

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Wireless Telecommunications Bureau Seeks)	WT Docket No. 18-203
Comments on the State of Mobile Wireless)	
Competition)	
)	

REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

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TABLE OF CONTENTS

I. Mobile Wireless Competition is Still Lacking	2
II. Deployment Challenges and Lack of Effective Market Competition Remain, Especially in Rural and Remote Areas	4
III. The Record Confirms the Need for the Commission to Address Deployment Barriers.....	7
IV. Conclusion	11

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Competitive Carriers Association (“CCA”)¹ hereby submits the following reply comments in response to the record and the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice seeking comment on the state of competition in the mobile wireless marketplace.²

CCA agrees that the mobile wireless industry is rapidly evolving to address “the need to deliver high-quality services for consumers with diverse needs.”³ But suggestions that the market for mobile wireless service is competitive nationwide⁴ overlook the market power of

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² *Wireless Telecommunications Bureau Seeks Comment on the State of Mobile Wireless Competition*, Public Notice, DA 18-663, WT Docket No. 18-203 (rel. June 26, 2018) (“*Public Notice*”).

³ Comments of CTIA at 3, WT Docket No. 18-203 (filed Jul. 26, 2018) (“CTIA Comments”); *see also* Comments of Wireless Infrastructure Association at 1–4, WT Docket No. 18-203 (filed Jul. 26, 2018) (“WIA Comments”).

⁴ *See, e.g.*, Comments of AT&T Services Inc. at 1, WT Docket No. 18-203 (filed Jul. 26, 2018) (AT&T Comments); Comments of Verizon at 4, WT Docket No. 18-203 (filed Jul. 26, 2018) (“Verizon Comments”).

AT&T and Verizon and its negative impact on competition, as well as the continuing challenges for deployment in rural and remote areas. At the same time the Commission assesses the state of competition and deployment, it must continue to address barriers to competitive entry. In particular, the record is clear that the Commission should foster policies that address access to spectrum, infrastructure siting barriers, and other pro-competitive policies to ensure that mobile wireless service can be deployed across all areas of the United States.

I. MOBILE WIRELESS COMPETITION IS STILL LACKING

As CCA explained in its comments, AT&T and Verizon’s combined market share is stifling mobile wireless competition.⁵ As a result, the market cannot be considered effectively competitive. AT&T oversimplifies the market trends and data by suggesting that the top four providers provide equal competition.⁶ But the fact remains that AT&T and Verizon dominate the market by any metric, as CCA previously set forth in its comments.⁷

Together, AT&T and Verizon account for nearly 70 percent of wireless service revenue.⁸ The combined service revenues of AT&T and Verizon—\$14.3 billion and \$15.9 billion, respectively—nearly quadruple the revenues of each of the two other top carriers.⁹ In addition,

⁵ Comments of Competitive Carriers Association at 3, WT Docket No. 18-203 (filed Jul. 26, 2018) (“CCA Comments”).

⁶ AT&T Comments at 11.

⁷ CCA Comments at 9–13.

⁸ *Id.* at 3, 9 (citing *Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services*, Twentieth Report, 32 FCC Rcd. 8968, 8988 ¶ tbl. II.C.1 (2017) (“*Twentieth Mobile Wireless Competition Report*”).

⁹ *Id.* at 10 (citing Stephanie Atkinson, *Analyst Angle: Q4 2017 and End of Year Assessment of the “Top 4 Mobile Carriers”*, RCR Wireless News at chart 4Q17 Carrier Snapshot (Mar. 20, 2018), <https://www.rcrwireless.com/20180319/wireless/analyst-angle-q4-2017-and-end-of-year-assessment-of-the-top-4-mobile-carriers-Tag9>.) T-Mobile’s revenues were \$7.8 billion, and Sprint’s were \$5.6 billion. *Id.*

AT&T and Verizon’s combined subscriber numbers dwarf those of other carriers.¹⁰ In the first quarter of 2018, AT&T’s 143.83 million wireless subscribers and Verizon’s 151.48 million wireless subscribers doubled those of its next-in-line competitor.¹¹ Moreover, AT&T and Verizon continue to gain market power through secondary market transactions for spectrum¹² and through other acquisitions such as AT&T’s purchase of DirecTV and small wireless companies.¹³

As AT&T and Verizon’s power remains strong, other providers’ market share, as measured by the percentage of mobile connections, continues to dwindle. Regional providers’ share of industry revenues, which had been at 34 percent in 2003, was down to 5 percent in 2013, and down to a mere 1.2 percent by the end of 2016.¹⁴ Verizon and Mobile Future suggest that the fact that regional carriers *exist* points to a competitive market.¹⁵ But these comments overlook the challenges that competitive carriers face to compete in the current market. As NTCA has previously indicated, competitive carriers face serious disadvantages in the current market such as the inability to negotiate reasonable roaming rates.¹⁶ NTCH, Inc. also explains

¹⁰ CCA Comments at 10.

