

national broadband solution, and therefore, an important element in any national broadband plan. In order for broadband to be deployed quickly, on a national scale, to rural and hard to serve markets, certain wireless marketplace regulations should be implemented.

Treating automatic data roaming the same as automatic voice roaming (i.e. as a common carrier service) is essential for wireless broadband to become widely adopted. RTG agrees with OPASTCO, Cricket and other industry associations and carriers which support modification of the regulatory treatment of automatic data roaming.⁴ Data transmissions, and for that matter, broadband connectivity, are the natural evolution of wireless voice services, to the point where mobile consumers do not readily understand where voice services end and data services and applications, such as voicenotes, begin. Additionally, data services, as a proportion of the average mobile consumer's monthly usage, is steadily replacing voice. What began a decade ago as a bulky mobile phone with occasional low tech data services available has evolved for many Americans into a mobile data device which also happens to provide phone functionality. Many small and rural operators, due to their size, are dependent upon the mobile networks of other operators to support both voice and data roaming in order to create a "nationwide" network. Without data roaming guaranteed as a common carrier service, broadband customers will continually face the prospect of entering geographic "black holes" void of broadband service.

RTG agrees with T-Mobile USA, Inc. that the Commission should rescind the home (or "in-market") roaming exclusion.⁵ In order for the FCC to foster a competitive climate with

⁴ *In the Matter of A National Broadband Plan for Our Future*, Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), GN Docket No. 09-51 (filed June 8, 2009) at 36; *In the Matter of A National Broadband Plan for Our Future*, Comments of Cricket Communications, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 7-8; Comments of the USA Coalition, GN Docket No. 09-51 (filed June 8, 2009) at 9; *see generally In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265.

⁵ *In the Matter of A National Broadband Plan for Our Future*, Comments of T-Mobile USA, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 20-21.

multiple choices for the consumer, mobile broadband operators, especially new market entrants, require access to broadband roaming in all markets, including those where they have licenses.⁶ Just as with data roaming, keeping the in-market roaming exclusion allows for black holes to develop that erode the size and quality of the national footprint of mobile broadband providers. This reduction ultimately hurts mobile broadband consumers. Permanently removing the exclusion will enhance operator confidence and in turn foster a regulatory climate that encourages network license acquisition and eventually network build-out. Should the Commission decide to not completely abandon the in-market roaming exclusion, RTG agrees with T-Mobile USA, Inc. that the Commission should at the very least have the exclusion apply only in those areas where the requesting home carrier has an operating mobile network already in place.⁷

Prohibiting handset exclusivity arrangements between mobile device manufacturers and wireless broadband operators will go a long way towards getting broadband capable devices into the hands of more Americans and increasing the national broadband penetration rate. Numerous mobile operators and industry groups have requested that the FCC proscribe handset exclusivity agreements.⁸ A national broadband plan should embrace the concept that all broadband capable devices, whether a computer in a classroom or a mobile device in rural America, should not have their functionality utterly dependent upon a particular service provider. Specifically, all mobile

⁶ See generally *In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, WT Docket No. 05-265.

⁷ Comments of T-Mobile USA, Inc. at 21.

⁸ *In the Matter of A National Broadband Plan for Our Future*, Comments of OPASTCO, GN Docket No. 09-51 (filed June 8, 2009) at 20-21; Comments of Public Knowledge, Media Access Project, The New America Foundation, and U.S. PIRG, GN Docket No. 09-51 (filed June 8, 2009) at 35; see generally *In the Matter of Rural Cellular Association Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers*, RM 11497.

operators should have the ability to procure and sell any mobile broadband device that their customer base demands.

Numerous parties in this proceeding have filed comments stating that more spectrum is needed in order to support wireless broadband in America.⁹ However, RTG believes that more spectrum is only part of the solution to promoting broadband deployment.¹⁰ Another matter that must be addressed in a national broadband plan, and one that has broad based support, is that of spectrum caps.¹¹ When the Commission allows a handful of operators to concentrate their spectrum holdings, it hinders the ability of new operators to acquire spectrum, enter the marketplace, and deploy competing mobile broadband services to consumers.

