Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	

To: The Commission

COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®

Michael F. Altschul
Senior Vice President & General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Scott K. Bergmann
Assistant Vice President, Regulatory Affairs

CTIA–The Wireless Association®
1400 16th Street, NW, Suite 600
Washington, DC 20036
(202) 785-0081

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SUMMARY

CTIA commends the Commission for recognizing not only that broadband deployment is *the* great infrastructure challenge of the 21st century, but also that the United States must lead the world in mobile broadband and that ubiquitous mobile broadband is an essential element of the broadband challenge. These services are crucial for our economic success and global competitiveness; at the same time, they have enormous power to improve education, health care, public safety, energy efficiency, and our participation in the democratic process. The Commission's data-driven process will recognize consumers' enormous and growing demand for mobile services, and CTIA urges the Commission to adopt both short-term and long-term reforms that advance the National Broadband Plan's goals for ubiquitous mobile broadband coverage and global mobile broadband leadership.

In these comments, CTIA proposes modest changes to the Commission's proposals, including encouraging the Commission to:

- Refrain from implementing reductions to existing CETC support until an alternate mechanism is in place;
- Phase out legacy high cost support on the same timeline for *all* participants;
- Adopt the NPRM's common sense proposals for reform of legacy incumbent LEC funding; and
- Adopt long-term reforms that are competitively neutral and ensure sufficient support (including on-going support) for the unique attributes and functionalities of mobile broadband services.

Together, these changes would ensure that the Commission's proposals work for American consumers, who now predominantly rely upon mobile wireless networks for voice communications and are rapidly coming to rely on mobile wireless networks for their data and video services.

An overwhelming consensus has emerged that comprehensive reform is necessary for the legacy high-cost support mechanisms. CTIA recognizes that this reform, and the transition to new support mechanisms focused on broadband and mobility, will necessitate changes for all recipients of support, ILECs and CETCs alike. CTIA is concerned, however, that some of the proposals in the Notice may not adequately reflect the importance of either mobile broadband or the bedrock principle of competitive neutrality. In these comments, CTIA proposes changes to the Commission's near-term proposals to ensure that competitive disparities in the legacy high cost mechanism are not perpetuated, or worse, exacerbated. Specifically, CTIA urges the Commission to ensure (1) that any phase-out of existing high cost support is undertaken in a prudent manner that does not undermine existing wireless services upon which consumers depend, and (2) is carried out in a competitively neutral manner, with the same timeline for the phase-out of legacy support for all industry participants. As CTIA explains, drawing down CETC support, without making similar changes to incumbent LEC funding, would place the burden of reform solely on one class of consumer, one class of provider, and one technology.

With reform of legacy ILEC funding widely acknowledged to be long overdue, CTIA supports efforts to introduce greater efficiency into the way ILECs – particularly rate-of-return ILECs – obtain support. The NBP correctly recognizes that rate-of-return regulation eliminates incentives for efficiency and innovation and undermines competition. It must be eliminated, and the Commission should move quickly to implement an overall cap on legacy ILEC funding. CTIA also supports the Notice's proposal to transition Interstate Access Support to new funding mechanisms, which should target the services consumers demand, mobility and broadband.

Finally, as the Commission considers its longer-term vision for high cost universal service, it must measure carefully whether proposed changes will help or impede the twin goals of maintaining and

advancing the United States' mobile broadband leadership and fulfilling Section 254's mandate that it ensure access to those "reasonably comparable" mobile broadband services that consumers demand. CTIA supports efforts to fundamentally reform the existing programs, to better target scarce public funds toward national goals for broadband and mobility, and to derive greater efficiency from the high cost program. CTIA also believes that the Commission is unquestionably correct in calling for competitively-neutral funding and recognizing the need to support the function of mobility, whether through the broadband-focused fund or a mobility-focused fund or a combination of the two. The Commission, however, will need to address is how these two funds will work in tandem to ensure that consumers have access to the vital function of mobility – and mobile broadband, in particular – that consumers are increasingly demanding.

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To: The Commission

COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®

CTIA–The Wireless Association® ("CTIA") hereby files these comments in response to the Commission's Notice of Inquiry and Notice of Proposed Rulemaking seeking comment on initial proposals to reform the high-cost universal service mechanisms to provide explicit support for the deployment and operation of broadband and mobile networks.[1] As the Commission reforms universal service, CTIA urges it to bear in mind the overarching goal of ensuring the United States' leadership in mobile broadband, and the need to design its reforms in a competitively neutral manner that advances that goal. While CTIA applauds the Commission for the long-term goals of universal service reform recommended in the National Broadband Plan – namely, efficient support for broadband and mobile networks – CTIA is concerned that some short-term proposals in the Commission's Notice may undermine those long-term goals. In these

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[1] *Connect America Fund, A National Broadband Plan for Our Future*, *High-Cost Universal Service Support*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel. April 21, 2010) ("Notice").

comments, CTIA proposes modest changes to the Commission's proposals, including encouraging the Commission to:

- Refrain from implementing reductions to existing CETC support until an alternate mechanism is in place;
- Phase out legacy high cost support on the same timeline for *all* participants;
- Adopt the NPRM's common sense proposals for reform of legacy incumbent LEC funding; and
- Adopt long-term reforms that are competitively neutral and ensure sufficient support (including on-going support) for the unique attributes and functionalities of mobile broadband services.

Together, these changes would ensure that the Commission's proposals work for American consumers, who now predominantly rely upon mobile wireless networks for voice communications and are rapidly coming to rely on mobile wireless networks for their data and video services.

I. INTRODUCTION: REFORMING USF FOR GLOBAL LEADERSHIP IN MOBILE BROADBAND

As one of six overarching goals for the National Broadband Plan ("Plan" or "NBP"), the Commission committed the United States to continuing to lead the world in mobile broadband.[2] Moreover, as the full Commission has recently stated: "Our goal is for this country to lead the world in such mobile services by ensuring that consumers have access to competitive broadband data services over the fastest and most extensive competitive wireless broadband data networks."[3] This approach is unquestionably correct given consumers' overwhelming appetite

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[2] *Connecting America: The National Broadband Plan* (2009) ("NBP" or "Plan") at 9, Goal 2 ("The United States should lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation.").