¹¹ Mike Dano, *How Verizon, AT&T, T-Mobile, Sprint and more stacked up in Q1 2018: The top 7 carriers*, FierceWireless (May 11, 2018, 2:02 PM) <https://www.fiercewireless.com/wireless/how-verizon-at-t-t-mobile-sprint-and-more-stacked-up-q1-2018-top-7-carriers>. As another point of reference from 2017, the next largest providers in terms of subscriber counts had 5.06 million (U.S. Cellular) and 1.03 million (Shentel).

¹² See, CCA Comments at 12.

¹³ See *id.* at 11.

¹⁴ *Id.* at 11 (citing *Twentieth Mobile Wireless Competition Report*, 32 FCC Rcd. at 8982, ¶ tbl. II.B.1; *Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Nineteenth Report, 31 FCC Rcd. 10,534, 10,548, chart II.C.1).

¹⁵ See, Verizon Comments at 17-18; Comments of Mobile Future at 5, WT Docket No. 18-203 (filed Jul, 26, 2018) (“Mobile Future Comments”).

¹⁶ See, Comments of NTCA – The Rural Broadband Association at 3, WT Docket No. 17-69

that these unreasonable rates can ultimately lead to regional carriers exiting the market.¹⁷ Rather than “exert[ing] additional competitive pressure,”¹⁸ competitive providers face increased barriers to competition. A review of these challenges demonstrates that the wireless market is not effectively competitive nationwide, and hinders competitive carriers’ ability to provide service across the country. The Commission cannot ignore these barriers to competition in its assessment of the state of mobile wireless competition.

II. DEPLOYMENT CHALLENGES AND LACK OF EFFECTIVE MARKET COMPETITION REMAIN, ESPECIALLY IN RURAL AND REMOTE AREAS

There is widespread agreement that rural and remote areas continue to fall behind more urban and densely-populated areas of the country.¹⁹ Rural areas face many challenges to deployment, and the mobile wireless market is not effectively competitive in these areas. As such, the Commission should assess competition by analyzing geographic market levels, an approach Chairman Pai has affirmed.²⁰

Relying on the Commission’s Form 477 data and use of the centroid method, CTIA suggests that the rural market is competitive because over 84 percent of the rural population was

(filed May 8, 2017).

¹⁷ Comments of NTCH, Inc. at 3, WT Docket No. 18-203 (filed Jul, 26, 2018).

¹⁸ Mobile Future Comments at 5.

¹⁹ See, e.g., *Connect America Fund; Universal Service Reform – Mobility Fund, Second Order on Reconsideration*, 33 FCC Rcd. 2540, Statement of Commissioner Carr, 2569 (2018) (“[T]here are still too many communities that lack access to high-speed wireless service. This is particularly so in rural America, where sparse populations and challenging terrain drive up the cost of deployment. The FCC has been committed to closing this digital divide and ensuring that everyone has access to the opportunities that broadband enables.”).

²⁰ See, Ted Johnson, *FCC Chairman Ajit Pai on Media Ownership Rules, Net Neutrality*, Variety (Mar. 14, 2017, 4:26 PM) <https://variety.com/2017/biz/news/fcc-ajit-pai-media-ownership-1202008630/> (“[W]e obviously have to take a case-by-case look as to the competitive landscape, and so it really depends on the geographic market, the product and service market that we are talking about.”).

covered by at least three LTE service providers.²¹ But CCA has long argued that Form 477 data does not paint an accurate picture of the state of deployment or competition in rural and remote areas.²²

