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April 4, 2024

**VIA ECFS**

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

**Re: *Ex Parte* Presentation of Hotwire Communications, *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142**

Dear Ms. Dortch:

On April 2, 2024, Kristin Johnson, President and CEO, Jonathan Bullock, Chief Product & Strategy Officer, and Ross Lieberman, Senior Vice President of Government Affairs, of Hotwire Communications (“Hotwire”), and the undersigned, counsel to Hotwire (collectively referred to as the “Hotwire Representatives”) met with Commissioner Anna Gomez and her Legal Advisor for Wireline and Space, Hayley Steffen, in regard to the above-referenced docket.

The Hotwire Representatives discussed the points set forth in their *ex parte* filings in this docket on March 22, 2024 and March 26, 2024.<sup>1</sup> They reiterated that: (1) in 2010, the Federal Communications Commission (“Commission”) found that bulk billing arrangements for the provision of communications services in multi-tenant buildings or multi-premises communities are pro-competitive;<sup>2</sup> and (2) there is no

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<sup>1</sup> See Letter from Thomas Cohen, Counsel to Hotwire Communications to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 17-142 (Mar. 22, 2024); Letter from Thomas Cohen, Counsel to Hotwire Communications to Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 17-142 (Mar. 26, 2024).

<sup>2</sup> *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, MB Docket No. 07-51, Second Report and Order, 25 FCC Rcd 2460, para. 28 (2010) (“it would be a disservice to the public interest if, in order to benefit a few residents, we prohibited bulk billing, because so doing would result in higher MVPD service charges for the vast majority of MDU residents who are content with such arrangements. Based on the evidence in the record before us, we choose not to take action that would raise prices for most MDU residents who are subject to bulk billing. Accordingly, we will allow bulk billing by all MVPDs

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evidence in the existing record in this docket nor apparently in the proposed rulemaking on circulation supporting a reversal of the 2010 finding. This lack of evidence comes as no surprise. After all, experience in the real world demonstrates that the 2010 conclusion was – and continues to be – well-founded. The Hotwire Representatives, therefore, urged that the Commission not adopt the proposed rulemaking, but if the Commission believes there is sufficient cause to proceed, they recommended –

- To ensure transparency in the process and assist the Commission in developing its proposals, the Commission should consider the proposed rulemaking at an open meeting. This would enable the public to review and provide input on the draft rulemaking for three weeks prior to the vote. In contrast, when the Commission considers a matter on circulation, the public does not have access to the text of the proposals under consideration and has limited ability to provide comments and data that may prove relevant.
- Because the Commission is proposing to reverse its 2010 conclusion that bulk billing benefits consumers and has not gathered evidence on marketplace changes that would warrant such a reversal, the Commission should not prejudge issues by adopting tentative conclusions. Rather, it should seek such data and information, raise all relevant issues, and provide sufficient time – at least sixty (60) days for comments and sixty (60) days for reply comments – to allow all stakeholders to submit evidence and make their arguments.
- The Commission should seek comments on all aspects of the issues and its proposals, including differences in bulk billing practices among different bulk purchasers (*e.g.*, apartment owners, HOAs, and COAs). Moreover, the Commission should seek comment on the benefits of bulk billing arrangements for different types of residents, including seniors and others on a fixed-income, seniors with long-term care needs, students, and low-income individuals, and the impact of prohibiting or limiting bulk billing on deployment, pricing, adoption, and competition.
- To avoid “takings” claims and conflicts with state and local laws, and to limit market uncertainty, and customer and consumer harm and confusion, the Commission should not apply any rule it might adopt to existing bulk billing agreements. This is also important considering that numerous parties have made significant investment and deployment decisions in reliance on the 2010 decision.

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to continue because, under current marketplace conditions, it is clear that it has significant pro-consumer effects.”) (internal citations omitted).

Marlene H. Dortch  
April 4, 2024

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules.<sup>3</sup>

Sincerely,



Thomas Cohen  
Counsel to Hotwire Communications

Cc: Commissioner Anna Gomez  
Hayley Steffen

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<sup>3</sup> 47 C.F.R. § 1.1206.