

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Preserving the Open Internet)	GN Docket No. 09-191
)	
Broadband Industry Practices)	WC Docket No. 07-52

To: The Commission

REPLY COMMENTS OF MOBILE FUTURE

Jonathan Spalter, Chairman
Allison Remsen, Executive Director
MOBILE FUTURE
1325 Pennsylvania Avenue, N.W.
Suite 600
Washington, DC 20004
(202) 756-4154
www.mobilefuture.org

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SUMMARY

The record in this proceeding shows that under the current regulatory regime, the mobile broadband marketplace is a success story marked by competition, innovation and investment. Consumers are empowered with a choice of service offerings, devices, and providers have every incentive to give consumers practical and easy-to-understand information to make educated decisions. Market forces are working properly to the benefit of consumers, and prescriptive open Internet requirements are simply unnecessary and unjustified in the absence of any market failure. With a spectrum crisis looming, the Commission should be encouraging, not restricting, the ability of providers to creatively manage their networks to maximize spectrum efficiency and optimize the wireless experience for end users. Mobile Future agrees with President Barack Obama that we are on the cusp of a wireless broadband revolution in this country. The Commission should not hinder this robust and positive trajectory with government mandates that could deter the continued investment and innovation needed to unleash the full potential of mobile broadband.

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Mobile Future¹ provides these reply comments in response to the Commission’s Public Notice seeking further comment on two under-developed issues in the open Internet proceeding.² The mobile broadband marketplace is competitive, healthy, and perpetually innovating. Subjecting mobile broadband providers to prescriptive open Internet requirements is both unnecessary and unjustified. To further broadband deployment and the goals of the National Broadband Plan (“NBP”), the Commission should instead focus its efforts on removing regulatory and spectrum barriers to deployment while maintaining the flexibility of providers to innovate and actively manage their networks to maximize spectrum efficiency. Below Mobile Future highlights key findings and data submitted in the opening round of comments in this proceeding that overwhelmingly demonstrate that the current regulatory framework for

¹ Mobile Future is a broad-based coalition of businesses, non-profit organizations and individuals interested in and dedicated to advocating for an environment in which innovations in wireless technology and services are enabled and encouraged. Our mission is to educate the public and key decision makers on innovations in the wireless industry that have transformed the way Americans work and play and to promote continued investment in wireless technologies.

² Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding, *Public Notice*, 25 FCC Rcd 12637 (2010).

wireless broadband is the most effective for driving economic growth, investment, competition and innovation.

I. THE MOBILE BROADBAND MARKETPLACE IS FUNCTIONING PROPERLY TO EMPOWER CONSUMERS WITH CHOICE.

The record and attached paper, *Mobile Momentum: How Consumer-Driven Competition Shapes and Defines the Modern U.S. Wireless Landscape*, show the wireless industry is a regulatory success story marked by competition, innovation and investment that is providing consumers with a wealth of service offerings, devices and applications:

- Carriers have invested, on average, more than \$22 billion per year since 2001 to provide most consumers with access to 3G services and to deploy 4G networks with anticipated speeds of 5-12 Mbps downstream that are expected to reach 94% of all Americans by 2013.³
- Over 630 devices from at least 32 different manufacturers are available to consumers, including smartphones, eReaders, netbooks, tablets, PC cards, navigation, and M2M devices.⁴
- In less than three years, a mobile applications market has emerged with annualized growth rates exceeding 500%, giving consumers access to well over 300,000 apps from at least 10 stores.⁵
- Providers have reduced prices and introduced innovative service options with data plans available for as little as \$15 a month.⁶
- Customer satisfaction is high and growing.⁷

³ Ninety percent of the population has a choice of two or more mobile broadband providers; seventy-six percent have a choice of three or more providers. See Comments of Verizon and Verizon Wireless on Under-Developed Issues in the Open Internet Proceeding, GN Docket No. 09-191, WC Docket No. 07-52, at 3-4, 13 (filed Oct. 12, 2010) (“VZ”); see also Mobile Future, *Mobile Momentum: How Consumer-Driven Competition Shapes & Defines the Modern U.S. Wireless Landscape* 15 (Nov. 2010).

⁴ See Comments of CTIA- The Wireless Association, GN Docket No. 09-191, WC Docket No. 07-52, at 5-6 (filed Oct. 12, 2010) (“CTIA”); Comments of AT&T Inc., GN Docket No. 09-191, WC Docket No. 07-52, at 10 (filed Oct. 12, 2010) (“AT&T”).