[3] *Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data Services*, WT Docket No. 05-265, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 25 FCC Rcd 4181, 4182 ¶ 1 (2010) ("*Roaming Order*").

for mobile services. As CTIA has detailed in numerous filings, U.S. consumers have adopted wireless services at a blistering pace, whether considering voice or broadband services.[4] In most areas of the country, wireless providers have built out their networks aggressively to meet this demand, allowing U.S. wireless consumers to enjoy the lowest prices, the most advanced networks, the most innovative applications market, and the most cutting edge devices. Yet, as the Commission also has recognized, in some areas of the country, there may not be a private sector business case to provide affordable and high-quality services.[5] For precisely this reason, Congress and the Commission have dedicated public resources toward universal service. Unfortunately, as the Commission recognized in the Plan, "the current regulatory framework [for universal service] will not close the broadband availability gap."[6] As the Commission launches its much-needed comprehensive reform of the universal service high cost support mechanism, it must measure carefully whether proposed changes to the high cost universal service program will help or impede the twin goals of maintaining and advancing the United States' mobile broadband leadership and fulfilling Section 254's mandate that it ensure access to those "reasonably comparable" mobile broadband services that consumers demand.[7]

CTIA supports the Commission's efforts to fundamentally reform its universal service programs to support national goals for broadband and mobility, and to derive greater efficiency from the high cost program. Many of the key USF recommendations of the NBP rightly reflect a new, comprehensive vision for reform of the high cost support mechanisms. Significantly, the

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[4] Letter from C. Guttman-McCabe, CTIA, to M. Dortch, FCC, WT Docket No. 09-66, GN Docket No. 09-157, and GN Docket No. 09-51 (filed April 29, 2010) at 14-17.

[5] NBP at 145, Rec. 8.2 (FCC should "target[] funding to the areas where there is no private sector business case to offer broadband service").

[6] NBP at 141.

[7] 47 U.S.C. § 254 (providing for an "evolving level" of supported services).

NBP's central goal of shifting high cost universal service support toward broadband and mobility matches consumers' current and future needs and desires. Thus, the NBP recommendations call for the Commission to create a broadband-focused fund, and the Commission must steer this reform effort steadfastly toward preserving its long-standing commitment to competitive and technological neutrality. In addition, the NBP recognizes the importance to consumers of mobility and proposes an additional fund targeted at that much-valued function. CTIA believes that the Commission is correct in calling for competitively-neutral funding and recognizing the need to support the function of mobility, whether through the broadband-focused fund or a mobility-focused fund. It is critical, however, that the Commission address how these two funds will work in tandem to ensure that consumers have access to the vital function of mobility – and mobile broadband, in particular – that consumers are increasingly demanding.

CTIA recognizes that, in order for the Commission to transition high cost universal service toward these new goals of broadband and mobility, changes will be required to the legacy support systems. However, it is imperative that any such short-term changes be both prudent and competitively-neutral.

The legacy high cost support mechanisms have become a rapidly-growing source of competitive distortion, and the Commission must be careful not to exacerbate those competitive effects with its short-term universal service proposals. Based on their current trajectory, the high-cost universal service mechanisms are veering off course from their original design in which urban areas supported rural areas and higher income consumers supported low income consumers. Due to growing disparities in contributions and distributions, the universal service fund will increasingly represent a significant cross-industry wealth transfer, with wireless consumers providing massive funding and competitive advantage to wireline carrier networks. These trends jeopardize the competitively- and technologically-neutral approach that the

Commission initially embraced in its implementation of the Section 254 and that the NBP reaffirms.

CTIA is concerned that some of the Commission's near-term proposals will not only perpetuate but will exacerbate those existing competitive distortions, for example, by proposing to phase down wireless CETC support while locking in incumbent LEC support. Moreover, phasing down of existing wireless support in advance of developing new mechanisms to support the critical function of mobility raises questions about whether the Commission will undermine its overarching goals of maintaining mobile broadband leadership and ensuring reasonably comparable services.

For these reasons, any cuts to existing CETC support should not be implemented prior to development of an alternative mechanism for support of mobile wireless services, and any phase-down of CETC support should be implemented on the same timeline as phase-downs of legacy support for all other industry participants. These steps are critical as the FCC moves from short-term steps toward the longer-term vision in which the next generation of universal service support programs reflect the benefits of new technology and competition.

II. ANY PHASE-OUT OF LEGACY SUPPORT MUST BE PRUDENT AND COMPETITIVELY NEUTRAL

The Notice, like the National Broadband Plan, correctly underscores the importance of reforming the Commission's universal service programs "comprehensively" so that they can support investment in broadband infrastructure more directly and efficiently.[8] CTIA agrees that

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[8] Notice at 1; NBP at 144.

comprehensive reform should be a high priority and consistently has advocated for such reform.[9] CTIA is very concerned, however, with the treatment of wireless carriers under the short-term reforms proposed in the Notice, as it has the potential to undermine the NBP's goals, adversely impact wireless deployment in rural areas, and undermine the Commission's long-standing commitment to administering universal service in a competitively neutral manner.

A. Prudent Phase Out of Existing CETC Support Should Not Occur Before an Alternate Mechanism is Developed.

CTIA applauds the Notice for recognizing that wireless carriers have played an important role in providing service to high-cost areas under current support mechanisms, and that wireless carriers will be important in providing broadband service in many of the same areas.[10] As the NBP acknowledges, wireless technology will be essential to meeting the Commission's goal of extending broadband to more Americans in the most efficient way possible. Indeed, the full Commission recently reiterated the importance of wide spread deployment of mobile networks to all areas of the country, stating:

> Broadband deployment is a key priority for the Commission, and the deployment of mobile data networks will be essential to achieve the goal of making broadband connectivity available everywhere in the United States. We also seek to foster competition and the development of mobile data services with seamless and ubiquitous coverage. Ubiquitous coverage will enhance the unique social and economic benefits that a mobile service provides by enabling consumers to access information wherever they are, while competition will help to promote investment and innovation and protect consumer interests.[11]

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[9] *See, e.g.,* Comments of CTIA, High-Cost Universal Service Support, WC Docket No. 05-337 (filed Jan. 28, 2010), at 3-5; Comments of CTIA, International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act, GN Docket No. 09-47 (filed Dec. 7, 2009), at 1.

[10] *See, e.g.,* Notice at ¶ 8 (indicating that wireless carriers currently provide supported services); *id.* at ¶ 10 (proposing to support providers regardless of the technology used).

[11] *Roaming Order*, 25 FCC Rcd at 4182-83 ¶ 3.

