

**Before the**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of	)	
	)	
Advancing IP Interconnection	)	WC Docket No. 25-304
	)	
Accelerating Network Modernization	)	WC Docket No. 25-208
	)	
Call Authentication Trust Anchor	)	WC Docket No. 17-97

**COMMENTS OF**  
**THE FREE STATE FOUNDATION**<sup>\*</sup>

The Free State Foundation ("FSF") hereby responds to the Federal Communications Commission's Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.<sup>1</sup> Specifically, FSF submits these comments to emphasize its support for the NPRM's intended end – the encouragement and expedition of the transition to all-IP networks to enhance consumer welfare – as well as its means – the use of the Commission's Section 10 forbearance authority for precisely the type of evolved circumstances presented here. This is yet another key regulatory reform proposal that is crucial to advancing the implementation of the FCC's "Build America" program by spurring the deployment and use of advanced broadband IP networks.

The October 2025 *Perspectives from FSF Scholars* attached hereto as Appendix A,<sup>2</sup> written by Senior Fellow (and co-author of these comments) Andrew Long, detailed the clear consumer benefits waiting at the all-IP end state. These include: the universal availability of

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<sup>\*</sup> These comments express the views of Randolph J. May, President of the Free State Foundation, and Andrew Long, Senior Fellow. The views expressed do not necessarily represent the views of others associated with the Free State Foundation. The Free State Foundation is an independent, nonpartisan free market-oriented think tank.

<sup>1</sup> See generally *In the Matter of Advancing IP Interconnection*, WC Docket No. 25-304; *Accelerating Network Modernization*, WC Docket No. 25-208; *Call Authentication Trust Anchor*, WC Docket No. 17-97, Notice of Proposed Rulemaking (released October 29, 2025), available at <https://docs.fcc.gov/public/attachments/FCC-25-73A1.pdf> (NPRM).

<sup>2</sup> See generally Andrew Long, "Forbearance: The Fast Lane to Implementing Modern All-IP Networks," *Perspectives from FSF Scholars*, Vol. 20, No. 43 (October 24, 2025), available at <https://freestatefoundation.org/wp-content/uploads/2025/10/Forbearance-The-Fast-Lane-to-Implementing-Modern-All-IP-Networks-102425.pdf>.

flexible networks able to transport more services for less (thereby encouraging greater competition); an end to the current scenario where subscribers are forced to foot the bill to prop up obsolete networks for which replacement parts are in increasingly short supply (thereby freeing up capital for greater investment in IP infrastructure); and the extrication of copper from telecommunications networks, a "honeypot" that encourages vandalism and theft, thereby degrading network security and availability.

The attached *Perspectives* also explained that Section 251(c) of the Communications Act,<sup>3</sup> enacted nearly three decades ago, has outlived its utility. In 1996, incumbent local exchange carriers (ILECs) admittedly had the local voice service market largely cornered. Agency data from June 2024, however, reveals a radically changed landscape, with ILEC "switched access lines encompass[ing] only 3.1% of the voice telephony market."<sup>4</sup> Accordingly, the additive (and uniquely applied to ILECs) interconnection obligations set forth in Section 251(c) – which incorporate "terms that have traditionally encompassed telephone service provisioned over legacy TDM networks"<sup>5</sup> – as a practical matter impede progress toward a pro-consumer all-IP environment, and in fact incentivize inefficient outcomes. Absent Section 251(c)'s distorting impact, parties to an interconnection agreement will reach an optimal and mutually beneficial set of terms. Those terms *might* specify TDM interconnection, but they would not be *required* by regulatory fiat to do so.<sup>6</sup>

By contrast, the interconnection duties set forth in Sections 201 and 251(a) of the Communications Act – which apply to all "common carriers" (in the case of the former) and

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<sup>3</sup> See 47 U.S.C. § 251(c).

<sup>4</sup> NPRM at 6 (citation omitted).

<sup>5</sup> *Id.* at 5 (citations omitted).

<sup>6</sup> See *id.* at 21 ("Importantly, we note that sunsetting incumbent LEC-specific interconnection obligations is not tantamount to a prohibition on TDM interconnection. Incumbent LECs, like other providers, could continue interconnecting in TDM, and all telecommunications carriers would still bear the duty to interconnect pursuant to sections 201 and 251(a) of the Act.").

