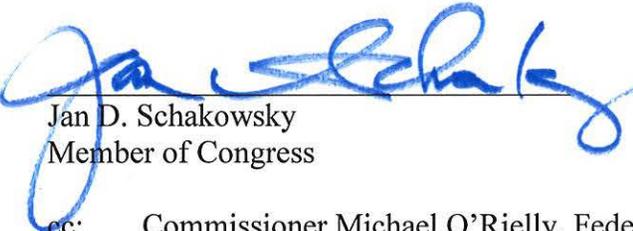
Sincerely,



Anna G. Eshoo  
Member of Congress



Michael F. Doyle  
Member of Congress



Jan D. Schakowsky  
Member of Congress

cc: Commissioner Michael O'Rielly, Federal Communications Commission  
Commissioner Jessica Rosenworcel, Federal Communications Commission  
Commissioner Brendan Carr, Federal Communications Commission

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prices charged by AT&T for their bundled services. This matters because all of my doctors, hospital appointments, pharmacy notifications are online, and I'm deaf, so can't use the phone effectively without a lot of help. Please consider the needs of the under-served in California. Remember, a number of our citizens require competitive means of communication just to survive."); Letter from Harley White-Wiedow, *available at* <https://ecfsapi.fcc.gov/file/1082882922352/DOC-5960437d08400000-X.pdf> (filed Aug. 28, 2018) ("My elderly mother is able to afford an internet connection and stay in touch with the world.. her needs are small, and well met by the light package the small local outfit runs. They're also able to help her with her computer issues, including sending people to her house for free. Comcast wouldn't do that."); Letter from Susan Perkins, *available at* <https://ecfsapi.fcc.gov/file/1082993750013/DOC-59612b82de000000-X.pdf> (filed Aug. 29, 2018) ("I am a consumer who supports broadband competition. With not competition prices will only increase, and there is no incentive to do things in a better way. ... I have primary progressive multiple sclerosis, and will eventually be house bound. I need a choice of how I will be connected to the rest of the world ... and I need to be able to afford it."); Letter from Kevin Hanna, *available at* <https://ecfsapi.fcc.gov/file/10809008196414/DOC-59483d6dbe000000-X.pdf> (filed Aug. 9, 2018) ("Please keep the concept of an open market alive. No business should be a monopoly").