

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

In the Matter of)
)
Inquiry Concerning the Deployment of) GN Docket No. 14-126
Advanced Telecommunications Capability to)
All Americans in a Reasonable and Timely)
Fashion, and Possible Steps to Accelerate Such)
Deployment Pursuant to Section 706 of the)
Telecommunications Act of 1996, as Amended)
by the Broadband Data Improvement Act)

REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”) submits these reply comments in response to the *2015 Broadband Progress Report and Notice of Inquiry of Immediate Action to Accelerate Deployment* (“2015 Broadband Progress Report” or “Notice of Inquiry”)¹ in the above-captioned proceeding, in which the Federal Communications Commission (“FCC” or the “Commission”) seeks comment on immediate action it may take to accelerate the deployment of advanced telecommunications capability. CCA submits that the Commission should focus its efforts on promoting broadband platforms that consumers are gravitating towards, such as mobile wireless technologies. In support, the following is respectfully shown:

¹ *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 14-126, 2015 Broadband Progress Report and Notice of Inquiry of Immediate Action to Accelerate Deployment, FCC 15-10 (rel. Feb. 4, 2015) (citations referencing the Broadband Progress Report portion of this item will be referred to as “2015 Broadband Progress Report”; citations referencing the Notice of Inquiry portion of this item will be referred to as “Notice of Inquiry”).

I. INTRODUCTION & SUMMARY

CCA represents the interests of more than 100 competitive wireless carriers, many of which are small and regional carriers who serve otherwise unserved or underserved portions of rural America. CCA's members are constantly working to deploy advanced telecommunications capabilities in both unserved and underserved areas. Thus, CCA applauds the efforts of the Commission to remove barriers to such deployment.

Despite concluding that mobile wireless is “one of the most important segments of the national economy,”² the Commission has continued to exclude mobile from its analysis of advanced telecommunications capability deployment.³ Nevertheless, the Notice of Inquiry now seeks targeted comment on ways that the Commission can remove barriers to all broadband deployment in rural areas and promote competition, recognizing that “service providers are more likely to invest in areas where consumers will subscribe to the service.”⁴ Accordingly, to encourage immediate investment and deployment in certain areas, the Commission must take action to promote the services that consumers want, including mobile wireless technologies. To that end, CCA agrees with those commenters that suggest the Commission can promote deployment and competition through targeted actions regarding USF and spectrum policy; specifically by: (a) implementing USF reform that continues to drive high-cost funding towards the broadband platforms that consumers demand; and (b) freeing up additional spectrum for mobile broadband services and ensuring competitive carriers are afforded an opportunity to access this spectrum. The Commission should rectify the imbalance in high-cost USF support

² 2015 Broadband Progress Report ¶ 15.

³ *Id.* ¶¶ 133-40.

⁴ Notice of Inquiry ¶ 162.

that disadvantages wireless, while also protecting consumers in rural America who receive service today through carriers who relied on prior support mechanisms. Likewise, incentivizing relinquishment of federal spectrum for commercial use, protecting and enhancing the spectrum “reserve” as part of the 600 MHz Incentive Auction, and vigilantly enforcing the “enhanced factor” standards for secondary market transactions involving below-1-GHz spectrum will all help speed deployment of mobile broadband networks. Mobile services accelerate broadband deployment and utilization, and taking the actions described herein will help foster further growth.

II. THE COMMISSION SHOULD TAKE STEPS TO SUPPORT EXISTING AND PROMOTE ADDITIONAL BROADBAND DEPLOYMENT THROUGH USF REFORM

CCA joins the chorus of commenters that urge the Commission to reform its USF high-cost program for the benefit of rural consumers.⁵ As Commissioner Pai highlights, 20 percent of rural Americans still do not have access to 4/1 Mbps service.⁶ This is a divide that must (and can) be resolved. CCA agrees with CTIA that the Commission should offer more high-cost support for mobile broadband services in rural and tribal areas in order to help resolve this disparity.⁷ Many of CCA’s members receive support from the Mobility Fund, and find that mobile support is essential to “reaching areas of the country for which no business case for private deployment of mobile broadband exists.”⁸ Indeed, the Mobility Fund has already begun

⁵ See e.g., Comments of National Cable & Telecommunications Association (filed Mar. 6, 2015) (“NCTA Comments”); Comments of CTIA-The Wireless Association (filed Mar. 6, 2015) (“CTIA Comments”).