"telecommunications carriers" (in the case of the latter), not just ILECs – are technology agnostic.<sup>7</sup> Forbearance from Section 251(c), resulting in universal and exclusive reliance upon Sections 201 and 251(a) to compel interconnection, would eliminate the regulatory distortion injected by Section 251(c) into negotiations and allow the marketplace to dictate efficient outcomes.<sup>8</sup>

Moreover, the delayed implementation date (December 31, 2028) allows for an orderly and deliberate transition, during which the Commission can address, via available processes, any discrete concerns that may arise.

Finally, the attached *Perspectives* reiterated the Free State Foundation's longstanding support for the use of Section 10 forbearance authority as the appropriate means to achieve this end with relative ease and speed.<sup>9</sup> Indeed, FSF Scholars in 2013 characterized Section 10 forbearance as "an especially appropriate tool for the FCC to employ in facilitating the IP transition,"<sup>10</sup> and they have been the most consistent and prominent scholars to do so.

When Congress passed the Telecommunications Act of 1996, it explicitly instructed the Commission to "forbear from applying any regulation or provision" where it determines that three conditions are met:

- "[E]nforcement ... is not necessary to ensure that charges, practices, classifications, or regulations ... are just and reasonable and are not unjustly or unreasonably discriminatory,"
- "[E]nforcement ... is not necessary for the protection of consumers," and

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<sup>7</sup> See generally 47 U.S.C. §§ 201, 251(a).

<sup>8</sup> See also NPRM at 2 ("We believe this mandate may be impairing investment in modern services for consumers and has become unnecessary in a communications market where the majority of voice traffic is now IP-based – with 74.5% of residential service and 80.2% of business wireline voice service being IP-based as of June 2024.") (citation omitted).

<sup>9</sup> See generally 47 U.S.C. § 160.

<sup>10</sup> Comments of the Free State Foundation, *In the Matter of AT&T and NTCA Petitions on Transition from Legacy Transmission Platforms to Services Based on Internet Protocol*, GN Docket No. 12-353 (filed January 28, 2013), available at <https://freestatefoundation.org/wp-content/uploads/2019/08/Transition-from-Legacy-Transmission-Platforms-to-Services-Based-on-IP-Comments-012813.pdf>, at 2.

- "[F]orbearance ... is consistent with the public interest."<sup>11</sup>

ILEC switched-access offerings' *de minimis* share – 3.1 percent – is at odds with any suggestion of undue marketplace influence. In addition, and as described above, consumers, and therefore the public interest, would benefit from greater IP connectivity: flexible networks enable greater competition and innovation at lower costs, while non-copper infrastructure increases network security and reliability by eliminating the profit motive currently driving rampant vandalism and theft.

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For the foregoing reasons and those addressed in the attached Appendix A, the Free State Foundation encourages adoption of the proposals set forth in the NPRM.

Respectfully submitted,

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<sup>11</sup> 47 U.S.C. § 160(a)(1)-(3). Subsection (b) further instructs the agency to "consider whether forbearance ... will promote competitive market conditions" and makes plain that a determination "that such forbearance will promote competition among providers of telecommunications services ... may be the basis for a Commission finding that forbearance is in the public interest."). Forbearance here would expand IP connectivity, IP connectivity enables over-the-top distribution, over-the-top distribution facilitates low-cost entry, and low-cost entry encourages greater competition.



*Perspectives from FSF Scholars*  
**October 24, 2025**  
**Vol. 20, No. 43**

**Forbearance: The Fast Lane to Implementing Modern All-IP Networks**

by

**Andrew Long \***

At its [open meeting on October 28](#), the Commission intends to vote on a [Notice of Proposed Rulemaking](#) (draft NPRM) that, among other things, would free incumbent local exchange carriers (ILECs) from outdated and burdensome copper-focused interconnection obligations. Through reliance upon its [Section 10 forbearance authority](#), the FCC would build upon its March Orders "[that reduced regulatory burdens for voice service providers seeking to retire old legacy copper networks](#)" and further expedite the necessary transition to networks that exclusively utilize Internet Protocol (IP) technology. Doing so would (1) exempt ILECs from increasingly challenging and costly efforts to prop up obsolete time-division multiplexing (TDM) equipment, (2) energize investment in flexible, modern networks, and (3) eviscerate the financial incentive behind rampant criminal attacks on critical communications infrastructure.