The Commission’s analysis, and certain respondents in the record,²³ vastly overstate the reality of deployment and competitive choice of advanced communications services in rural areas. Commenters have long addressed the challenges associated with the Commission’s use of the centroid method. Specifically, if the designated center point of a Census Block has coverage, the entire Census Block is deemed covered. But as others have pointed out, “[t]his approach likely overstates coverage, especially in large rural Census Blocks” and “ignores circumstances in which 4G LTE service is available at the centroid point, but only much slower throughput speeds are available at cell edges at other locations in the Census Block.”²⁴ The Commission itself acknowledges that the centroid method “likely overstates the coverage experienced by some consumers”²⁵ and that the network coverage depicted in the *Twentieth Mobile Wireless Competition Report*’s chart “does not necessarily reflect the number of service providers that actively offer service to individuals located in a given area.”²⁶ In light of these

²¹ CTIA Comments at 32 (citing *Twentieth Mobile Wireless Competition Report*, 32 FCC Rcd. at 9028 Chart III.D.11(2017)); see also *Twentieth Mobile Wireless Competition Report*, 32 FCC Rcd. at 9028 ¶ 83.

²² See, e.g., Comments of Competitive Carriers Association, WT Docket No. 10-208, WC Docket No. 10-90 (filed Apr. 26, 2017) (“CCA Comments”); Reply Comments of Competitive Carriers Association, WT Docket No. 10-208, WC Docket No. 10-90 (filed May 11, 2017) (“CCA Reply Comments”); Letter from Rebeca Murphy Thompson, EVP & GC, CCA to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed Feb. 7, 2018).

²³ See, e.g., CTIA Comments; AT&T Comments.

²⁴ See, Comments of United States Cellular Corporation at ii-iii, 4-5, WT Docket No. 16-137 (May 31, 2016).

²⁵ *Twentieth Mobile Wireless Competition Report*, 32 FCC Rcd. at 9017 ¶ 71.

²⁶ *Id.* at 9028, Chart III.D.11.

acknowledgments about flaws in the current data, the Commission cannot rely on these inflated numbers as proof that the rural mobile wireless market is competitive.

The Commission is already in the process of collecting more accurate data about the state of deployment in rural areas. Because of the challenges with the Form 477 data, the Commission implemented a data collection and challenge process for the Mobility Fund II (“MF II”) program so that rural areas in need of deployment will not be left on the “wrong side” of the digital divide.²⁷ Throughout the MF II proceeding, commenters, members of Congress, and FCC Commissioners have all recognized that (1) the Form 477 data does not accurately depict the state of deployment;²⁸ and (2) rural areas do not have mobile wireless coverage comparable to urban areas.²⁹

²⁷ See, e.g., Ajit Pai, Chairman, FCC, “Broadband for All” Seminar at Stockholm, Sweden 1 (Jun. 26, 2017); Letter from Senators Wicker, Hassan, et al., to Ajit Pai, Chairman, FCC (May 30, 2018), <https://docs.fcc.gov/public/attachments/DOC-351493A2.pdf> (“*Wicker/Hassan Letter*”) (“the FCC’s challenge process will play an outsized role in determining appropriate eligible areas for MFII support. Communities in our states that are not initially eligible or successfully challenged will be ineligible for up to \$4.53 billion in support over the next 10 years, exacerbating the digital divide and denying fundamental economic and safety opportunities to rural communities.”).

²⁸ Ajit Pai, *Bridging the Digital Divide*, FCC Blog (July 13, 2017, 2:25 PM), <https://www.fcc.gov/news-events/blog/2017/07/13/bridging-digital-divide> (“*Bridging the Digital Divide*”) (“Many have complained to the FCC that the data that we currently collect through our Form 477 isn’t good enough to serve as the basis for [determining which areas to include in Mobility Fund II’s reverse auction]. I agree.”); *Wicker/Hassan Letter* (the Mobility Fund II “map is intended to reflect areas that lack unsubsidized mobile 4G LTE service, but it unfortunately falls short of an accurate depiction of areas in need of universal service support.”).

²⁹ See e.g., CCA Comments at 16-18 (citing *Bridging the Digital Divide* (“you can’t even get 4G LTE wireless service on more than 7,700 road miles in rural parts” of Virginia. “And this is unfortunately common nationwide.”); Petition of United States Senator Joe Manchin III for Waiver to Participate in Challenge Process at 2, WT Docket No. 10-208 (filed May 15, 2018) (“I have driven nearly every mile of road in [West Virginia] and experienced first-hand the loss of broadband coverage along the way.”)).

