

June 18, 2026

**VIA ECFS**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: *Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253**

Dear Ms. Dortch,

On June 16, 2026, Ron Del Sesto and Brett Ferenchak of Cooley LLP, outside counsel to INCOMPAS, and Staci Pies, Taylor Abshire, Wills Norton, and the undersigned counsel of INCOMPAS conducted separate virtual meetings with: (1) Marcus Maher, Senior Legal Advisor to Commissioner Olivia Trusty, (2) Danielle Thumann, Senior Counsel to Chairman Brendan Carr, and (3) Harsha Mudaliar, Policy Advisor and External Affairs Liaison to Commissioner Anna Gomez to discuss the public draft of the *Notice of Proposed Rulemaking* in the Commission proceeding on wireline permitting reforms.<sup>1</sup> On June 18, 2026, Ron Del Sesto of Cooley LLP, outside counsel to INCOMPAS, and the undersigned counsel of INCOMPAS conducted a virtual meeting with Elizabeth Drogula, Jodie May, and Jesse Goodwin of the Wireline Competition Bureau on the same topic.

INCOMPAS members are building the next generation of America's communications networks. In this proceeding, our members have relayed that access to rights-of-way and the speed and cost of local permitting are among the most significant practical barriers to getting broadband deployed. Permitting queues, unpredictable fee structures, and inconsistent local requirements impose real costs that delay deployment and, in some cases, have caused providers to abandon builds in the communities that need connectivity most. In the meeting, INCOMPAS conveyed that its members are encouraged by the Commission's *Notice of Proposed Rulemaking* in this proceeding, and that the association views it as a meaningful step toward closing the digital divide and establishing the federal framework necessary to accelerate broadband deployment nationwide. We made clear that getting rights-of-way and permitting reform right will have direct, tangible consequences for connectivity, for the communities our members serve, and for the long-term competitiveness of the United States in the global broadband economy.

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<sup>1</sup> See *Build America: Eliminating Barriers to Wireline Deployments*, WC Docket No. 25-253, Public Draft Notice of Proposed Rulemaking, FCC-CIRC2606-01 ("*Notice*" or "*NPRM*")

With respect to the public draft of the *Notice*, INCOMPAS suggested several, narrow additions to the item that will allow the competitive communications industry to better respond to the Commission's proposals during the public comment period. Specifically, INCOMPAS urged the Commission to (1) include additional questions about the Commission's legal authority to enact wireline broadband deployment reforms, (2) establish enforceable conditions for what constitutes adequate public disclosure of fees under Section 253(c), and (3) expressly prohibit in-kind compensation arrangements that exceed the cost of applications and permits.

First, INCOMPAS urged the Commission to include additional questions in the *Notice* about the agency's authority to make findings concerning what constitutes effective prohibitions as described in Section 253. In addition to the authority listed in the item, the association submitted that the Commission has authority to preempt inconsistent state and local regulations under a number of statutory provisions including Sections 214, 253 and 706 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996. INCOMPAS urged the Commission to seek public comment on these additional sources of authority in the *Notice*.

INCOMPAS also urged the Commission to use the *Notice* to define, with specificity, what it means for local jurisdictions to "publicly disclose" its fees in accordance with the requirements of Section 253(c) of the Communications Act. Public disclosure is an express statutory condition for fees to qualify under the Section 253(c) exception, and the Commission is entitled to define what disclosure satisfies that condition. Absent FCC action to further define this term, local governments can provide minimal or obscure disclosure that leaves competitive providers unable to access information on equal terms, rendering the "fair and reasonable" and "competitively neutral and non-discriminatory" requirements of Section 253(c) impossible to evaluate. INCOMPAS proposed that the Commission seek comment in the *NPRM* on a definition of "publicly disclosed" that would require disclosure to be: (i) made in advance of imposition of the fee; (ii) sufficiently particular to permit evaluation against the "fair and reasonable" and "competitively neutral and nondiscriminatory" requirements, and (iii) accessible to all carriers on equal terms. The association further proposed that the *NPRM* seek comment on whether a local jurisdiction that fails to satisfy any of these three conditions should lose the Section 253(c) safe harbor for the fee at issue—that is, the fee would no longer qualify as permissible compensation for use of public rights-of-way and would be subject to preemption under Section 253(a). This consequence would create a meaningful incentive for local jurisdictions to provide transparent, accessible, and timely disclosure, advancing the Commission's broadband deployment goals.

Finally, INCOMPAS urged the Commission to address in the *NPRM* the treatment of in-kind compensation arrangements between telecommunications providers and local jurisdictions that exceed the cost of processing applications and permits. In-kind compensation arrangements in which a local jurisdiction requires a provider to contribute infrastructure, services, or other non-monetary value as a condition of rights-of-way access or permitting approval can function as a mechanism for extracting value from providers that exceeds any legitimate cost of administration. When the value of required in-kind contributions exceeds what a jurisdiction could lawfully charge in fees under Section 253(c), those arrangements operate as an effective barrier to entry and deployment, undermining the very goals Section 253 was designed to

advance. INCOMPAS members have experienced firsthand how excessive in-kind demands—whether for dark fiber, conduit access, free service to municipal buildings, or other contributions—distort deployment decisions and divert resources from network buildout to negotiation and compliance. INCOMPAS supports the *Notice's* approach to counting the cost or value of any in-kind compensations requirements imposed by state and local governments as a condition of issuing authorizations to access and use public rights-of-way to provide telecommunications services toward any safe harbor fee levels eventually adopted by the Commission. However, INCOMPAS also urged the Commission to include language in the *Notice* that in-kind compensation arrangements that exceed the actual, reasonable cost of processing applications and issuing permits are not permissible under Section 253(c) and are subject to preemption under Section 253(a).

If you have any questions about this filing, please feel free to contact me.

Respectfully submitted,

*/s/ Christopher L. Shipley*

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cc

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