Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. 10-132
Review of Wireline	)	
Competition Bureau Data Practices	)	

COMMENTS OF T-MOBILE USA, INC.

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INTRODUCTION AND SUMMARY

T-Mobile USA, Inc. ("T-Mobile") hereby submits these comments in response to the Federal Communication Commission's ("Commission") Public Notice ("PN") seeking comment on the Wireline Competition Bureau's ("Bureau") data collection practices.[1] The PN seeks comment on the utility and rationale of existing data collection, on how existing data collections should be modified or improved, and on which data collections could be eliminated without having a negative impact on the Bureau's decision-making. The PN also seeks comment on how improvements might be implemented and on anticipated benefits of proposed improvements. As detailed below, a number of the Bureau's data collections could be modified or eliminated in a manner that would substantially reduce existing reporting burdens without impairing the Federal Communication Commission's ("Commission") access to the information it needs.

I. The Commission Should Modify the Form 477 for Mobile Broadband Reporting

As recognized by the National Broadband Plan, the Commission needs some form of broadband data collection. But, the Commission should modify the Form 477 to efficiently collect only the most essential information.[2] Form 477 collects information on a state-by-state basis about wired and wireless broadband connections to end user locations, interconnected Voice over Internet Protocol ("VoIP") services, and both wired and wireless telephone services.[3] With the form, the Commission intends to collect information about the deployment of

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[1] *Pleading Cycle Established for Comments on Review of Wireline Competition Bureau Data Practices*, WC Docket No. 10-132, DA 10-1189 (released June 29, 2010).

[2] Federal Communications Commission, Connecting America: The National Broadband Plan at 43, Section 4.2 (2010), *available at* http://download.broadband.gov/plan/national-broadband-plan.pdf ("NBP").

[3] Federal Communications Commission, Instructions for Local Telephone Competition and Broadband Reporting Form (FCC Form 477) (2010), *available at* http://www.fcc.gov/Forms/Form477/477inst.pdf ("Form 477 Instructions").

broadband infrastructure—and its availability to end users—to obtain the raw data to describe competition in local telecommunications services.[4] However, the information culled from the current form does not meet those goals. As Wireline Bureau Chief Sharon Gillett has explained, instead of data regarding broadband *availability*, Form 477 collects information on broadband *subscribership*,[5] and even then does so in way that is wireline-centric.

First, the wireline-centric subscriber billing addresses are the basis for the collected information for all broadband services (wireline or wireless), requiring data at the census tract level.[6] With respect to determining *wireline* broadband coverage areas, the subscriber's service address reflects where the subscriber actually uses the service and, assuming a random distribution of subscriber addresses within a service area, the service area roughly corresponds with broadband availability. But for *wireless* broadband services, relying on billing address will not always provide accurate information about availability because the service is mobile. Mobile users are often miles—or even states—away from their billing address. Even if the subscriber generally uses the service within the geographic area of the subscriber address, the usage will be over a broad area. Thus, the Form 477 does not provide the Commission with the broadband availability data it actually desires.

Similarly problematic, Form 477 seeks information based on mobile number area codes

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[4] NBP at 42-43.

[5] At a CTIA panel on March 26, 2010, Wireline Competition Bureau Chief Sharon Gillett noted that collection of subscriber information does not inform the Commission where broadband is actually available. *See* Genachowski to Circulate Schedule Next Week for Follow-Up Orders to Broadband Plan, COMM. DAILY, Mar. 26, 2010.

[6] Form 477 Instructions at 7-8. *See also* Federal Communications Commission, Completing and Filing FCC Form 477 Powerpoint Tutorial, slide 23 (Feb. 22, 2010), *available at* http://www.fcc.gov/Forms/Form477/477tutorial.pdf.

for wireless telephony services.[7] Area code information may not be an accurate representation of wireless telephony coverage as some subscribers do not change numbers even when they physically relocate their billing addresses from one area to another.

With respect to mobile wireless providers, Form 477 should therefore seek both broadband telephony data based on coverage areas. Coverage data, as opposed to subscriber billing address or subscriber area code, is a more accurate indicator of where mobile subscribers have access to wireless service, including both broadband and telephony.

Second, the Bureau should modify or eliminate speed tier, or transfer rate, reporting for mobile wireless broadband providers. Measuring the speed and other network performance metrics of mobile broadband services is exponentially more challenging than taking similar measurements in the fixed broadband context. Because a variety of factors affect wireless broadband performance, including factors such as weather, buildings, distance from a tower, the number of users accessing a tower at a given time, and even the type of device used, it is extremely difficult to provide such precise speed or throughput information.[8] Upload and download transfer rates can also vary not only depending on the technical capability of an individual user's device, but also on whether that device is located in a case or a pocket. Traffic volume—or the number of users sharing the network at a given time—also affects transfer rates. For all of these reasons, a single subscriber can fall within different speed tiers at different locations at different times, making any speed tier categorization of that subscriber inherently arbitrary. Mobile providers therefore encounter difficulty accurately categorizing speed at the level of granularity currently required by Form 477.