Given these acknowledgements and the FCC’s statutory requirements, the Commission should draw from the MF II proceeding and real-world experience³⁰ to make an accurate assessment of the state of mobile wireless competition at the geographic market level. The Commission’s efforts should “incent wireless carriers to preserve, upgrade, and expand mobile broadband in rural America, rather than degrade and reduce competition in areas that need it most.”³¹ A careful analysis of the state of competition in rural and remote areas is necessary to lay the foundation for policies that will improve access to mobile wireless service for all Americans.³²

III. THE RECORD CONFIRMS THE NEED FOR THE COMMISSION TO ADDRESS DEPLOYMENT BARRIERS

The record is nearly unanimous that the Commission should foster policies to ignite mobile broadband deployment, including by addressing infrastructure siting barriers particularly at the state and local level.³³ CCA applauds the Commission for the strides it has already made to reduce barriers to wireless infrastructure siting.³⁴ The Commission’s work to streamline environmental and historic preservation policies, and to address replacement poles and Twilight

³⁰ See, CCA Comments at 16-19 (discussing first-hand experiences with lack of mobile wireless coverage in rural areas).

³¹ Letter from U.S. Senator Roger F. Wicker and U.S. Senator Joe Manchin, et al., to Ajit Pai, Chairman, FCC (Feb. 2, 2017), *available at* https://www.wicker.senate.gov/public/_cache/files/cd49d2de-4940-4512-888a-2cc13835d309/senate-mobility-fund-phase-ii-letter.pdf.

³² See, CCA Comments at 21-44 (proposing policies to address barriers to competition and deployment).

³³ See, CCA Comments at 31-33; Verizon Comments at 33-35; Mobile Future Comments at 12-13; Comments of Mobilitie, LLC at 3-7, WT Docket No. 18-203 (filed July 26, 2018); CTIA Comments at 64-67.

³⁴ See, e.g., *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Second Report and Order, WT Docket No. 17-79 (rel. Mar. 30, 2018) (“Infrastructure Second R&O”).

Tower issues are significant steps to enabling increased mobile wireless deployment. As CTIA explains, it is estimated that “the exclusion of small cells from historic preservation and environmental reviews will reduce the cost to deploy 5G networks over the next eight years by \$1.56 billion.”³⁵ The Commission has therefore already taken important steps to improve wireless siting.

CCA likewise urges the Commission to seize this momentum to address remaining barriers to mobile wireless infrastructure at the state and local levels, consistent with its recommendations³⁶ and widespread agreement on the record.³⁷ In accord with CCA’s prior comments on record, the Wireless Infrastructure Association describes in great detail certain local and state practices that act as barriers to wireless infrastructure deployment, including excessive one-time application fees, annual recurring fees, franchise or use fees, gross revenue fees, more burdensome permitting processes for wireless deployment than for non-wireless technologies, and lengthy application reviews.³⁸

³⁵ CTIA Comments at 65 (citing *Impact of Federal Regulatory Reviews on Small Cell Deployment*, Accenture Strategy, at 3 (Mar. 12, 2018), https://api.ctia.org/wp-content/uploads/2018/04/Accenture-Strategy-Impact-of-Federal-Regulatory-Reviews-On-Small-Cell-Deployment-Report_2018.pdf).

³⁶ CCA Comments at 31-33; Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 17-79, 15-180, WC Docket No. 17-84, at 2 (filed July 16, 2018); Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 17-79, 15-180, WC Docket No. 17-84, at 2 (filed June 25, 2018).

³⁷ See, e.g., WIA Comments at 12 (“To ensure the benefits of expanded wireless and 5G services can reach all Americans, additional action is needed to address continuing barriers to deployment.”); CTIA Comments at 66 (“There are several additional concrete steps” with respect to infrastructure siting “that the Commission can take to facilitate 5G deployment and promote competition”).

³⁸ See, WIA Comments at 11-12.

The record is consistent with CCA’s recommendations that the Commission should address exorbitant siting fees, unreasonable siting review timeframes, and inequitable right-of-way practices.³⁹ There is also widespread agreement that the Commission should interpret the language of Sections 253 and 332 to address state and local regulations that effectively prohibit services.⁴⁰ CCA applauds the FCC’s recent Report and Order and Declaratory Ruling which clarifies that state and local moratoria on telecommunications services and deployment are barred by Section 253(a) because they “prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.”⁴¹ Addressing these barriers to infrastructure deployment is necessary to ensure mobile wireless reaches Americans throughout the country,⁴² and particularly in rural and remote areas.