⁵ See CTIA at 13-14; Comments of WCAI, GN Docket No. 09-191, WC Docket No. 07-52, at 32 (filed Oct. 12, 2010) (“WCAI”); see also Comments of the Assoc. for Competitive Technology, GN Docket No. 09-191, WC Docket No. 07-52, at 9 (filed Oct. 12, 2010) (“ACT”) (“[T]he mobile device marketplace and its concomitant applications storefronts are dynamic and highly competitive.”).

⁶ See WCAI at 15-16. There are countless service and device options available today that are tailored to the specific needs of customers. AT&T at 10.

⁷ VZ at 14.

The mobile broadband marketplace under the current regulatory regime is flourishing,⁸ and providers have every incentive to attract and retain subscribers by giving them access to as many devices and applications as possible while still ensuring the security of their networks and the privacy of their customers. Absent any evidence of market failure, Mobile Future agrees with those commenters that question the need for open Internet requirements.⁹

II. THE COMMISSION SHOULD FOCUS ON THE LOOMING SPECTRUM CRISIS INSTEAD OF RESTRICTING THE ABILITY OF PROVIDERS TO MANAGE THEIR NETWORKS.

The emerging concern for consumers is the threat to innovation and mobile broadband deployment caused by the looming spectrum crisis.¹⁰ The insatiable consumer demand for mobile data is triggering astronomical growth, on the order of 35 times recent levels over the next 5 years, and is on pace to outstrip our spectrum capacity.¹¹ Mobile Future agrees with the Association for Competitive Technology that

⁸ See ACT at 2 (“Competition among mobile application platforms is fierce, and therefore we see no need for the [C]ommission to regulate in this area”); AT&T at 40 (“Only one conclusion can follow: the wireless broadband marketplace presents no regulatory problem to solve.”); Comments of Cricket Communications, Inc., GN Docket No. 09-191, WC Docket No. 07-52, at 3-4 (filed Oct. 12, 2010) (“Cricket”) (“Market forces, including the business imperative that carriers manage their networks for the benefit of their subscribers, are spurring the cooperative arrangements among wireless carriers, device manufacturers and application developers that are necessary for the efficient delivery of content and services, and that enable mobile broadband capabilities to thrive.”); Comments of T-Mobile USA, Inc., GN Docket No. 09-191, WC Docket No. 07-52, at 1 (filed Oct. 12, 2010) (“T-Mobile”) (“[T]he wireless broadband marketplace is highly competitive, and there is no current need for net neutrality regulation”); VZ at 7 (“[T]he marketplace is working and leading to greater investment, innovation, and increased consumer choices, with consumer demand driving the development of these services.”).

⁹ See AT&T at 42; CTIA at 2; Comments of Sprint Nextel Corp., GN Docket No. 09-191, WC Docket No. 07-52, at i, 15 (filed Oct. 12, 2010) (“Sprint”); VZ at 1, 3; WCAI at 3, 9.

¹⁰ See, e.g., ACT at 8 (“[T]he willingness of carriers to open networks to third party devices is tied closely to needed increases in spectrum.”).

¹¹ See FCC Staff Technical Paper, *Mobile Broadband: The Benefits of Additional Spectrum* 9 (rel. Oct. 21, 2010) (“FCC Spectrum Forecast”).

the lack of spectrum will be the largest impediment to our future growth.¹² The Commission should therefore “focus its attention on promoting competition for broadband and Internet access services for the benefit of all consumers by solving the spectrum crisis.”¹³

The acute demand for spectrum underscores the need for providers to be able to manage and innovate on their networks. Both President Barack Obama and the NBP have called for the release of 500 megahertz of spectrum for mobile broadband over the next 10 years with the NBP also recommending the release of 300 megahertz in the next 5 years.¹⁴ However, as FCC Chairman Julius Genachowski and others have acknowledged “[h]istorically, it takes between 6 and 13 years to repurpose licensed spectrum for new uses.”¹⁵ Additional time will also be needed to auction spectrum and for providers to build out networks and put the spectrum to use. In the meantime, to alleviate spectrum capacity constraints, mobile broadband providers particularly require the flexibility to use their spectrum efficiently.¹⁶ Restricting the ability of providers to

¹² See ACT at 2. According to a recent Commission forecast, we will need nearly 300 additional megahertz of spectrum by 2014 to accommodate the growing demand even if spectrum and device efficiency doubles and the number of cell towers continues to grow at its current pace. FCC Spectrum Forecast at 26.