As far back as 2013, Free State Foundation (FSF) scholars have argued that "[the Commission's forbearance authority, which thus far has been too little used, would seem to be an especially appropriate tool for the FCC to employ in facilitating the IP transition.](#)" More recently, in March of this year, FSF President Randolph May reiterated his 2019 call for the "[Commission to 'adopt rebuttable evidentiary presumptions that tilt towards the non-enforcement and repeal or modification of obsolete regulations so that the agency uses its forbearance authority and](#)

[regulatory review process as Congress intended when it adopted the Telecommunications Act of 1996."](#)

As the draft NPRM acknowledges, much has changed since the relevant statutory provision – [Section 251\(c\)](#) – was enacted almost 30 years ago. At that time, ILECs provided virtually all – 99.7 percent – local voice service. As of June 2024, by contrast, ILEC "switched access lines encompass only 3.1% of the voice telephony market." Accordingly, the draft NPRM rightfully asserts that Section 251(c) and the Commission's implementing rules are "impairing investment in modern services for consumers and [have] become unnecessary in a communications market where the majority of voice traffic is now IP-based."

Given this factual backdrop, forbearance represents the ideal tool to incentivize investment in future-forward infrastructure. In a [May 2024 LinkedIn post](#), AT&T Chairman and Chief Executive Officer John Stankey explained the challenges presented by unnecessary requirements to maintain obsolete TDM technology, noting that "[p]arts are in short supply and no longer manufactured" and that "[t]hose who wrote the machine language software that operate these early generation digital monoliths have long since retired." Accordingly, he argued that "it's time to do what capitalism is best suited to do: deploy capital and resources to their highest and best use for customers, communities, and society at large... In areas where we no longer provide copper-based services, we're able to invest that capital to reach more households with newer technology."

The economic waste resulting from obligations to maintain copper-based infrastructure is compounded dramatically by the "honeypot" that this high-value resource represents, increasingly so as the price of copper has [skyrocketed to all-time highs](#). Theft of copper from telecommunications facilities and vandalism has become a major problem, not only leading to service disruptions and reliability concerns, but also increasing the cost of providing service. Former FCC Commissioner and current Free State Foundation Adjunct Senior Fellow Michael O'Rielly described this serious problem of theft of copper facilities in a [January Perspectives from FSF Scholars](#) and offered numerous examples thereof in a [June follow-up piece](#).

As FCC Commissioner Olivia Trusty declared in remote [remarks](#) earlier this month to attendees of the "Copper Theft Crisis: Incident Management and Prosecutorial Collaboration Summit" in El Segundo, California, that "vandalism is not just a property crime. It is an attack on the very effort to connect every American and close the digital divide.... Moving away from copper is not just about better service, it's about public safety."

In the [latest episode](#) of the "TMT with Mike O'Rielly" videocast, Rhonda Weaver, Comcast Corporation's Vice President, State Government Affairs, characterized the spate of critical infrastructure attacks in the Seattle area as "a crisis." An [economic analysis prepared by Edward J. Lopez, Ph.D.](#), underwritten by NCTA – The Internet & Television Association, CTIA – The Wireless Association, USTelecom – The Broadband Association, and WIA—The Wireless Infrastructure Association, bears this out: it identified almost 6,000 such incidents just in the second half of 2024 and estimated total societal costs falling somewhere between \$38 and \$188 million, "many times the replacement cost or accounting value of stolen copper or damaged

equipment." A [companion paper](#) "reveals that in the following six months, January to June 2025, reported incidents surged to 9,770 – nearly doubling the prior period."

The draft NPRM would address these significant concerns by exercising the agency's authority pursuant to Section 10 to forbear from the relevant provisions of Section 251(c) and eliminate its implementing rules not on a flash-cut basis, but by year-end 2028.

From a technical perspective, all-IP networks are far superior to legacy copper-based voice networks. IP infrastructure supports the high-speed transmission of voice, video, and data packets; allows for dynamic resource allocation, virtualization, and innovative offerings (e.g., [network slicing](#)); simplifies scaling; and reduces operating expenses. From a consumer welfare perspective, they deliver lower costs and accelerate innovation.

