

In The Matter of)
)
Rural Call Completion) WC Docket No. 13-39

CTIA¹ hereby submits these comments in response to the Second Further Notice of Proposed Rulemaking (“*FNPRM*”) issued by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.²

CTIA and its member companies are committed to ensuring that calls are completed to urban and rural areas alike and strongly support the Commission's goal of ensuring that Americans have access to reliable telecommunications services. In evaluating how to further these goals, however, the Commission should carefully analyze any regulations to confirm that the benefits exceed the burdens and, in so doing, ensure that any regulations are narrowly tailored to further the Commission's policy goals.³

³ See Exec. Order No. 13,777, 82 Fed. Reg. 12,285, 12,285 (Feb. 24, 2017) (“It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people.”); *cf. id.* at 12,286 (instructing the creation in each agency of a Regulatory Reform Task Force and requiring each Task Force to identify regulations that “impose costs that exceed benefits”).

In the case of the Rural Call Completion (“RCC”) recording, retention, and reporting rules, it is clear that this test is not met. Indeed, the Commission itself has recognized that these rules have proven unnecessary and burdensome. In its *2017 RCC Data Report*, the Wireline Competition Bureau (“Bureau”) recommended eliminating those rules, and the Commission now seeks comment on that proposal.⁴ CTIA agrees and urges the Commission to eliminate these unnecessary and ineffective regulations.

The *FNPRM* also seeks comment on a new RCC rule that would require covered providers to monitor the performance of intermediate providers and hold intermediate providers accountable for any poor performance.⁵ CTIA does not believe that any new RCC rules are necessary. The Commission’s evidence suggests that any completion concerns are caused by the performance of particular providers, and not the industry at large. Rather than adopting an overly broad industry-wide rule, the Commission can continue to utilize Sections 201 and 202 of the Communications Act to evaluate carriers’ call completion practices.⁶ To the extent the Commission considers adopting new RCC rules, however, the Commission should closely analyze the benefits and burden imposed to ensure that such rules are justified.⁷ In addition, any new RCC rules should afford covered providers the flexibility to monitor the performance of intermediate providers consistent with each provider’s unique network management practices.

⁴ See *In re Rural Call Completion*, Report, 32 FCC Rcd 4980, 4995-96 ¶¶ 38-39 (WCB 2017) (“*2017 RCC Data Report*” or “*Report*”); *FNPRM* ¶¶ 25, 28.

⁵ *FNPRM* ¶ 11; see also *id.* App’x A.

⁶ See *In re Developing a Unified Intercarrier Compensation Regime*, Declaratory Ruling, 27 FCC Rcd 1351, 1352 ¶¶ 3-4 (WCB 2012) (“*2012 RCC Declaratory Ruling*”); *FNPRM* ¶ 3.

⁷ See Exec. Order No. 13,777, 82 Fed. Reg. at 12,285; cf. Exec. Order No. 13,771, 82 Fed. Reg. 9339, 9339 (Jan. 30, 2017) (“[I]t is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations”).

II. THE COMMISSION SHOULD ELIMINATE THE UNNECESSARY AND BURDENSOME RURAL CALL COMPLETION RECORDING, RETENTION, AND REPORTING RULES.

The *FNPRM* seeks comment on either modifying or eliminating the existing RCC recording, retention, and reporting requirements.⁸ CTIA urges the Commission to eliminate these rules to reduce the substantial costs covered providers face in complying with them. Such a move would be consistent with the findings in the Bureau's *2017 RCC Data Report*, which concluded that the existing rules have not been effective, have failed to provide meaningful data to the Commission, and should be eliminated in their entirety.⁹

The existing RCC reporting, retention, and recording rules require covered providers¹⁰ to record detailed information about each call attempt made to a rural Operating Company Number ("OCN") for which the provider makes the initial long-distance call path choice, and to retain that information for six months.¹¹ Covered providers must then report information about those call attempts to the Commission on a quarterly basis, through a Form 480 filing, and provide specific information to the Commission about each rural OCN call attempt and aggregated information about all call attempts to non-rural OCNs.¹²

Ensuring that covered providers have the capacity and ability to record all of this information about each call attempt made to a rural OCN, and to retain that information for a

⁸ See *FNPRM* ¶¶ 25-28.

⁹ See *2017 RCC Data Report* ¶¶ 38-39.

¹⁰ See 47 C.F.R. § 64.2101 (defining a covered provider as "a provider of long-distance voice service that makes the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines," and including local exchange carriers, interexchange carriers, providers of commercial mobile radio service, and interconnected VoIP providers).

¹¹ See 47 C.F.R. §§ 64.2101, 64.2103(a).