Given the Commission's recognition of the importance of ubiquitous mobile broadband coverage, CTIA believes the Notice's proposal to eliminate high cost support for wireless providers before developing and implementing any alternative mechanisms to support mobile voice or broadband deployment in rural areas is far off the mark. Not only will this proposal not further the Commission's long-term goals for mobile broadband services in rural area, it may stall or even impede such progress. It also seems contrary not only to the recently-adopted *Roaming Order*, but also to the broad goals of the National Broadband Plan.

As the NBP recognizes, universal service support should be targeted to meeting gaps in private investment. Universal service covers only a portion of the costs necessary to build facilities in high-cost areas, while carriers must cover the remainder using their own investment funds.[12] Eliminating current wireless support will, by definition, change these investment decisions and likely decrease investment in low density, rural areas during the potentially long period in which the Commission develops new support mechanisms.

Cutting support also may lead wireless providers to delay upgrades to their networks, expansion of their coverage areas or, depending on the importance of USF support to individual providers, reduce their coverage. Consumers that are, or could be, served by existing wireless facilities could suffer service disruptions and/or loss of competitive choices at a time when consumer demand for wireless services continues to rise.[13] Further, carriers may delay their efforts to upgrade their networks to higher speed 3G and 4G technologies at exactly the time when the NBP is calling for such upgrades for all Americans. These results would directly undermine the goals of universal service, the NBP, and this proceeding.

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[12] *See, e.g.,* Notice at ¶ 11-12.
[13] *See supra* Section I.

Moreover, by eliminating support only for wireless providers, and without the availability of replacement mechanisms, this proposal may undermine their ability to drive USF support for broadband to efficient levels through the market-based mechanisms on which the Commission seeks comment.[14] These results seem especially perverse given that wireless providers affected by CETC funding ultimately may regain USF support once the Commission concludes the complicated process of establishing new support mechanisms.[15]

Based on both wireless carriers' legitimate reliance on existing mechanisms, as well as the need to preserve wireless service to meet broadband and voice service goals going forward, the Commission should not begin phasing out existing CETC support until rules for new support mechanisms are finalized.

The Commission could more effectively achieve its goals by explicitly permitting CETCs to use existing funding for mobile broadband deployments while it develops alternative high-cost mechanisms. This approach would be consistent with the FCC's existing policies allowing rural incumbent LECs that receive support to invest in dual-use broadband capable facilities.[16] Further, to the extent the Commission decides to phase down existing wireless CETC support, that support should be redirected toward the proposed Mobility Fund to ensure robust mobile broadband deployment.[17] By taking these modest but important steps, the Commission can minimize unnecessary disruptions to consumers and wireless service providers, while enabling those providers to contribute fully and predictably to the Commission's goals of ensuring that

[14] Notice at ¶ 18.
[15] *Cf.* Notice at 10 (proposing that eligibility criteria for obtaining broadband support be technology-agnostic provided service meets FCC specifications).
[16] *See* Notice at 13; NBP at 144.
[17] *See* Notice at 10. *See also infra* Section IV (urging clarification of the respective roles of the CAF and MF).

broadband is provided in high-cost areas using the most efficient technologies and without increasing overall USF support.

B. The Proposal to Phase Out Solely CETC Support Is Not Competitively Neutral

Again, CTIA applauds the Commission for reiterating its historic commitment to promoting universal service goals in a competitively neutral manner. Since its initial implementation of the 1996 Act's universal service provisions, the Commission has recognized the benefits of ensuring that support mechanisms do not favor one technology over another. The Commission exercised its statutory authority to adopt "competitive neutrality" as an explicit universal service principle, explaining:

> Technological neutrality will allow the marketplace to direct the advancement of technology and all citizens to benefit from such development. By following the principle of technological neutrality, we will avoid limiting providers of universal service to modes of delivering that service that are obsolete or not cost effective.[18]

These should be the very same goals the Commission seeks to further as it updates its universal service programs to support broadband and mobility. Indeed, the Commission recently restated its commitment to competitive neutrality in the National Broadband Plan.[19] Consumers are entitled to USF reforms that are most likely to foster competition, innovation and the efficient provision of broadband service in high-cost areas.

Nevertheless, certain proposals in the Notice, if adopted, would violate the principle of competitive neutrality. As discussed below, CTIA cautions against such a reversal in policy, as

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[18] *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8801 ¶ 47 (1997) ("*First USF Order*"), *aff'd sub nom. Texas Office of Pub. Util. Counsel v. FCC,* 183 F.3d 393 (5th Cir. 1999); *see also* 47 U.S.C. § 254(b)(7).
[19] NBP at 145.

it would deny consumers the full benefits of high-cost support in terms of both competition and innovation.

1. All Legacy High-Cost Support Should Be Phased Out on the Same Timeline For All Providers

One way in which the Notice threatens to violate competitive neutrality is its proposal to phase out high-cost support to CETCs over five years while merely capping other ETCs' high-cost support.[20] This proposal flatly contravenes the equitable treatment that is the hallmark of competitive neutrality. Worse yet, the Notice provides no reasoned basis for treating support for CETCs and incumbent LECs differently in this regard, especially given the critical role of wireless carriers in promoting consumer welfare and broadband goals described above. Indeed, wireless providers are designated providers of the currently supported services, adhere to the same standards as other ETCs under Section 214 of the Act,[21] and their networks are rapidly evolving to provide broadband services. In fact, subscribers have shown remarkable demand for wireless services, whether voice or broadband.

Despite the clear consumer demand for mobile services, the legacy high cost support mechanisms have not kept pace with this change and have instead become a rapidly-growing source of competitive distortion. Due to growing disparities in contributions and distributions, the universal service fund increasingly represents a cross-industry wealth transfer, with wireless consumers providing massive funding and competitive advantage to wireline carrier networks. To illustrate, in 1997, wireless contributions made up only 3.3 percent of the contribution base,

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[20] *Compare* Notice at 51 *with* Notice at 60.

[21] Should the Commission adopt any phase out of support for existing ETCs, the Commission should concurrently clarify that they are released from federal ETC obligations as their support is phased out.

yet, as of the third quarter 2009, wireless carriers contribute 43.1 percent of the fund.[22] As a result of the artificial cap on CETC support, distributions from the high-cost fund have not yet caught up with these tectonic shifts in consumer preference. Indeed, CETCs have already forfeited over $650 million in high cost support as a result of the CETC cap. These trends jeopardize the competitively- and technologically-neutral approach that the Commission initially embraced in its implementation of Section 254.