⁶ 2015 Broadband Progress Report ¶ 136, Dissenting Statement of Commissioner Ajit Pai.

⁷ CTIA Comments at 12.

⁸ *Id.* at 12.

to impact unserved and underserved rural communities that have been left behind the booming wireless economy.⁹

Additionally, the Commission can promote broadband in rural areas by revoking the right-of-first-refusal for all CAF Phase II support and immediately offer this support through a competitive bidding process, as NCTA suggests.¹⁰ As CCA has submitted in other proceedings, the right-of-first-refusal mechanism was one of the most controversial aspects of the Commission's USF reform efforts, and for good reason.¹¹ As the Commission is well aware, the first round of Connect America Fund Phase I garnered limited interest from price-cap carriers, which resulted in the Commission doling out a second round of funding for an expanded list of eligible service areas.¹² But more importantly, the right-of-first-refusal hinders, rather than promotes, the Commission's goal of competitive neutrality. By offering this right to incumbents, the Commission is effectively blocking other competitive platforms from entering these hard to reach areas, and entrenching outmoded technologies. Revoking the right-of-first-refusal will allow carriers of all broadband technologies to offer their own, unique perspective on the issues that rural areas face and will help ensure that a particular technology is not placed at a

⁹ For instance, Rock Wireless has launched LTE service on Tribal lands in North and South Dakota as a direct result of support awarded through the Mobility Fund. *See* Phil Goldstein, *Rock Wireless Launches LTE Service In Remote Areas of the Dakotas Thanks to Mobility Fund*, FIERCEWIRELESS, (Oct. 23, 2014) <http://www.fiercewireless.com/story/rock-wireless-launches-lte-service-remote-areas-dakotas-thanks-mobility-fun/2014-10-23>.

¹⁰ NCTA Comments at 5-7.

¹¹ *See e.g.*, Reply Comments of Competitive Carriers Association, WC Docket No. 10-90 *et al.* (filed Sept. 8, 2014); Comments of Competitive Carriers Association, WC Docket No. 10-90 *et al.* (filed Aug. 8, 2014); Letter from Steven K. Berry, President & CEO, CCA, to The Hon. Tom Wheeler, Chairman, FCC, WC Docket Nos. 10-90 and 10-208 (Apr. 15, 2014); Comments of Competitive Carriers Association, GN Docket 13-5 *et al.* (filed Mar. 31, 2014).

¹² *See In the Matter of Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7766 (2013) (allocating an additional \$300 million in CAF Phase I second round funding, and making funding available for locations that lack 3 Mbps/768 kbps Internet access).

disadvantage, thus allowing for an expanded deployment of broadband in a more efficient fashion.

To that end, CCA recommends that competitive bidding be open to *all* providers willing to construct and deploy broadband using the previous CAF speed benchmarks of 4/1 Mbps, rather than just allowing providers that are willing to provide the new increased speed benchmark of 10/1 Mbps to participate.¹³ The Commission should be driving this high-cost funding towards mobile broadband platforms that consumers are gravitating towards, rather than excluding such services through arbitrary speed benchmarks.¹⁴ Indeed, as the Commission notes, “[a]lthough the Mobile and Tribal Mobility Fund Phase I auction distributed funds in order to provide mobile voice and broadband services at speeds below [the] established benchmark, *they are still providing significant support to advance mobile service in underserved areas.*”¹⁵ By promoting the opportunity for a greater variety of service providers using different technologies to compete for this support, the Commission increases the likelihood that successful solutions will be developed to deploy broadband to these high-cost areas of rural America.

In addition to support for new services, the Commission must continue to support existing wireless operations in rural areas. Today’s rural communities are increasingly dependent upon robust mobile broadband connectivity to deliver the commercial, agricultural, health care, educational and public safety services necessary for modern life. If the FCC fails to provide sufficient support to mobile providers—many of whom have deployed networks in

¹³ Cf. NCTA Comments at 5.

¹⁴ See *id.* at 1-2.

¹⁵ 2015 Broadband Progress Report ¶ 144, n.504 (emphasis added).

otherwise unserved areas—these carriers may have to strand their USF-deployed networks and investment, as it will no longer be economically feasible to sustain these networks. Any USF reforms, therefore, should ensure no further reductions to existing legacy high-cost USF support for current wireless deployments in rural America. Doing so will foster the Congressional requirement that USF enable rural Americans to have access to the same sorts of competitive service offerings as are available to their urban counterparts.