¹³ Comments of MetroPCS Communications, Inc., GN Docket No. 09-191, WC Docket No. 07-52, at 5 (filed Oct. 12, 2010) (“MetroPCS”); see also Sprint at 3 (stating that the Commission’s focus should be on “extending broadband access, with the goal of universal availability”) (citing Julius Genachowski, Chairman, FCC, Prepared Remarks for the International Telecommunication Union Global Symposium for Regulators, Beirut, Lebanon: *ICT: Global Opportunities and Challenges* 3 (Nov. 10, 2009)).

¹⁴ FCC, *Connecting America: The National Broadband Plan* 75-76 (rel. Mar. 16, 2010) (“NBP”), available at <http://www.broadband.gov/plan/>; The White House, Presidential Memorandum: *Unleashing the Wireless Broadband Revolution* (June 28, 2010), available at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-unleashing-wireless-broadband-revolution>.

¹⁵ Julius Genachowski, Chairman, FCC, Remarks at the FCC Spectrum Summit, Washington, D.C.: *Unleashing America’s Invisible Infrastructure* 5 (Oct. 21, 2010).

¹⁶ See MetroPCS at 3-4 (“Wireless providers of broadband Internet access are severely constrained by the critical shortage of broadband wireless spectrum. The spectrum crisis is certain to grow due to consumers’ increasing appetite for wireless data services. In order to manage this rising tide of data use, wireless carriers simply must be able to control the services they offer, the design of their rate plans, and the applications and devices that operate on their networks.”); T-Mobile at 20 (“[T]he Commission should

manage their networks and the devices and applications on those networks, through open Internet rules, is counterintuitive and directly at odds with the NBP's goal of promoting mobile broadband by not only making more spectrum available but also ensuring the more efficient and effective use of our spectrum.¹⁷

III. WIRELESS BROADBAND NETWORKS ARE UNIQUE AND REQUIRE ACTIVE MANAGEMENT FOR CONTINUED SUCCESS.

Providers should be encouraged to experiment with different management techniques and business models to maximize network performance. Wireless networks rely upon a shared and limited spectrum resource and “are prone to highly localized spikes in congestion at specific times and places based upon social, cultural, economic, and other factors outside of the control of network operators.”¹⁸ Traffic management and

allow the wireless broadband marketplace to continue to thrive by preserving the autonomy carriers need.”); VZ at 17 (“A wireless carrier cannot readily increase capacity once it has exhausted its spectrum capacity. Thus, wireless broadband providers are left to acquire additional spectrum . . . or take measures that use their existing spectrum as efficiently as possible, which they do through a combination of investing in additional cell sites and network management practices that optimize network usage and address congestion . . .”).

¹⁷ See Cricket at 3 (“Wireless carriers need the ability to utilize their spectrum resources and to manage their networks to provide the services that consumers demand, including low-cost services that can facilitate widespread adoption of broadband.”); CTIA at 21 (Limiting network management will hinder the “ability to address capacity constraints and exacerbate the shortage of capacity for mobile broadband traffic.”).

¹⁸ Comments of the GSM Assoc., GN Docket No. 09-191, WC Docket No. 07-52, at 5 (filed Oct. 12, 2010) (“GSM Assoc.”); see also Comments of 4G Americas LLC, GN Docket No. 09-191, WC Docket No. 07-52, at 1 (filed Oct. 12, 2010) (“4G Americas”) (“[T]raffic management for mobile broadband networks requires visibility to what is occurring (by device or application) at the cell site level and in a timeframe that enables as far as feasible near-time reactions to resolve issues.”); AT&T at 41 (“[W]ireless broadband operators face spectrum constraints and unique operational and network-engineering challenges with no counterpart in the wireline broadband world.”); Comments of Clearwire Corp., GN Docket No. 09-191, WC Docket No. 07-52, at 6 (filed Oct. 12, 2010) (“Clearwire”) (stating that wireless networks have greater potential for congestion because spectrum assets are inherently shared); Comments of the Telecommunications Industry Assoc., GN Docket No. 09-191, WC Docket No. 07-52, at 16 (filed Oct. 12, 2010) (“TIA”) (“[W]ireless operators must contend with an environment of mobility, set spectrum resources, interference, and other unique factors that change rapidly and quickly.”).

quality of service controls are necessary to provide end users with a high quality experience and prevent disruptions in service.¹⁹

A reasonable network management exception or safe harbor to a “neutrality” mandate cannot be crafted to give providers the certainty and flexibility they need to manage their networks.²⁰ There is too much variation in management techniques depending on the network and circumstances; thus, it will be extremely difficult to develop a defined or static understanding that will permit the adoption of a single standard.²¹ Indeed, uncertainty of whether practices will fall within an exception or safe harbor will chill experimentation.²²