Unfortunately the Notice's proposal would not merely perpetuate this competitive distortion, it would exacerbate it. Drawing down CETC support further, without making similar changes to incumbent LEC funding, places the burden of reform solely on one class of consumer, one class of provider, and one technology. This is particularly problematic because, as described above and as the market is demonstrating, it is a technology and functionality that consumers increasingly prefer.

CTIA urges the Commission to correct this disparity. As the Commission considered the adoption of a CETC cap three years ago, then-Senator, now President Barack Obama and Senator Richard J. Durbin counseled the Commission:

> "[W]e should be studying and implementing comprehensive reforms that ensure our nation's rural areas have access to a universal and modern telecommunications network that includes *wireless and broadband* services."[23]

CTIA believes this advice is equally, if not more, apt today. If the Commission decides it must phase out legacy high cost support to fund new support mechanisms, it should phase out

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[22] Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, TELECOMMUNICATIONS INDUSTRY REVENUES: 2007, at 3 (rel. Sept. 3, 2009), *available at* http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293261A2.pdf.

[23] See Letter from Senators Richard J. Durbin and Barack Obama to Chairman Kevin J. Martin, FCC (Jul. 26, 2007) (emphasis added).

support for all ETCs, including those subject to existing phase-down schedules, over the same period. At a minimum, the Commission should clarify that CETCs are released from federal ETC obligations if their support is phased out. To do otherwise would subject providers that lose support to an unfunded mandate.

2. There Is No Basis to Flash-Cut Support for Wireless Family Plans

Upholding competitive neutrality also precludes adopting a flash cut in support for wireless family plan subscribers.[24] The National Broadband Plan expresses concern that wireless companies receive USF support for multiple lines in a single family plan. That arrangement does not differ, however, from the treatment of wireline ETCs, which receive support for multiple lines per household or business. Supporting only one handset in wireless family plans as one subscription also would run afoul of the prohibition on restricting universal service support to a "primary line."[25] Most importantly, adopting this proposal could result in dramatic reductions in funding to wireless carriers and wireless consumers, which conflicts with the Act's requirement that USF mechanisms be predictable,[26] and risks unnecessary disruptions to consumers and undermining achievement of broadband goals, as detailed above.

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[24] NBP at 148.
[25] *See, e.g.,* Consolidated Appropriations Act, 2005, Pub. L. No. 108-447, § 634, 118 Stat. 2809 (2004); Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 511, 121 Stat. 1844 (2007); Omnibus Appropriations Act, 2009, Pub. L. No. 111-8, § 502, 123 Stat. 524 (2009); Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, § 502, 123 Stat. 3034 (2009) (prohibiting Commission from using funds to implement primary line restrictions).
[26] 47 U.S.C. § 254(b)(5).

III. PRUDENT REFORM OF LEGACY ILEC FUNDING IS LONG OVERDUE

For years, CTIA has advocated for comprehensive reform of the high-cost support that ILECs receive; indeed, there is widespread consensus on the need for wholesale reform.[27] CTIA has pointed out that ILECs' support – particularly that directed to rural ILECs – is excessive and should be redirected to broadband and mobile services. CTIA thus welcomes, as necessary if modest first steps, the NPRM's proposals to cap legacy high-cost support flows and redirect some existing access replacement funds (the Interstate Access Support funds) toward the services targeted in the National Broadband Plan.

A. The Commission is Correct to Cap and Phase Out Legacy ILEC Funding

CTIA has long urged the Commission not to simply layer additional wireline-centric broadband support on top of the legacy support mechanisms.[28] The extensive record in the universal service docket reveals that the current outdated policies create incentives for inefficiency, inhibit broadband deployment by reducing providers' incentives to adopt innovative technologies, and are no longer sustainable in today's technological and marketplace conditions.

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[27] *See, e.g.*, *Joint Statement on Broadband*, GN Docket No. 10-66, Joint Statement on Broadband, 25 FCC Rcd 3420, 3421 ¶ 3 (2010) ("The nearly $9 billion Universal Service Fund (USF) and the intercarrier compensation (ICC) system should be comprehensively reformed"); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477, 20478 ¶ 1 (Jt. Bd. 2007) (recommending that the FCC "make fundamental revisions in the structure of existing Universal Service mechanisms"). *See also, e.g.*, Comments of Ad Hoc Telecom Users Committee, WC Docket No. 05-337 (filed Dec. 7, 2009) at 2; Comments of NASUCA, WC Docket No. 05-337 (filed Dec. 7, 2009) at 4; Comments of T-Mobile USA, Inc., WC Docket No. 05-337 (filed Dec. 7, 2009) at 1; Comments of Time Warner Cable Inc., WC Docket No. 05-337 (filed May 8, 2010) at 2-4; Comments of Verizon and Verizon Wireless, WC Docket No. 05-337 (filed May 8, 2010) at 4;

[28] *See, e.g.*, Comments of CTIA on NBP Public Notice #19, GN Docket No. 09-47 (filed Dec. 7, 2009) at 3-5.

The NBP confirms that current policies create incentives for inefficiency, inhibit broadband deployment by reducing incentives to adopt innovative technologies, and are no longer sustainable.[29] The NBP also acknowledges that existing ILEC mechanisms basing support on embedded costs result in inefficiencies and excessive support.[30] Even prior to the NBP, it was clear that more efficient support mechanisms were imperative, as evidenced by the three record high contribution factors in the last three quarters, including an all-time high of 15.3% reached in the second quarter of 2010.[31]

Regrettably, fourteen years after passage of the 1996 Act, the Commission has made disturbingly little progress in reforming high-cost universal service support for ILECs, particularly rate-of-return ILECs. This is problematic because, as courts – and now the NBP itself – have recognized, excessive subsidization can be detrimental to universal service goals.[32] As the court explained in *Alenco*, excessive support may cause overall telecommunications rates to increase, pricing some consumers out of the market.[33]

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[29] NBP at 147.

[30] *Id.*

[31] *See Proposed Third Quarter 2010 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 10-1055 (rel. June 10, 2010) (13.6%); *Proposed Second Quarter 2010 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, 25 FCC Rcd 2383 (2010) (15.3%); *Proposed First Quarter 2010 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 14506 (2009) (14.1%). Indeed, consistent with its prior advocacy, CTIA urges the Commission to undertake comprehensive reform of the universal service contribution mechanism concurrently with its reform of the distribution mechanisms. Like all other aspects of the universal service system, the contribution mechanism desperately needs to be reformed to reflect new technological and marketplace realities.

