



July 24, 2019

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Presentation, Modernizing the Form 477, WC Docket No. 11-10; Digital Opportunity Data Collection, WC Docket No. 19-195.

CTIA and its member companies support the Federal Communications Commission's (Commission's) efforts to improve the collection of mobile wireless broadband deployment and subscription data. The Commission's draft Report and Order and Second Further Notice of Proposed Rulemaking takes positive steps to streamline the current Form 477 data collection and seeks comment on modifying the mobile broadband deployment data.¹ The *Draft Data Collection Order* generally strikes the right balance of collecting information to help the Commission evaluate the adoption of mobile wireless broadband services for various public policy purposes while minimizing the burden on providers.

CTIA supports the elimination of unnecessary collections, including (1) the requirement to submit separate coverage maps for each transmission technology and frequency band; (2) reporting outdated technology codes; (3) reporting mobile data separately by spectrum band; and (4) collecting mobile retail availability and committed rate data.² These actions further the Commission's commitment to reevaluate data collections to ensure that the data collected is meaningful and the burdens justified.

CTIA also understands the Commission's desire to collect more granular mobile voice and broadband subscription data. Currently, facilities-based mobile wireless providers report voice and broadband subscription data on the Form 477 at the state level. The *Draft Data Collection Order* would require more granular reporting by census tracts using the "place of primary use" (PPU) standard to

¹ See *In re Establishing Digital Opportunity Data Collection*, Report and Order and Second Further Notice of Proposed Rulemaking, WC Docket Nos. 19-195, 11-10, FCCCIRC 1908-02 (July 11, 2019) ("*Draft Data Collection Order*").

² *Id.* at paras. 41-56, 66-68.



determine how providers should identify subscribers who are inherently mobile below the state level.³ While census-tract level subscription information is not generally collected by mobile providers in the ordinary course of business and providers will likely have to specially develop systems to process such data in order to comply with the proposed collection, it is technically feasible to use “place of primary use” for postpaid customer subscription data at the census tract level.⁴ However, the PPU methodology is challenging for mobile providers when applied to prepaid customer and reseller data, and the Commission should seek further comment before adopting the PPU for prepaid customer and reseller data.

The *Draft Data Collection Order* adopts the “place of primary use” standard from the Mobile Telecommunications Sourcing Act (MTSA).⁵ However, for tax purposes, the MTSA only applies the PPU standard to postpaid mobile wireless subscribers and expressly excludes prepaid customers.⁶ It also does so through the operation of the key MTSA sourcing provision, section 117, which only applies to service that is “billed by or for the customer’s home service provider.”⁷ Because prepaid service must be purchased before it is used, prepaid customers are not billed by mobile providers, but purchase service and receive receipts at the point of sale (not based on PPU). And because tax is collected at the point of sale (often by a seller other than the mobile provider), many prepaid mobile providers neither collect nor use PPU information. As a result, the proposed use of PPU for prepaid customer data would be extremely burdensome, if not infeasible.⁸

³ *Id.* at paras. 57-65.

⁴ CTIA’s comments opposed moving to census tracts due to the challenges of identifying a location for mobile customers, the burden of reporting at 74,000 census tracts, and the fact that the Number Resource Utilization/Forecast (NRUF) data provides similar information. See Comments of CTIA, at 10-13, WC Docket No. 11-10 (Oct. 10, 2017).

⁵ Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 114 Stat. 626 (2000). The MTSA simplified the administration of state and local taxes on postpaid wireless service to deem all service provided to postpaid customers to be taxable at a single location—each customer’s PPU address. This simplified taxing regime replaced a much more complicated postpaid taxing regime that required carriers to track individual usage—so that postpaid customers would be billed for taxes not only imposed by the tax authorities where they lived, but also wherever they used their wireless devices.

⁶ 4 U.S.C. § 116(c)(1) (stating that the MTSA “do[es] not apply to the determination of the taxing situs of prepaid telephone calling services”).

⁷ *Id.* § 117(a).

⁸ Although the *Draft Data Collection Order* para. 65 suggests that the MTSA “allows for inclusion of prepaid subscribers,” the MTSA makes clear that the law does not apply to the determination of the taxing situs of prepaid telephone calling services. See *Draft Data Collection Order* at para. 65 (“Facilities-based mobile service



In addition, the PPU standard for prepaid customer data suffers from similar issues that the Commission has raised for subscriber data based on billing addresses because the “place of primary use” tends to be a postpaid customer’s residential address and thus may not reflect where prepaid customers actually use their service.⁹ Given these limitations, it is not clear if any data reported under PPU methodology for prepaid and resale customers would be any more useful to the Commission than the state-level reporting or NRUF data.

Thus, CTIA urges the Commission to seek comment on the appropriate methodology for collecting more granular mobile voice and broadband subscription data for prepaid and resale mobile wireless customers.¹⁰ Doing so will help ensure that the reporting is accurate, consistent with the law, feasible, not unduly burdensome, and would give the Commission subscriber information it requests for public policy purposes.

Sincerely,

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providers must also obtain and maintain this information for tax purposes, thus decreasing the burden of collecting and storing this subscriber data.” (footnote omitted)), *but see* 4 U.S.C. § 116(c)(1).

⁹ In proposing to move to a more granular report, the Commission recognizes “that the use of billing address does not reflect where subscribers primarily use their mobile broadband and voice services.” *See Draft Data Collection Order* at para. 65.

¹⁰ If the Commission does not move the prepaid and resale mobile subscription data to the Further Notice of Proposed Rulemaking, it should, at a minimum, defer implementation of the requirement and delegate to the Wireline and Wireless Competition Bureaus to seek comment on an alternative methodology for prepaid and resale subscription data.