In that same vein, CCA encourages the FCC to foster policies that increase access to spectrum for all providers. Indeed, the Commission has done good work to unleash spectrum resources that currently lie fallow,⁴³ but it must go further to quickly auction all available

³⁹ See, CCA Comments at 32-33, WIA Comments at 12-13.

⁴⁰ See, CCA Comments at 33; WIA Comments at 13; CTIA Comments at 66.

⁴¹ See, *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Report and Order and Declaratory Ruling, WT Docket No. 17-79 et al. (rel. Aug. 3, 2018); 47 U.S.C. § 253(a).

⁴² See, Mobilitie Comments at 2 (“Removing the barriers created by excessive costs in outlier jurisdictions will allow competition to drive faster and more expansive investment across the entire country in the broadband infrastructure so essential to America’s future.”).

⁴³ See, e.g., *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, FCC Fact Sheet – Draft Fourth Further Notice of Proposed Rulemaking, WT Docket No. 14-177 (rel. July 12, 2018) (“Draft 39 GHz FNPRM”); *Transforming the 2.5 GHz Band*, Notice of Proposed Rulemaking, FCC 18-59 (rel. May 10, 2018) (“2.5 GHz NPRM”); *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services: Comment Sought on Competitive Bidding Procedures for Auctions 101 (28 GHz) and 102 (24 GHz)*, Public Notice, AU Docket No. 18-85 (rel. Apr. 17, 2018) (“28/24 GHz Auctions Procedures Public Notice”); *Spectrum Horizons*, Notice of Proposed Rulemaking and Order, ET Docket No. 18-21 (rel. Feb. 28, 2018) (“Horizons NPRM”); *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, Notice of Inquiry, Notice of Inquiry, 32 FCC Rcd 6373 (2017) (“Mid-Band NOI”); *Promoting*

millimeter wave spectrum bands and continue efforts to explore spectrum at 95 GHz and above. Access to low-, mid-, and high-band spectrum is key for deploying mobile networks and imperative for competitive carriers' ongoing ability to provide consumers with the innovative services they demand.

Finally, while CCA applauds the Commission for moving towards implementation of the MF II program by working to adopt procedures for the challenge process “that efficiently resolve[] disputes about areas eligible for MF II support,”⁴⁴ the FCC’s recent map of presumptively eligible areas fails to accurately identify which areas are sufficiently served.⁴⁵ Accurately identifying underserved areas that are currently ineligible for the MF II program will help carriers expand access to broadband services to further close the digital divide. CCA therefore urges the Commission to adopt rules in the current proceeding that will ensure a fair and administrable challenge process that does not place unnecessary burdens on rural and regional providers. This includes continuing to ensure that the challenge process provides challengers and challenged parties with sufficient time to respond.⁴⁶

Investment in the 3550-3700 MHz Band, Notice of Proposed Rulemaking, 32 FCC Rcd 8071 (2017) (“3.5 GHz NPRM”); *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-89, 31 FCC Rcd. 8014 (2016) (“*First Report & Order*”).

⁴⁴ *Connect America Fund, Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd. 2152, 2235 ¶ 226 (2017) (“*MF-II Report and Order*”). See also *Connect America Fund, Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd. 6282, 6296 ¶ 27 (2017) (“*MF-II Challenge Process Order*”) (“we adopt a streamlined challenge process that will efficiently resolve disputes about areas deemed presumptively ineligible for MF II support.”).

⁴⁵ Public Notice, *Updated Version of Map of Areas Presumptively Eligible for Mobility Fund Phase II Now Available*, WT Docket No. 10-208 (rel. Aug. 1, 2018).

⁴⁶ For example, CCA applauds the Commission’s recent commitment to produce a high-quality map by extending the challenge process window by 90 days. The Commission should vote quickly to adopt this item. See, Statement of Chairman Pai on Circulation of Order to Extend

IV. CONCLUSION

The mobile wireless market suffers from the excessive concentration by the top two wireless carriers which poses barriers to the continued viability and expansion of competitive carriers. Further, the state of competition and deployment faces particular challenges in rural and remote areas. The Commission should recognize that the nationwide market is not effectively competitive and should foster policies to address barriers to competition and deployment, and provide similar and innovative wireless services to all consumers.

Respectfully submitted,

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