[32] *See Qwest Corp. v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005).

[33] *Alenco Commc'ns., Inc. v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000) ("*Alenco*").

The establishment of national broadband goals raises the stakes immeasurably and requires the Commission to act quickly to create incentives for efficiency. The NBP acknowledges the crucial role of wireless services in achieving its broadband goals, and wireless carriers and their customers now foot the bill for an increasingly large portion of the USF.[34] Notwithstanding the increasingly central role of wireless services in supporting the universal service program and in furthering the nation's broadband policies, wireless carriers are uniquely and artificially restricted from receiving high-cost support.

To remedy this disconnect between consumer demand and national policy, on one hand, and program direction, on the other, the Commission must repurpose universal service to focus on efficient levels of support for mobility and broadband. The Commission must advance this vision not merely through its long-term goals, but also with its short-term actions.

Unfortunately, to date, interim steps towards USF reform have ignored technological and marketplace realities. Although wireless voice and wireless broadband services have been the fastest growing communications services in recent years, as measured by consumer choice, the prior Commission chose in 2008 not to limit support to the least efficient recipients, but to cap and limit support to these innovative services.[35] The Commission must not repeat this history by imposing short-term reform on only one segment of the industry.

Instead, the Commission must begin to address prudent reform of incumbent LEC support as well. Given the well-acknowledged inefficiencies and inequities of the current system, CTIA heartily supports the NPRM's proposal to place a cap on legacy high-cost support

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[34] *See supra* Section I.

[35] *High-Cost Universal Service Support*, WC Docket No. 05-337, Order, 23 FCC Rcd 8834 (2008) ("*CETC Cap Order*").

provided to incumbent telephone companies.[36] And, as described below, CTIA also supports the NBP's proposals to move rate-of-return carriers to a regulatory framework that provides for greater efficiency, to cap Interstate Common Line Support ("ICLS") support on a per line basis, and to eventually phase out legacy ILEC support.[37] In addition, as also described below, CTIA believes there are additional short-term actions the Commission could take to implement prudent reform of incumbent LEC support during the transition to new support mechanisms.

B. The Commission Should Adopt the NPRM's Proposals to Eliminate Antiquated Rate-of-Return Regulation and Cap ICLS Support

One of the central failings of the current high cost system for rural incumbent LECs is that, in large part, it relies on guaranteed rate-of-return mechanisms that deter innovation, cast a blind eye toward efficiency, and do not reflect the level of competition that has developed across the United States. The NBP correctly recognized the outdated nature and severe limitations of this system, concluding: "Rate-of-return regulation was not designed to promote efficiency or innovation; indeed, when the Commission adopted price cap regulation in 1990, it recognized that 'rate of return does not provide sufficient incentives for broad innovations in the way firms do business.'"[38]

More than a decade ago, the Commission, under Chairman Hundt, anticipated the need to make changes to this antiquated system. At that time, the Commission concluded that *all* high-cost support should be based on forward-looking costs, and that even rural carriers should be

[36] Notice at ¶ 51.
[37] NBP at 150, Rec. 8.13.
[38] NBP at 147 (quoting *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, 5 FCC Rcd 6786, 6790, ¶ 32 (1990), *aff'd, Nat'l Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993)).

transitioned to support based on forward-looking costs within three years (*i.e.*, by 2000).[39] The Commission then concluded, in 2001, that a modified version of the then-existing high-cost loop fund, based on embedded costs, should continue for a period of only five years (*i.e.*, until 2005).[40] Despite these plans for change, the five-year period during which these carriers were to continue receiving support based on their embedded costs expired more than five years ago, and the existing mechanism has been extended indefinitely.[41] Meanwhile, fully two-thirds of rural incumbent LEC high-cost support is based either directly or indirectly on embedded costs.[42]

In addition to stifling incentives for efficiency or innovation, rate-of-return regulation frustrates competition. Wireless carriers make investments with at-risk capital, and may lose money if they misjudge the market or circumstances. Rate-of-return carriers, by contrast, are guaranteed a healthy rate of return on their investments no matter what. They operate in an environment that is frankly unimaginable to any American business outside of the rarified utilities space. If the Commission wishes to advance its neutrality principle and ensure consumers have the benefit of a robustly competitive market, it cannot guarantee an artificially high rates of return to rural incumbent LECs on the backs of the very wireless providers upon

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[39] *First USF Order*, 12 FCC Rcd at 8899, 8935 ¶¶ 223-226, 293.

[40] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order and Twenty- Second Order on Reconsideration, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC Rcd 11244, 11309-13 ¶¶ 167-77 (2001) ("*Rural Task Force Order*").

[41] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 21 FCC Rcd 5514 (2006).

[42] *See* UNIVERSAL SERVICE MONITORING REPORT, CC Docket No. 98-202 (2009) at 3-15, tbl. 3.2 (showing ILEC and CETC support amounts by program, and assuming that rate-of-return carriers receive support from all mechanisms except HCM and LTS).

whom the Commission relies to provide important competitive pressures and vital mobile services.

As a key element of the proposal to eliminate rate-of-return regulation, CTIA supports the NPRM's proposal to convert ICLS to a frozen per-line amount.[43] ICLS was originally implemented to replace inflated access revenues that rate-of-return carriers lost when the Commission reduced their access charges to more rational (though still above cost) levels.[44] Almost ten years later, there is no evidence that it is necessary – or well targeted – to ensure the preservation or advancement of universal service. The Commission's proposal is also consistent with the NBP's proposal to phase out remaining intercarrier compensation charges, which continue to distort the competitive marketplace and incentives for investment.[45] Most significantly, however, the proposal would limit growth in the high-cost fund and advance the transition to supporting broadband and mobility.

C. CTIA Also Supports the Commission's Proposal to Shift Existing IAS Support to New Broadband- and Mobility-Focused Funds

As the Notice points out, ILECs' Interstate Access Support ("IAS") has existed well beyond its expected term,[46] and no evidence exists that it is necessary – or well targeted – for the

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[43] *See* Notice at ¶¶ 55-56.

[44] *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price-Cap Incumbent Local Exchange Carriers and Interexchange Carriers, et al.*, CC Docket No. 00-256 *et al.*, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613, 19614 ¶ 3 (2001) ("Specifically, we align the interstate access rate structure more closely with the manner in which costs are incurred, and create a universal service support mechanism to replace implicit support in the interstate access charges with explicit support.").

