



May 11, 2016

Ex Parte

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Request for Access to Additional Information, Business Data Services in an Internet Protocol Environment (WC Docket No. 16-143); Special Access for Price Cap Local Exchange Carriers (WC Docket No. 05-25); AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Service (RM-10593)**

Dear Ms. Dortch:

USTelecom submits this letter to emphasize the need for meaningful independent review of the FCC-commissioned White Paper.¹ Our member companies and economists retained by them to examine and analyze the record in the Broadband Data Services (BDS) rulemaking proceeding have initiated peer-type reviews and examinations of “the validity and strength of Dr. Rysman’s analyses and conclusions, and on their relevance”² Specifically, we are attempting to replicate the analysis.

To do this, we first need to prepare the dataset that was used to estimate Dr. Rysman’s various regression models. This involves constructing the variables used by those regressions and selecting the estimation sample for them. However, it is evident from initial examination that the descriptions of how Dr. Rysman performed these steps included in the main body of his report and its various attachments do not provide all the information needed to efficiently and reliably replicate those data.³ Understandably, not every small decision made in the handling of these data can be documented in the report.

¹ Mark Rysman, “Empirics of Business Data Services,” White Paper (April 2016) (White Paper) (Appendix B to *Business Data Services in an Internet Protocol Environment et al.*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 16-143, 15-247, 05-25, RM 10593, FCC 16-54 (rel. May 2, 2016) (*BDS FNPRM*)). The White Paper forms the basis for many of the proposals in this proceeding.

² *BDS FNPRM* at ¶ 164.

³ See, e.g., White Paper, Attachment I – Data Set Construction and Definition of Variables (explaining how the data set was constructed).

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Given the complexity of the White Paper's analysis and central purpose that the document has served (and will continue to serve) in shaping the course of this proceeding, parties must have a reasonable opportunity to replicate Dr. Rysman's important work within the time frame provided for comment, and this cannot reasonably be done without access to certain underlying work. We therefore request access to the computer programs (e.g., Stata.do files) that were used to prepare the estimation samples, and the order in which those programs were run. In particular, this program code should indicate which datasets were used to generate the samples, and in the process, whether Dr. Rysman and his staff relied upon ILEC and CLEC submissions of raw special access data and proprietary data sources that are not available to other researchers with access to the NORC-FCC Data Enclave. It would also be helpful to have a glossary that lists the names and descriptions of the variables used in this analysis. We also request access to the computer programs that performed the estimation of the seven regressions in the White Paper (Tables 14-20) and generated the summary statistics found in Attachment 3 using the data that was prepared by the programs described above.

Without these additional components, it would take significantly more time to unpack and analyze the White Paper, which in turn would preclude us and the public from fully addressing the myriad other questions and requests for comment in the BDS FNPRM. We therefore request that the FCC make available these programs and data, and other support as necessary to ensure that parties have adequate notice and sufficient time to review and prepare comments within the established comment period, as soon as possible but not later than May 20, 2016, subject to the non-disclosure agreements already applicable to the special access data collected in this proceeding.⁴

Please do not hesitate to contact the undersigned if you have questions or concerns.

Respectfully submitted,



Jonathan Banks
Diane Griffin Holland

cc: Stephanie Weiner, Senior Legal Advisor to Chairman Wheeler
Matt DelNero, Chief, Wireline Competition Bureau

⁴ See *Special Access for Price Cap Local Exchange Carriers; AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Order and Modified Data Collection Protective Order, 30 FCC Rcd 10027 (WCB 2015).