¹² See 47 C.F.R. § 64.2105(a).

period of six months, imposes significant costs on covered providers. CTIA's member companies noted that routine network changes can require tens or even hundreds of hours of work in order to update their systems and to ensure that the data necessary to comply with the RCC rules is captured. Thus, implementing these changes involves multi-million dollar price tags.¹³ And these compliance costs divert "funds that covered providers could otherwise use to deploy broadband service, improve network quality, or offer richer service plans."¹⁴ Indeed, even the *FNPRM* acknowledges that "*any* data collection imposes meaningful ongoing costs."¹⁵

Although these burdens might be warranted if these rules furthered the Commission's rural call completion policy goals, that has not proven to be the case. The Bureau's *2017 RCC Data Report* concluded that the existing rules have not led to any increase in the rural call completion rate and that, in any event, the data suffered from a number of methodological problems that hindered its utility. Moreover, the data did suggest that any problem may be specific to individual providers rather than a systemic one, suggesting that industry-wide rules may be overbroad and unnecessary.

The *Report* found no evidence that the existing rules affected the rate of call completion in rural areas. In addition, the *Report* explained that the available data showed a "wide variation in performance among covered providers," and that a significant number of providers had call

¹³ See Paperwork Reduction Act Comments of Sprint Corporation, *In re Information Collection Submitted for Review and Approval to the Office of Management and Budget*, OMB Control No. 3060-1186, WC Docket No. 13-39, at 2 (Dec. 15, 2014) ("Sprint Comments") (estimating its own compliance costs as approximately \$6.8 million per year and citing AT&T's estimated compliance costs of \$3-5 million and CenturyLink's reported anticipated recurring annual compliance costs of \$2.8 to \$4.3 million).

¹⁴ *Id.* at 3; see also Letter from CTIA to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-39, at 2 (dated July 6, 2017).

¹⁵ *FNPRM* ¶ 12 (emphasis added).

answer rates in rural areas that are *higher* than their call answer rates in non-rural areas.¹⁶ Thus, the *Report* concluded that the data suggest that “individual provider performance is a significant factor in assessing rural call completion problems,” and that, as a result, “rural call completion may be more a function of individual provider performance than a systemic problem.”¹⁷ This observation aligns with the experience of CTIA’s member companies.

As a result of these deficiencies, the *Report* recommended that the Commission eliminate the RCC recording, retention, and reporting rules in their entirety.¹⁸ CTIA urges the Commission to act on this recommendation to eliminate the existing rules, which impose substantial compliance burdens without providing relevant information to assist with the Commission’s analysis of potential rural call completion problems. As the *Report* found, the data quality issues “impede the achievement” of the Commission’s ability to “monitor rural call completion and to aid enforcement action,” and prevent the Commission from “rely[ing] on the data to accurately identify areas with potential rural call completion problems.”¹⁹

The Commission should likewise decline to modify the existing RCC recording, retention, and reporting rules or to impose any new recording requirements on covered providers.²⁰ The *Report* considered but rejected the possibility of modifying the existing rules

¹⁶ 2017 RCC Data Report ¶¶ 16-17.

¹⁷ *Id.* ¶ 17. The *Report* also identified several data-quality issues with both the reporting and the recording and retention requirements that limited the Commission’s ability to draw firm conclusions from the data. *Id.* ¶ 2.

¹⁸ *Id.* ¶ 38.

¹⁹ *Id.*

²⁰ See FNPRM ¶ 26.

because it “is not clear that the benefits of such modifications would outweigh the costs.”²¹

Attempts to ensure a consistent methodology for categorizing call attempts, or to exclude autodialer traffic, for example, “would likely impose additional burdens on covered providers, and those burdens *may be substantial*.”²²

For all these reasons, CTIA agrees with the *2017 RCC Data Report* that the Commission should eliminate the RCC recording, retention, and reporting rules. Further, the Commission should decline to adopt modified RCC recording, retention, and reporting rules. Any modifications to the burdensome RCC recording, retention, and reporting rules would impose substantial costs on covered providers without providing countervailing benefits in the form of reliable information about the frequency of any rural call completion problems.²³

III. TO THE EXTENT THE COMMISSION CONSIDERS NEW RULES, WHICH CTIA BELIEVES ARE NOT NECESSARY, SUCH RULES MUST PROVIDE SUFFICIENT FLEXIBILITY FOR COVERED PROVIDERS TO MANAGE THEIR NETWORKS.