[45] NBP at 148, Rec. 8.7.

[46] Notice at ¶¶ 57-58.

preservation and advancement of universal service. Almost ten years since the inception of IAS, its recipients have enjoyed an extended transition from reliance on excessive access charges. CTIA fully supports the proposal to transition these funds toward new mechanisms that are better targeted toward the broadband and mobile services consumers demand now.[47]

To accomplish this step in a competitively neutral manner, CTIA proposes that the transition should begin with the reduction of ILECs' IAS per-line support to the level of the CETCs in the state. This would allow the phase-out to begin from a competitively neutral position.[48] Once the per-line support amounts are the same for all ETCs, the remaining IAS support can be redirected in a neutral manner across all ETCs.

D. The Commission Should Take Additional Prudent Steps to Address Failings in the Legacy High-Cost Programs While It Implements Comprehensive Reform

There are a number of additional interim steps the Commission can take to reduce unnecessary support during the transition toward a more competitively neutral high-cost program redirected toward mobile and broadband services.[49] Specifically, the Commission should implement the following reforms:

- Require ILECs with multiple study areas in a given state to combine those study areas at the parent company level within each state before support is calculated.
- Treat ILECs with more than 50,000 access lines in a state – at the parent company level, and irrespective of how many study areas they currently comprise – as "non-rural" and provide support for them based on the more-efficient "non-rural" support mechanisms.

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[47] *See id.*
[48] *See also supra* Section II.B. (advocating competitively neutral transitions from legacy support mechanisms).
[49] *See* Notice at ¶ 62 (inviting "other proposals to eliminate or reduce funding levels in the legacy high-cost support mechanisms").

- Reduce the per-line amount of support by eliminating the recovery of excessive corporate operations expenses that can be recovered through universal service support.

Taken together, all of these modest steps would save the American consumers hundreds of millions of dollars annually that could be redirected to urgently needed deployment of advanced wireless and broadband networks in unserved areas.

IV. ANY NEW SUPPORT MECHANISMS MUST ESTABLISH EFFICIENT SUPPORT LEVELS AND PROVIDE SUFFICIENT SUPPORT FOR MOBILE BROADBAND SERVICES

CTIA applauds the Commission for recognizing in the National Broadband Plan that "[b]roadband is *the* great infrastructure challenge of the early 21st century"[50] and that "United States should lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation."[51] Given these goals, however, it is crucial that the Commission correctly structure the new support mechanisms for high-cost and rural areas.

A. Reformed Support Mechanisms Should Encourage Efficient Use of Scarce Public Resources, and a Model May Accomplish That Goal

CTIA has long called for greater efficiency in support calculations.[52] Basing support on efficient costs best balances the desire to ensure that consumers in rural and high-cost areas have access to affordable and reasonably comparable services against the burden on customers that ultimately pay for universal service. Most importantly, however, it is consistent Congress's

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[50] NBP at 3.
[51] *Id.* at 9, Goal 2.
[52] *See, e.g.*, Comments of CTIA, WC Docket No. 05-337 (filed May 8, 2009) at 6; Comments of CTIA, WC Docket No. 05-337 (filed June 2, 2008) at 10-14.

interest in finding "the most effective and efficient mechanism for ensuring broadband access by all people of the United States."[53]

In the abstract, it appears that an economic model could be a useful tool in an efficient support mechanism. It is difficult to determine, however, whether the Commission's National Broadband Plan model ("NBP model") would result in the most effective support mechanism. The NBP model is extremely complex and only a limited amount of information about it is available. Most fundamentally, the model itself has not yet been "released" so that interested parties can test its performance. Further, even parties with extensive cost modeling experience have been unable to obtain basic information about it, such as how geographic cost roll-ups are performed and what assumptions are made about how technology is deployed.[54]

Despite the relative paucity of available information about the NBP model, CTIA supports the model's ability to estimate the costs of lower-cost technologies, including wireless technology, which will lead to a more efficient, more accurate result. As the Notice observes, the Commission's existing Hybrid Cost Proxy Model ("HCPM") models only wireline costs,[55] and thus is unable to determine the least-cost, most-efficient technology for providing broadband service. In addition, it appears that the NBP model correctly takes into account not only costs but also revenues associated with supported facilities, in order to accurately determine the support necessary in a given area.[56]

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[53] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, § 6001(k)(2)(D) (2009).

[54] *See, e.g.*, Letter from Mary Henze, AT&T, to Marlene Dortch, FCC, WC Docket Nos. 10-90 and 05-337 (filed June 16, 2010).

[55] Notice at ¶ 32.

[56] Notice at ¶¶ 35-40.

However, CTIA believes that the model's use of the *second-lowest-cost* technology in estimating the Broadband Availability Gap fails to take into account the benefits of robust competition in the wireless ecosystem.[57] In determining the second-lowest-cost technology, the model currently only assumes that one wireless provider will be available to serve in an area. This assumption disregards the existence and value of competition in the wireless marketplace. In practice, wherever wireless carriers are bidding, they will have to calibrate their bids not only to ensure they beat wireline bidders, but *also to ensure they beat other wireless bidders*. This competitive dynamic will discipline wireless carriers' bidding behavior, likely pushing bids much closer to the true wireless cost figure. According to the OBI, using gap figures closer to the lowest-gap provider (rather than the second-lowest) could reduce the Broadband Investment Gap by over 65%.[58] This is a strong argument for harnessing – rather than ignoring – the competitive environment that the Commission has fostered in the wireless marketplace.

B. New Support Mechanisms Must Be Competitively and Technologically Neutral and Support Services Commensurate With Their Importance to Consumers

1. The Structure and Roles of the CAF and Mobility Fund

As noted above, plans for long-term reform of the universal service fund must be measured against the NBP's goal of continued world leadership in mobile broadband services

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[57] *The Broadband Availability Gap*, OBI Technical Paper No. 1 (April 2010) at 39.

[58] "Workshop on *The Broadband Availability Gap: Technical Paper No. 1*," (May 6, 2010) at 23 (*see* http://www.broadband.gov/ws_broadband_availability_gap.html) (assuming the lowest-gap technology is deployed everywhere reduces the Broadband Availability Gap from $23.5 billion to $8 billion).

and the need for ubiquitous mobile broadband coverage.[59] Thus, the Commission must ensure that the CAF and Mobility Fund are properly structured to achieve these goals.