Because of the inaccuracy of billing address data and the multiple challenges of

[7] Form 477 Instructions at 14.

[8] *See generally* Comments of T-Mobile, Inc., WC Docket No. 04-36 (filed July 8, 2010).

measuring speed as noted above, the Form 477's requirement to identify subscriber numbers per speed tier is even more onerous and problematic for mobile services. The inherent difficulties in identifying both mobile subscriber location and speed make any resulting data insufficiently reliable for the Commission's purposes. Thus, T-Mobile suggests eliminating the breakdown of subscribers per speed tier in Part I for mobile broadband and telephony.

II. The Commission Should Streamline Form 499-A

The Bureau should streamline the Form 499-A ("Form 499") to reduce the burden on carriers and provide the Commission with revenue data that better captures the way that providers offer services today. First, the Bureau should consolidate those portions of Form 499 that require wireless and interconnected VoIP to disaggregate local and long distance revenue. Second, the Commission should modify reseller certification requirements to recognize the validity of those certifications for a period of five years, unless there is a change in a reseller's status. These changes would significantly reduce the Form 499-A burdens on carriers, while ensuring that the Commission still obtains all the information it needs.

First, consolidating the lines of Form 499 that require wireless and VoIP providers to segregate local and long distance revenue would streamline data collection and analysis. Specifically, Form 499 should be modified to consolidate Lines 409, 410, and 413 to eliminate the requirement that wireless carriers segregate local and long distance revenue. The Bureau should also consolidate Lines 404.4, 404.5, and 414.2, which would eliminate the parallel requirement that interconnected VoIP providers segregate local and long distance revenue when those charges are not separately stated to the consumer (such as separate charges for certain international calls). Mobile wireless carriers and interconnected VoIP providers do not necessarily have separately stated "local" and "long distance" charges. The Commission has already recognized this reality in developing "safe harbor" and traffic study procedures for revenue reporting to apportion revenues between intrastate and interstate/international revenues when those charges are not separately stated. Further segregating local and long distance revenues imposes additional costs on providers that have no independent business reason to take this step, and does not have any valid Universal Service Fund ("USF") enforcement purpose. Inasmuch as the Commission already has a separate 499-A section for mobile wireless providers, it should permit those providers to report all telecommunications revenues in that section, with the only potential differentiation being between bundled and separately stated and jurisdictionalized charges (*e.g.* separately stated international charges). Such changes would also better reflect the current market in which customers often buy all-distance services.

Second, simplifying Form 499 as suggested will also simplify audits. The breakdown of revenue among Lines 409, 410, and 413 for wireless and Lines 404.4, 404.5, and 414.2 for VoIP does not affect the amount of revenue subject to the various collection regimes. The USF, including the Low Income Program and the High Cost Program, as well as the Rural Health Care and Schools and Libraries Programs, requires only the aggregated number for net universal service contribution base revenues in Line 23. This number is obtained by adding together Lines 403 through 411 and Lines 413 through 417—in other words, combining Lines 409, 410, and 413 with other amounts—and then subtracting any uncollectible revenue/bad debt expense associated with universal service contribution base amounts. Similarly, the Telecommunications Relay Service ("TRS") also relies on the aggregated number in Line 420 (plus international revenues as reported in Line 412 and less revenues from resellers that do not contribute to USF support mechanisms, reported in Line 511). The support mechanisms for North American Numbering Plan Administration ("NANPA") and the Local Number Portability Administration

("LNPA") also rely on the aggregated number in Line 420. In fact, no support mechanism relies on the disaggregated numbers required in Lines 404.4, 404.5, 409, 410, 413, and 414.2. On the other hand, carriers will still be obligated to keep records supporting their revenue reporting, which will be available to the Universal Service Administrative Company ("USAC") and the Commission as needed. However, USAC's auditors will not feel obligated to audit whether revenues were properly reported in one assessable block versus a different one, when the result has no impact on a carrier's overall contribution obligations.

The Bureau should also modify reseller certification requirements to reduce the burden on telecommunications wholesalers. The annual certification procedure requires wholesale carriers to obtain signed statements from each reseller every year to validate that that reseller contributes to USF on the services provided by the wholesale carrier.[9]

This annual requirement places a heavy burden on carriers providing any wholesale services. Instead of requiring annual statements, reseller certifications should be valid for a period of five years unless the reseller notifies the wholesale provider of a change in circumstance. Wholesale providers would remain obligated to obtain valid reseller certifications, but would not need to repeat the certification process annually. Because the fundamental obligation to obtain reseller certificates would remain in place, this change would merely reduce the existing paperwork burden on wholesale providers.