The Commission also seeks comment on a new rule that would require providers to both monitor intermediate providers’ performance in completing calls to rural areas and, “based on the results of such monitoring,” to hold those intermediate providers accountable for any poor performance.²⁴ CTIA believes such a rule is unnecessary. To the extent the Commission adopts any new rules, however, CTIA urges the Commission to ensure that those rules provide sufficient flexibility to allow covered providers to manage their networks.

²¹ *2017 RCC Data Report* ¶ 39.

²² *Id.* (emphasis added).

²³ See Exec. Order No. 13,777, 82 Fed. Reg. 12,285 (“It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people.”).

²⁴ *FNPRM App’x A*.

As a threshold matter, competition in the mobile wireless market already provides significant market-based incentives for mobile providers to ensure that their networks are reliable and that calls are completed to urban and rural areas alike. As the Commission's most recent Mobile Wireless Competition Report found, 98.4 percent of Americans in rural areas are covered by two or more wireless providers, and 89.8 percent of those in rural areas have a choice among three or more providers.²⁵ Indeed, mobile providers compete on the basis of network reliability, and often tout their network reliability as a major aspect of their services.²⁶ And CTIA's member companies are investing significant resources to consistently improve the quality and reliability of their networks.²⁷

Moreover, CTIA believes that the proposed rules are not necessary particularly given that the Commission can utilize Sections 201 and 202 of the Communications Act to evaluate carriers' call completion practices to the extent the Commission identifies any call completion issues.²⁸ Indeed, the *2017 RCC Data Report's* conclusion that problems with rural call completion "may be more a function of individual provider performance than a systemic problem,"²⁹ underscores that a new industry-wide rule may be overbroad. The *Report's* finding suggests that a case-by-case standard pursuant to Sections 201 and 202 is better tailored to evaluate any RCC problem that might exist. There is nothing to indicate, and the Commission

²⁵ See *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Nineteenth Report, 31 FCC Rcd 10534, 10565-66 ¶ 42 (2016).

²⁶ *Id.* ¶ 119.

²⁷ Comments of CTIA, WT Docket No. 17-69, at 28-30 (filed May 8, 2017).

²⁸ See *2012 RCC Declaratory Ruling* ¶ 3; *FNPRM* ¶ 3.

²⁹ *2017 RCC Data Report* ¶ 17.

has not found, that the Commission’s existing authority under Sections 201 and 202 is inadequate to address call completion concerns.

If, however, the Commission does determine that new RCC rules are necessary, any new obligations that the Commission imposes on covered providers should not be overly prescriptive. In the *FNPRM*, the Commission expresses a preference for “allow[ing] covered providers flexibility in how they operate their businesses” and how they meet any potential “meaningful, clear outcomes or actions” the Commission imposes for the monitoring of intermediate providers.³⁰ The Commission also seeks comment on, among other things, whether it should tie the monitoring requirement to certain industry best practices.³¹

CTIA urges the Commission to ensure that any new rules do not subject carriers to a one-size-fits-all implementation. The Commission thus should decline to impose any industry best practices as a requirement or adopt the best practices as the only method to comply with any new RCC rule. Covered providers should be permitted flexibility to manage their networks and their relationships with intermediate providers, including by permitting covered providers to implement any monitoring requirements by contract if appropriate.

To be sure, industry best practices can serve as a helpful voluntary guide for covered providers as they seek to monitor and structure their relationships with intermediate providers. As the Commission points out in the *FNPRM*, the ATIS Call Completion Handbook details certain best practices, which some covered providers have contractually bound intermediate providers to follow.³² But best practices should not be a mandatory or exclusive method for

³⁰ *FNPRM* ¶ 16.

³¹ *Id.*

³² *Id.*

complying with any monitoring rule. Indeed, to require all covered providers to adopt one consistent set of practices would stifle providers' innovation and foreclose their ability to experiment with creative or novel network management practices that could further improve the services provided to customers. If the Commission does elect to impose a new monitoring rule on covered providers, such providers should be permitted to continue to manage their networks and their relationships with intermediate providers in ways that fit best with each provider's unique business model and serve their customers in rural areas.

IV. CONCLUSION.

CTIA shares the Commission's commitment to ensuring that calls to customers in both rural and urban areas are completed. But the Commission's existing RCC recording, retention, and reporting requirements have proved unduly burdensome and have not furthered the Commission's goals. The Commission should therefore adopt the Bureau's recommendation to eliminate those rules. CTIA also urges the Commission to decline to impose any new RCC rules on covered providers, particularly as the Bureau found that problems with rural call completion "may be more a function of individual provider performance than a systemic problem."³³ To the extent it chooses to adopt a new or modified rule, however, the Commission should ensure that covered providers retain flexibility to manage their networks.

³³ 2017 RCC Data Report ¶ 17.

Respectfully submitted,

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