As currently configured, the NBP envisions the vast majority of new funding flowing through the proposed CAF,[60] with only the CAF providing ongoing support for operations and maintenance of broadband networks.[61] By contrast, the proposed Mobility Fund would provide only one-time investment support, and only in a small handful of states.[62] It is far from clear that this structure will be adequate to ensure ubiquitous mobile broadband in all reaches of the country. Given Section 254's mandate of reasonably comparable services for rural and urban consumers, the Commission must carefully consider and articulate how the Mobility Fund, working in conjunction with the CAF, will be sufficient to ensure that all consumers have access to the unique attributes and functionalities of mobile broadband.

At minimum, it essential that "eligibility criteria for obtaining support from CAF should be company- and technology-agnostic."[63] Wireless carriers must have a fair and meaningful opportunity to compete to participate in the CAF and receive support for the broadband-focused networks that this fund is designed to support. As described above, crafting a broadband-focused mechanism that permits all technologies to participate will ensure that scarce public resources are spent as efficiently as possible.

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[59] *See supra* Section I. *See also supra* n.11 (*citing* 2010 *Roaming Order*).
[60] *See, e.g.,* NBP at 148, Rec. 8.6 (recommending shifting $15.5 billion from existing mechanisms, and using all but $4 billion to fund the CAF).
[61] NBP at 145, Rec. 8.2 (CAF support should be based on "both capital expenditures and any ongoing costs, including middle-mile costs, required to provide high-speed broadband service."). *See also id.* at 146, Rec. 8.3 (MF should "provide one-time support for deployment of 3G networks.").
[62] NBP at 146, Rec. 8.3.
[63] NBP at 145, Rec. 8.2.

Beyond the broadband-focused CAF, the NBP also calls for a Mobility Fund to ensure deployment of the unique attributes of mobile broadband services to those areas that are not served through private investment alone. As the Commission notes, private investment by wireless companies, supplemented by CETC support from the legacy high cost fund, has generated rapidly-evolving wireless networks that reach a substantial portion of the population.[64] While the NBP finds that "it is not clear that government intervention will be necessary to enable a robust mobile broadband ecosystem in most parts of the country,"[65] it is equally true that government intervention will continue to be necessary in the remaining areas: this, of course, is the purpose of universal service.

The need for ubiquitous mobile broadband has not only been highlighted by the Commission, but has also been recognized by leading lawmakers. As Senator Jay Rockefeller recently stated:

> In 1996, Congress directed the FCC to make sure that comparable services are available at comparable rates—for everyone in this country, no matter who they are, no matter where they live. This is what our universal service system was designed to do. It is the principle that should guide us, as we seek to update universal service policy to reflect the broadband and wireless challenges of our day.[66]

Despite the widespread recognition of the importance of ubiquitous mobile broadband, it remains to be seen how the proposed CAF and Mobility Fund will work together to ensure that access. Indeed, the proposed Mobility Fund includes several elements which do not appear well calibrated to meet the mobility challenge. For example, the NBP restricts Mobility Fund support

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[64] NBP at 146, Rec. 8.3.

[65] NBP at 146, Rec. 8.3.

[66] Chairman Rockefeller Remarks on Universal Service: Transforming the High-Cost Fund for the Broadband Era, Press Release (rel. June 24, 2010) (*available at*: http://commerce.senate.gov/public/index.cfm?p=PressReleases).

to one-time build-out costs in a small handful of states.[67] Yet, as the NBP itself acknowledges, "how much this [4G] build will ultimately cost, and exactly which parts of the country it will cover, or not cover, remains unclear."[68] Indeed, the NBP does not appear to calculate either the cost of deploying ubiquitous 3G mobile broadband coverage or the incremental cost of upgrading 3G facilities to 4G broadband. These costs include not only upgrades to equipment but also the increased and ongoing backhaul costs resulting from additional capacity and throughput.[69] This raises a troubling aspect of the Mobility Fund, which is an apparent disregard for the on-going costs of mobile wireless networks. This despite the fact that wireless providers, in deploying mobile wireless broadband networks, typically experience a greater proportion of costs as ongoing operating expenses than landline providers. Moreover, the NBP also apparently only considered mobile broadband coverage at people's residences, yet a CostQuest model commissioned by CTIA revealed that 42% of road miles in the United States had no mobile broadband coverage.[70]

It would be ironic indeed to consider the availability of *mobile* broadband only at residential locations. In his recent statement on universal service, Senator Rockefeller highlighted the public safety benefits of ubiquitous wireless service and eloquently described the

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[67] *Id.* at 146, Rec. 8.3 (recommending shifting $15.5 billion from existing mechanisms, and using all but $4 billion to fund the CAF).
[68] *Id.* at 146, Rec. 8.3.
[69] In fact, mobile broadband providers typically face higher ongoing operating expenses as a proportion of total costs than do wireline providers, given the higher fixed costs of wireline networks.
[70] CostQuest Associates, *U.S. Ubiquitous Mobility Study: Identification of and Estimated Initial Investments to Deploy Third Generation Mobile Broadband Networks in Unserved and Underserved Areas* (April 17, 2008) at 4, attachment to Comments of CTIA, WC Docket No. 05-337 (filed April 17, 2008).

hardship that consumers experience when wireless networks are absent.[71] Consumers – all consumers – increasingly depend on ubiquitous mobile broadband, and the Commission must protect rural consumers from being left behind.

While ensuring that the CAF and Mobility Fund are properly calibrated and sufficient to ensure the deployment and provision of ubiquitous mobile broadband services, the Commission must also guard against differences between the CAF and the Mobility Fund becoming a de facto means of perpetuating the inequities and inefficiencies in current support flows. Even though consumers are showing a striking preference for mobile services, the existing support flows continue to send most high-cost support to ILECs.[72] The aggressive cap on competitive ETC support – and the absence of a meaningful cap on ILEC support – only exacerbates these inequities and inefficiencies. Perpetuating – or exacerbating – these problems cannot be consistent with the goals of the NBP or the principle of competitive neutrality. This, too, compels a thorough examination of the NBP's proposals for sizing of the Mobility Fund. For all these reasons, the Commission must explain how the CAF and the Mobility Fund will work together to provide rural consumers with the reasonably comparable mobile broadband services that the statute requires.