A straightforward application of the statutory conditions that must be met if the Commission is to exercise its [Section 10 forbearance authority](#) therefore leads inevitably to an affirmative conclusion:

- Switched access represents a *de minimis* and shrinking share of voice offerings – 3.1 percent – and IP interconnection offers a superior alternative that ILECs would remain required to support. Moreover, and as the draft Notice makes clear: "[S]unsetting incumbent LEC-specific interconnection obligations is not tantamount to a prohibition on TDM interconnection. Incumbent LECs, like other providers, could continue interconnecting in TDM, and all telecommunications carriers would still bear the duty to interconnect pursuant to sections 201 and 251(a) of the Act." Accordingly, enforcement of the obligations in Section 251(c) is "not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with [interconnection] are just and reasonable and are not unjustly or unreasonably discriminatory."
- Because consumers rarely utilize circuit-switched voice services and at any rate would not lose access to competitive alternatives because of forbearance, continued enforcement of the relevant provisions of Section 251(c) and the Commission's implementing rules "is not necessary for the protection of consumers." Further, the retirement of copper-based infrastructure would enhance network security and reliability by eliminating the profit motive driving infrastructure vandalism, thereby increasing the reliability of 911 offerings. It also would accelerate the transition to Next Generation 911 and, as the draft Notice highlights, "provide[] opportunities to improve the security of 911 networks by integrating robust cybersecurity features, such as encryption, software-based monitoring, automated threat detection, and rapid patching."
- For the reasons stated directly above, forbearance would be "consistent with the public interest." In addition, by freeing up resources inefficiently allocated to the maintenance of TDM-based interconnection and the physical collation of related equipment, it would *advance* the public interest by accelerating the buildout of IP-based infrastructure.

Significantly, the date proposed for implementing forbearance is not until December 31, 2028. To the extent that there are discrete problems identified as the sunset date approaches, especially if clear and convincing evidence is presented that public safety is threatened or disruptions of

service are likely to occur despite diligent compliance efforts to avoid them, the Commission has processes available to address any such discrete problems.

The draft Notice rightly points out that TDM-specific interconnection obligations have "appeared to stymie the continued transition to all-IP networks by forcing incumbent LECs to maintain legacy, circuit-switched architecture... As a result, consumers and businesses have been unable to realize the full scale of benefits that a complete transition to next-generation networks has to offer." Accordingly, it is difficult to imagine a more favorable evidentiary predicate to justify the FCC's exercise of its congressionally provided forbearance authority.

\* Andrew Long is a Senior Fellow of the Free State Foundation, an independent, nonpartisan free market-oriented think tank located in Potomac, Maryland. The views expressed in this *Perspectives* do not necessarily reflect the views of others on the staff of the Free State Foundation or those affiliated with it.

### **Further Readings**

Michael O'Rielly, "[National Broadband Theft and Vandalism: A Sample of Destructive Acts Since January](#)," *Perspectives from FSF Scholars*, Vol. 20, No. 25 (June 4, 2025).

Seth L. Cooper, "[FCC Copper Retirement Orders Will Boost Next-Gen Network Deployment](#)," *FSF Blog* (March 21, 2025).

Randolph J. May, "[Reprise: The FCC Should Employ Rebuttable Presumptions to Reduce Unnecessary Regulations](#)," *Perspectives from FSF Scholars*, Vol. 20, No. 14 (March 10, 2025).

Michael O'Rielly, "[Stopping the Theft and Destruction of Broadband](#)," *Perspectives from FSF Scholars*, Vol. 20, No. 7 (January 29, 2025).

Seth L. Cooper, "[The FCC Should Promote Timely Transitions to Next-Gen Broadband](#)," *Perspectives from FSF Scholars*, Vol. 15, No. 63 (December 1, 2020).

Sarah K. Leggin, "[Cooperative Federalism and the IP Transition: The Need to Clarify Federal Jurisdiction Over IP-based Services](#)," *Perspectives from FSF Scholars*, Vol. 8, No. 31 (November 26, 2013).

[Comments of the Free State Foundation, In the Matter of AT&T and NTCA Petitions on Transition from Legacy Transmission Platforms to Services Based on Internet Protocol](#), GN Docket No. 12-353 (January 28, 2013).