Additional regulatory changes recommended by RTG in its *Comments* that are intended to promote wireless broadband were echoed by other commenters in this proceeding. Dozens of parties recognized that major reform is needed in the Universal Service Fund (USF) and that the Commission should embrace a policy of technology neutrality whereby both wireline and wireless operators would be treated the same when requesting funds for delivering Internet access to high-cost areas of the country.¹² Many more parties filed impassioned pleas for the Commission to exercise its authority and (1) clarify the time periods in which a state or locality

⁹ See e.g., *In the Matter of A National Broadband Plan for Our Future*, Comments of the Mercatus Center at George Mason University, GN Docket No. 09-51 (filed June 8, 2009) at 18-19; Comments of the Telecommunications Industry Association, GN Docket No. 09-51 (filed June 8, 2009) at 18-19; Comments of T-Mobile USA, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 10.

¹⁰ *In the Matter of A National Broadband Plan for Our Future*, RTG Comments, GN Docket No. 09-51 (filed June 8, 2009) at 4-5.

¹¹ See e.g., *In the Matter of A National Broadband Plan for Our Future*, Comments of Public Knowledge, Media Access Project, The New America Foundation, and U.S. PIRG, GN Docket No. 09-51 (filed June 8, 2009) at 33-34; see generally *In the Matter of the Rural Telecommunications Group, Inc. Petition for Rulemaking to Impose a Spectrum Aggregation Limit on All Commercial Terrestrial Wireless Spectrum Below 2.3 GHz*, RM 11498.

¹² See e.g., *In the Matter of A National Broadband Plan for Our Future*, Comments of OPASTCO, GN Docket No. 09-51 (filed June 8, 2009) at 31-33; Comments of the USA Coalition, GN Docket No. 09-51 (filed June 8, 2009) at 7; Comments of the Rural Cellular Association, GN Docket No. 09-51 (filed June 8, 2009) at 5-6.

must act on wireless facility siting requests pursuant to Section 332(c)(7)(B) of the Communications Act; (2) clarify that Section 332(c)(7) of the Act prohibits zoning decisions and requirements that have the effect of prohibiting an additional entrant from offering mobile services in a given area; and (3) preempt local ordinances and state laws that subject wireless siting applicants to burdensome requirements.¹³ Finally, in order to encourage resourceful and effective use of scarce spectrum, other parties agreed with RTG that the Commission should allow point-to-point wireless backhaul services to be licensed in the TV White Spaces.¹⁴

The national broadband plan provides a once-in-a-generation opportunity for this country to take stock of its accomplishments and to map out what more is needed to deliver broadband to each and every American. As stated above, wireless broadband is targeted to become a crucial mechanism of delivering data and Internet access. Mobile broadband in particular is often the most cost effective means of delivering the services needed by businesses, schools, government and public safety agencies. RTG believes that if the FCC adopts the elements of wireless

¹³ *In the Matter of A National Broadband Plan for Our Future*, Comments of CTIA – The Wireless Association, GN Docket No. 09-51 (filed June 8, 2009) at 15-19; Comments of Verizon and Verizon Wireless, GN Docket No. 09-51 (filed June 8, 2009) at 63-66; Comments of T-Mobile USA, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 21-22; see e.g. CTIA Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, WT Docket No. 08-165 (filed July 11, 2008) at 14-16.

¹⁴ *In the Matter of A National Broadband Plan for Our Future*, Comments of The Wireless Communications Association International, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 45-47; Comments of FiberTower Corporation, GN Docket No. 09-51 (filed June 8, 2009) at 8-10; Comments of T-Mobile USA, Inc., GN Docket No. 09-51 (filed June 8, 2009) at 19; Comments of Sprint Nextel, GN Docket No. 09-51 (filed June 8, 2009) at 25; Comments of COMPTTEL, GN Docket No. 09-51 (filed June 8, 2009) at 22-23; *see e.g.*, “Optimizing the TV Bands White Spaces: A Licensed, Fixed-Use Model for Interference-Free Television and Increased Broadband Deployment in Rural and Urban Areas,” Ex Parte filing by FiberTower and RTG, ET Docket Nos. 04-186, 02-380 (filed October 2, 2007).

marketplace regulation discussed herein, ubiquitous wireless broadband will become a reality in even the furthest reaches of rural America and true competition will follow.

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