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[71] Chairman Rockefeller Remarks on Universal Service: Transforming the High-Cost Fund for the Broadband Era, Press Release (rel. June 24, 2010) (*available at*: http://commerce.senate.gov/public/index.cfm?p=PressReleases) ("Without wireless phone service available in the hills near the mine, communication and coordination was extraordinarily difficult.").

[72] *See supra* Section III.

2. Any Broadband Availability Target Must Reasonably Balance the Needs of Rural Consumers Against the Threat of a Ballooning Fund

The NBP proposes a National Broadband Availability Target[73] as a tool to ensure that all consumers have access to broadband at speeds "comparable to what the typical broadband subscriber receives today, and what many consumers are likely to use in the future, given past growth rates."[74] Should the Commission choose to develop such a measure, it must reasonably balance the needs of rural consumers against the threat of a ballooning universal service fund. Moreover, the Commission must resist proposals to use that target as a means of excluding wireless providers from participating in new support mechanisms.

As the Commission considers these issues, CTIA notes that the Commission currently defines broadband in terms of speeds much lower than the proposed target.[75] Similarly, NTIA and RUS have adopted lower speed thresholds in awarding billions of dollars of broadband funding under the Recovery Act.[76]

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[73] The National Broadband Availability Target ("Target") is actual download speeds of at least 4 Mbps actual upload speeds of at least 1 Mbps. NBP at 135, Box 8-1.

[74] *Id.* at 135.

[75] *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order, 23 FCC Rcd 9691 (2008); Order on Reconsideration, 23 FCC Rcd 9800 (2008) (defining as "basic broadband" services equal to or greater than 768 kbps but less than 1.5 mbps in the faster direction).

[76] Dept. of Agriculture, Rural Utilities Service, RIN 0572–ZA01; Broadband Initiatives Program, Dept. of Commerce, National Telecommunications and Information Administration, RIN 0660–ZA28, Broadband Technology Opportunities Program, *Notice of Funds Availability and Solicitation of Applications*, 74 Fed. Reg. 33104, 33108 (2009) ("Broadband means providing two-way data transmission with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to end users.").

As a general matter, consumers should be empowered to choose the broadband service that best meets their needs. The market is the best indicator of consumer value and consumers are adopting mobile broadband services at a rapid pace. Thus, the Commission should not implement any speed threshold in a manner that discriminates against technologies such as mobile wireless. In so doing, CTIA encourages the Commission to consider the multiple factors that impact mobile wireless services, including customer location, shared bandwidth between services and uses, blockage, and handset choice, among others.

3. Any Market-Based Distribution Mechanisms Must Be Consistent with the Competitive Marketplace Envisioned In the Act

In the Notice, the Commission observes that the NBP recommends the use of a "market-based mechanism," such as a reverse auction, to distribute support under the CAF.[77] The Notice also seeks comment on the use of an interim system of "competitive procurement auctions" to distribute "fast-track" broadband deployment funding.[78] CTIA believes that market-based approaches may be effective ways to achieve efficient levels of support, but the Commission must take great care in their design.

As CTIA has described above, CTIA believes it to be imperative that any market-based distribution mechanism be open on a competitively-neutral basis to all providers, including wireline and wireless providers. By the same token, wireless providers should not be subjected to market-based mechanisms such as reverse auctions unless all industry participants are subject to those mechanisms.

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[77] Notice at ¶¶ 18-19.
[78] *Id.* at ¶ 47.

In exploring any such proposals, the FCC should resist calls to inhibit the development of a competitive marketplace. As the FCC has frequently recognized, competition results in lower prices, greater innovation, and better services for consumers. Moreover, monopoly environments typically require a system of more extensive regulation – potentially extending to rate regulation – that is fundamentally inconsistent with the Act's vision for telecommunications markets generally and wireless providers in particular.

For these reasons, CTIA has been open to proposals such as a "winner takes more" competitive bidding approach.[79] Such an approach would use competitive forces to drive down subsidies, while not erecting insurmountable barriers to competition or denying rural consumers the benefits of competitive choice. Such an approach would be consistent with the Commission's goal of maintaining a reasonable budget on overall high cost funding. Under a proposal like CTIA's "winner take more" approach, allowing the subsidy to follow the consumer need not impose excessive burdens on the fund or consumers who contribute to it.[80]

Under such a mechanism, competitive ETCs would only receive subsidies for the consumers they win in the marketplace. As the Commission has consistently recognized in the case of low-income universal service designations, the size of the fund is limited by the number of consumers in a given geographic area.[81] Under a "winner take more" approach, non-winning

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[79] James Stegeman, Dr. Steve Parsons, Robert Frieden, and Mike Wilson, "Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions," attachment to Reply Comments of CTIA, WC Docket No. 05-337 (filed Nov. 8, 2006).

[80] *See* NBP at 145, Rec. 8.2.

[81] *Federal-State Joint Board on Universal Service Telecommunications Carriers Eligible for Universal Service Support, i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 94-45, WC Docket No. 09-197, Order, DA 10-117, at ¶ 19 (rel. June 25, 2010); *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. §*

(continued on next page)

ETCs would actually receive less support for each customer than the winning ETC, potentially meaning that less funds would be needed to support an area. Moreover, from the consumer perspective, the presence of multiple providers creates incentives for providers to offer consumers lower prices.

If the Commission remains concerned, however, about funding multiple network build-outs in high-cost areas, it should consider, at minimum, making operational support available to other providers. Because operating expenses ("opex") are often a significant barrier to the deployment of wireless networks – especially higher-capacity broadband networks – the availability of competitive opex support would leave the door open to other providers in the future, even if they had to make initial capital investments without support. This would increase the prospects that rural consumers, too, will benefit from the lower prices, higher quality, and greater innovation that only a competitive market can bring.

214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15103-04 ¶ 17 (2005).

V. CONCLUSION

CTIA commends the Commission's commitment to a 21st century vision for the universal service fund that will ensure that all Americans have access to the mobile and broadband services that they demand. To that end, CTIA urges the Commission to ensure that universal service support is sufficient, targeted, and competitively neutral, consistent with these comments.

Respectfully submitted,

By: */s/ Scott K. Bergmann*______

Scott K. Bergmann
Assistant Vice President, Regulatory Affairs

Michael F. Altschul
Senior Vice President & General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

CTIA–The Wireless Association®
1400 16th Street, NW, Suite 600
Washington, DC 20036
(202) 785-0081
www.ctia.org

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