¹⁹ See AT&T at 61 (“If deprived of that network-management flexibility, providers would have to allow voice calls to fail whenever an unexpectedly large aggregation of users in a cell began using bandwidth-intensive data applications.”); Comments of Ericsson, Inc., GN Docket No. 09-191, WC Docket No. 07-52, at 7 (filed Oct. 12, 2010) (“The simple technological fact is that wireless networks *require* active network management simply to operate. Placing technological limitations on wireless network operators’ reasonable network management can result in *no* user receiving timely throughput of content.”); GSM Assoc. at 5 (“[A]pplying the proposed rules to wireless networks would likely hurt the public by significantly degrading the mobile broadband user experience, while also not addressing any actual instances of anticompetitive conduct or harmful discrimination.”); MetroPCS at 18 (“In order to provide suitable high quality services to subscribers within this limited bandwidth, wireless companies must be in a position to manage the customer experience and control and shape the services subscribers may access.”); Comments of Mobile Future, GN Docket No. 09-191, WC Docket No. 07-52, at 1 (filed Oct. 12, 2010) (“[T]raffic management and quality-of-service (QoS) control are essential tools for network engineers . . .”).

²⁰ See AT&T at 62 (“[N]etwork engineers must employ countless different and ever-evolving network-management techniques as a fundamental part of the day-to-day, second-to-second reality of operating a wireless network. . . . [P]re-approved network-management techniques . . . would quickly become obsolete, and providers would be hamstrung when presented with new challenges that require prompt adaptation.”); T-Mobile at 19 (“[E]very network management decision will be injected with legal risk and uncertainty, distorting the process of making those decisions to the detriment of wireless service providers, device manufacturers, and consumers.”).

²¹ See T-Mobile at 18 (stating that a uniform standard “cannot account for the unique characteristics of each network, and cannot respond quickly enough to some of the unique day-to-day threats that providers must handle.”); VZ at 32 (“Defining a one-size-fits-all approach to ‘reasonable network management’ for all broadband networks is impossible and undesirable.”).

²² See AT&T at 62-63; see also MetroPCS at 8 (“A network management exception is not sufficient if the Commission strips providers of the ability to design their services to fit the capabilities of their systems.”); T-Mobile at 3, 19 (stating that the exception is “too ambiguous and cannot replace a wireless providers’ need for flexibility.”); TIA at 20 (stating that proposed rules will hinder advances in management and likely have harmful effects on “deployments, applications, devices, and innovative business models”).

Moreover, usage-based tiered pricing will not eliminate inherent technical challenges facing wireless networks or the problems created by regulatory intervention. Thus, regardless of how networks are priced, there will still be a strong and legitimate need for network management.²³ Lowering the cost of obtaining entry level data service will indeed increase broadband adoption – “driving further data usage by more wireless subscribers” – and increasing the need for creative network management.²⁴ America faces an explosion in demand for mobile data, and service providers must be able to use a panoply of tools to maximize existing network capacity.

IV. REQUIRING PROVIDERS TO ALLOW ANY DEVICE OR APPLICATION ON THEIR NETWORKS WILL NOT ADVANCE THE PUBLIC INTEREST.

An “any device,” “any application” government mandate will not advance the public interest for consumers or network operators. Providers have a vested interest to ensure that devices and applications meet the expectations of subscribers. Every network is different and just because a device or application works on one network does not mean that all the expected capabilities will function properly on another network.²⁵ To mitigate consumer frustration, providers cooperatively work with manufacturers and developers to optimize the performance of devices and apps on their networks. As part of their

²³ See Cricket at 5 (“[N]etwork management continues to be essential to wireless networks for delivering the type of Internet experience that consumers have come to expect, *regardless* of how tiers or service plans are constructed.”); CTIA at 19 (stating that usage-based pricing “cannot remove the need for careful management”); T-Mobile at 3 (“Usage-based pricing and industry standards can be useful tools . . . but providers need the flexibility to use and experiment with a broader set of tools, including throttling, traffic shaping, and other network management methods.”).

²⁴ CTIA at 19.