Many of CCA’s members also participate in the Lifeline program. As the Commission recognizes, rural and tribal areas tend to have lower income levels when compared to urban areas.¹⁶ To further reduce the disparity between these population segments, CCA also recommends that the Commission consider amending its Lifeline program to allow eligible recipients to use currently available funding for *either* voice or broadband services, particularly as VoLTE becomes a greater reality.¹⁷ Doing so will create additional opportunities for participating providers and new entrants to offer service to lower income areas, without increasing current funding levels.

III. FREEING UP ADDITIONAL SPECTRUM FOR MOBILE BROADBAND USE WILL HELP BRIDGE THE DIGITAL DIVIDE

CCA applauds the Commission’s efforts thus far to free up additional spectrum for mobile broadband, but agrees with commenters that it is crucial the FCC take further action to make even more spectrum available for mobile services to meet current demand.¹⁸ After years of

¹⁶ Notice of Inquiry ¶ 162.

¹⁷ See Mignon Clyburn, Commissioner, FCC, Reforming Lifeline for the Broadband Era, Remarks before the American Enterprise Institute (Nov. 12, 2014), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db1112/DOC-330453A1.pdf; Commissioner Michael O’Rielly, *Sound Principles for Lifeline Reform*, Official FCC Blog, (Feb. 13, 2015). <http://www.fcc.gov/blog/sound-principles-lifeline-reform>.

¹⁸ CTIA Comments at 8-9.

hard work and preparation by the Commission, the recent AWS-3 auction raised *more than three times* the predicted amount, demonstrating an unquestionable demand for mobile broadband spectrum. The introduction of newer and faster mobile technology is allowing providers to reach customers that were once unable to get coverage. And consumers are becoming more reliant on their mobile devices for their primary voice and data services.¹⁹ In order to enhance the ability of mobile service providers to not only reach more customers, but also be able to offer competitive services, more spectrum must be made available for commercial use.

Accordingly, CCA is supportive of mechanisms that incentivize the efficient use of federal spectrum to ensure greater availability of spectrum for commercial wireless broadband uses.²⁰ For instance, following the AWS-3 auction, members of Congress reintroduced the Federal Spectrum Incentive Act of 2015, which provides direct financial incentives to encourage government agencies to vacate or share their existing spectrum with other federal agencies in

¹⁹ According to a recent study, ten percent of Americans who own a smartphone do not have broadband at home, and 15 percent of Americans with a smartphone only have limited options for going online other than their cellphone. The report also finds that smartphone growth continues as nearly 64 percent of Americans have smartphones, up from about 35 percent in 2011. See Corilyn Shrospire, *10 Percent of Americans Rely on Smartphone to Get Online*, Chicago Tribune (Apr. 2, 2015) available at <http://www.chicagotribune.com/business/breaking/ct-smart-phones-0403-biz-20150402-story.html>; see, e.g., *In the Matter of Policies Regarding Mobile Spectrum Holdings Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, WT Docket No. 12-269, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, ¶ 47 (rel. June 2, 2014) (“Mobile Spectrum Holdings Order”) (emphasizing the “skyrocketing consumer demand for high-speed data” and recognizing that “[t]oday, consumers are demanding more data at high speeds, while at home, at work, and in transit” and “in the next few decades, the demands on wireless networks . . . will continue to increase.”).

²⁰ See e.g., CCA Response to Office of Science and Technology Policy, *Spectrum Policy Notice of Request for Information* (79 Fed. Reg. 9288) (filed Feb. 18, 2014) (expressing support for ideas such as implementing spectrum user fees, payable by agencies based on a market-based valuation of their spectrum assignments).

order to free up additional spectrum for commercial use.²¹ This bill echoes the FCC’s goals of ensuring that spectrum is utilized as efficiently as possible by all users, including federal government agencies, and CCA encourages the Commission and NTIA to work together to ensure that future actions prioritize the availability of commercial mobile broadband spectrum.

The Commission should also take steps to ensure that commercial mobile spectrum is made available for *all* types of consumers – whether they live in an urban, rural or tribal environments. To do so, the Commission must take steps to preserve and enhance competitive safeguards for upcoming spectrum opportunities, such as the 600 MHz Incentive Auction. As noted previously,²² the 600 MHz auction is extremely important to many of CCA’s members due to the nature of the spectrum involved: this “beach-front property” has strong propagation qualities for both rural and indoor deployment.²³ As T-Mobile has explained, low-band spectrum “is a competitive game-changer, enabling [] service to penetrate building walls better and travel longer distances than we have today.”²⁴

Competitive carriers need low-band spectrum not only to reach their customers, but to provide these customers with the latest competitive high-speed offerings. This is not the easiest

²¹ Federal Spectrum Incentive Act, H.R. 1641, 114th Cong. (2015) *available at* <http://www.markey.senate.gov/imo/media/doc/2015-03-26-Federal%20Spectrum%20Incentive%20Act-billtext.pdf>.