In addition, the Commission should eliminate the requirement that carriers also verify their wholesale customers' contributor status on the Commission's website. The website is not always accurate or up-to-date, and the verification requirement also places unreasonable burdens on wholesale providers.

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[9] Form 477 Instructions at 18-19.

III. The Commission Should Revise Outage Reporting Requirements

T-Mobile acknowledges that information about communications outages is important to the Commission and commends the work currently being done to reexamine outage-reporting standards by the Commission.[10] As it stands, however, current outage-reporting requirements impose substantial—and unnecessary—financial costs and drain carrier resources. The Commission should work with key industry players to develop more effective and efficient outage-reporting rules.

The outage reporting rules establish minimum thresholds above which reporting is required for various wireline and wireless services. The outage-reporting process includes three steps: (1) electronic notification within 120 minutes of discovering an event that potentially meets the minimum threshold established; (2) an Initial Communications Outage Report within 72 hours of the outage; and (3) a Final Communications Outage Report within 30 days after the outage.[11]

Both the initial notification period and the overall costs of compliance are unduly burdensome to carriers. The initial notification requirement imposes an especially heavy burden on carriers during the key period when carrier efforts should be focused on identifying problems and restoring service. This burden can be more significant during large-scale outages, when determining the source and impact of an outage can take longer than the 120 minutes allowed.

The rules also impose substantial financial costs. The Alliance for Telecommunications

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[10] *See Public Safety and Homeland Security Bureau Seeks Comment on Whether the Commission's Rules Concerning Disruptions to Communications Should Apply to Broadband Internet Service Providers and Interconnected Voice over Internet Protocol Service Providers,* Public Notice, ET Docket No. 04-35; WC Docket No. 05-271; GN Docket Nos. 09-47, 09-51, 09-137 (released July 2, 2010).

[11] 47 C.F.R. § 4.9.

Industry Solutions ("ATIS") has determined that industry's compliance with outage reporting requirements requires approximately 5,000 to 54,000 hours per year and costs between $300,000 and $5 million.[12] ATIS' estimate is significantly higher than the Commission's estimate that total outage reporting submissions will cost industry members 1,040 hours and approximately $41,600.[13] ATIS's Network Reliability Steering Committee ("NRSC") also recommends that the 120-minute notification requirements should be limited to outages related to vandalism or terrorism, those affecting special facilities (such as airports or 911/E911[14] facilities), or Signaling System 7 (SS7) isolations. In those instances, immediate notification consistent with the current standard is warranted because of the potential impact on essential services or homeland security. The NRSC recommends a longer timeframe for other outages. T-Mobile concurs with the ATIS NRSC's statements and urges the Commission to consider them.

With regard to VoIP and broadband Internet service outage reporting, the Commission should work with the NRSC to develop best practices for outage reporting for VoIP and broadband Internet service disruptions. Broadband disruption reporting has important differences from other communications outage reporting because of its unique technical

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[12] Letter from Thomas Goode, General Counsel for Alliance for Telecommunications Industry Solutions, to Paul de Sa, Chief, Office of Strategic Planning and Policy Analysis, Federal Communications Commission at 3 (Sept. 23, 2009), *available at* http://www.atis.org/legal/Docs/NRSC/Data%20Collection%20Letter%20-%20%20Final_2_.pdf ("*ATIS Letter*").

[13] *Id.* at 3 (citing *New Part 4 of the Commission's Rules Concerning Disruptions to Communications,* Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd. 16830, Appendix D at ¶ 24 (2004)).

[14] "The NRSC suggests that, while the 120-minute window is appropriate for outages occurring on the direct connections between carriers and [Public Safety Answering Points ("PSAPs")], this brief window may not be appropriate for events that do not compromise a customer's ability to call 911. Such events include wireless Phase 2 outages where call completion is maintained, but the caller's location data may not be available." *ATIS Letter* at 2 n.2.

requirements.[15] For example, many wireless services are packet-switched as opposed to circuit-switched. Unlike circuit-switched networks, packet-switching does not rely on specific data paths; rather, data is divided into small "packets" and sent over multiple network pathways before it is recombined at its destination. Disruptions on parts of a packet-switched network do not necessarily interrupt data flow; individual packets will still reach their destination. Thus outages on a packet-switched network are not easily determined. Current communications outage reporting requirements are therefore ill-suited to wireless broadband networks.

While new standards are being developed, the imposition of interim mandatory reporting requirements for broadband would be premature. Any reporting standards adopted should rely on objective, numerical triggers. The Commission must also maintain the confidentiality of outage data, which is competitively sensitive and can implicate national security concerns.

Respectfully submitted,

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[15] *See* Comments of CTIA – The Wireless Association ("CTIA"), ET Docket No. 04-35, WC Docket No. 05-271; GN Docket Nos. 09-47, 09-51, 09-137 (filed Aug. 2, 2010).