²² See Reply Comments of Competitive Carriers Association, AU Docket No. 14-252, GN Docket No. 12-268 (filed Mar. 13, 2015) (“CCA Incentive Auction Reply Comments”); Comments of Competitive Carriers Association, AU Docket No. 14-252, GN Docket No. 12-268 (filed Feb. 20, 2015) (“CCA Incentive Auction Comments”).

²³ See *In the Matter of Innovation in the Broadcast Television Bands; Allocations, Channel Sharing and Improvements to VHF*, ET Docket No. 10-235, Notice of Proposed Rulemaking, 25 FCC Rcd 16498, Statement of Chairman Genachowski (rel. Nov. 30, 2010).

²⁴ Kathleen Ham, *Fine Tuning the Incentive Auction Rules for Competition*, T-MOBILE ISSUES & INSIGHTS BLOG, (Oct. 23, 2014), <http://newsroom.t-mobile.com/issues-insights-blog/fine-tuning-the-incentive-auction-rules-for-competition.htm>.

mission, however, as Verizon and AT&T control approximately 73 percent of all low-band spectrum available for commercial broadband use, and continue to have strong economic incentives to prevent competitive carriers from obtaining under-1 GHz spectrum.²⁵ Therefore, it is imperative that the Commission follow through with its intention to promote competition, rural coverage and consumer choice, by ensuring that “multiple providers have[] access to the low-band spectrum they need to operate and vigorously compete.”²⁶

CCA thus reiterates its recommendations from the *Incentive Auction* proceeding and stresses the need for the FCC to protect and strengthen the spectrum reserve in the 600 MHz auction.²⁷ Specifically, the Commission should increase the maximum size of the reserve to 40 MHz per PEA, while capping the amount of reserve spectrum that any one reserve-eligible bidder can win at 20 MHz. Doing so will help mitigate the risk of foreclosure by the two largest carriers, and enhance license diversification by permitting at least two reserve-eligible bidders to acquire reserve low-band spectrum.²⁸ CCA also emphasizes the need for a pro-competitive assignment process. CCA is concerned that the assignment round of the 600 MHz auction does not offer a competitive safeguard similar to the spectrum reserve. As CCA has recommended, random assignment or adding additional optimization criterion, limited draft-style picks, or other safeguards will better protect smaller, regional and local providers and will allow such carriers to effectively compete against the dominant providers for the least impaired licenses in a market.²⁹

²⁵ Mobile Spectrum Holdings Order ¶ 68.

²⁶ *Id.*

²⁷ *See generally* CCA Incentive Auction Reply Comments; CCA Incentive Auction Comments.

²⁸ CCA Incentive Auction Reply Comments at 27-28.

²⁹ CCA Incentive Auction Comments at 24-25.

In addition, the Commission should also continue to promote competitive policies with respect to secondary market transactions—particularly those involving below-1-GHz spectrum, which are now subject to the enhanced factor standards adopted in the *Mobile Spectrum Holdings Order*. There are several transactions pending before the Commission that present the opportunity to establish strong precedent on these standards³⁰ and CCA urges the Commission to apply the enhanced factor standards in a manner that meaningfully preserves opportunities for competitive carriers and protects consumers.³¹

IV. CONCLUSION

The Commission's Broadband Report concludes that approximately 55 million Americans lack access to broadband service, with a significant amount of these Americans living in rural areas.³² CCA urges the Commission to consider the demands of the American people and promote the use of mobile broadband services in accordance with the recommendations contained herein.

Respectfully submitted,

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³⁰ See e.g., Public Notice, *AT&T Mobility Spectrum LLC and Club 42CM Ltd. P'ship Seek FCC Consent to the Assignment of Two Lower 700 MHz B Block Licenses in California*, WT Docket No. 14-145, DA 14-1288 (rel. Sept. 8, 2014).

³¹ See Petition to Deny of Competitive Carriers Association, WT Docket No. 14-145 (filed Oct. 17, 2014).

³² 2015 Broadband Progress Report ¶¶ 133-135.