²⁵ The deployment of LTE will facilitate interoperability among networks to bridge the divide between GSM and CDMA but will merely provide baseline standard; “[w]ireless providers will still need to optimize their networks beyond that basic standard, and device manufacturers will still wish to provide special features that can be supported only through close coordination with individual networks.” AT&T at 50; *see also* Sprint at 16 (“Any device” requirement is unworkable in the foreseeable future due to the different air interfaces used and the dozens of different spectrum bands allocated for mobile services.).

certification process, providers also ensure that devices and apps comply with applicable E911, CALEA, CPNI, and hearing aid compatibility requirements, efficiently use spectrum resources, and will not harm the network.²⁶

Mobile Future agrees with T-Mobile that “[f]orcing providers to permit all devices and every app with network access would severely hinder providers’ ability to ensure efficient and safe use of their networks and would be contrary to the NBP.”²⁷

Experience has shown that some devices and applications can have unintended and unexpected consequences requiring carriers to restrict their use:

- “In one incident, a single signal booster interfered with six AT&T towers, causing 2,795 dropped calls and 81,000 blocked or impaired calls.”²⁸
- “[A] new Android-based instant messaging application caused an overload of T-Mobile’s facilities for an entire city.”²⁹
- An innocuous wallpaper application in the Android Market was designed to acquire and transmit personal user data, such as phone numbers and SIM card serial numbers, to a Chinese-operated server.³⁰
- Unlocked iPhones began to cause signal overload, akin to a denial of service attack, on a carrier’s network.³¹

²⁶ Wireless devices that are an integral part of the end-to-end wireless network and applications have a direct bearing on efficiency and quality of service. *See* CTIA at 11, 16 (stating that devices and networks have become intertwined; integration increases overall network efficiency); *see also* Cricket at 8 (“The Commission should permit carriers discretion to identify and address the performance limitations of devices that are not optimized or are incompatible with a particular network, including potential incompatibility with E911 features and hearing aids.”); T-Mobile at 11 (“[S]ome devices and applications can pose network security, reliability, congestion, and efficiency problems that, if left unaddressed, can degrade the consumer experience or ultimately harm the network.”); VZ at 24-25 (“[W]ireless devices are part of the end-to-end wireless network: their operation substantially affects not only the quality of an individual subscriber’s service but the overall efficiency and quality of the service to other customers as well.”); *Id.* at 18, 35 (“[P]roviders . . . work closely with device manufacturers to ensure not only that the device works well on the network, but also to ensure that devices comply with technical rules and public interest obligations such as E911 and CALEA.”).

²⁷ T-Mobile at 16-17; *see also* 4G Americas at 2 (“[T]he configuration of end-user devices and content applications not provisioned by the network operator not only impacts the experience of the particular user, but potentially other users in a particular cell as well.”).

²⁸ AT&T at 52.

²⁹ T-Mobile at 7.

³⁰ AT&T at 65.

³¹ T-Mobile Reply Comments, GN Docket No. 09-191, WC Docket No. 07-52, at 31 (filed Apr. 26, 2010).

The unfettered use of devices and applications also raise liability concerns for providers and can alter business models for carriers.³² The Commission should not interfere with a properly functioning competitive marketplace that is delivering value, innovation, and jobs for American consumers. Instead, the Commission should continue to allow providers to work with manufacturers and developers to achieve compatibility and protect users.

Moreover, even without regulation, the device and application market has flourished under intense competition and innovation with a trend towards openness. Despite dire prognostications to the contrary, every day carriers are increasingly, in response to consumer demand, allowing consumers to attach devices of their choice and use applications that compete with their own services.³³ Carriers also provide incubators to encourage the development of devices and applications for their networks, recognizing that consumers crave the latest, cutting-edge capabilities.³⁴ Mobile Future agrees with T-Mobile that “[g]iven the exponential growth in applications (and even in devices)

³² See MetroPCS at 27 (“Network, technical, cyber-security and liability issues also are implicated when carriers are unable to control which devices jump on and off of their networks.”). MetroPCS does not offer service for data-consuming USB modems or allow “tethering” and instead offers handsets and services which consume fewer resources to ensure reliable voice and data services to all customers. An “any device” rule would require MetroPCS to change its business model. *Id.* at 29.

³³ T-Mobile allows consumers to “bring their own device” so long as the device is compatible with its network. T-Mobile “does not lock unsubsidized handsets and allows subscribers to unlock subsidized handsets after only 40-60 days, depending on the service plan.” T-Mobile at 13; *see also* AT&T at 55-56 (“[E]very major wireless provider allows the use of VoIP over Wi-Fi and 3G services. . . . Every major wireless provider also permits the use of independent SMS applications over their networks, as well as countless applications that compete with their video services.”); Clearwire at 4 (“Clearwire encourages subscribers to download and use any software applications, content, or services they desire, subject only to reasonable network management practices and law enforcement and public safety considerations.”); MetroPCS at 32 (reporting that “many wireless phones . . . run apps that directly compete with services that carriers offer”).

³⁴ See AT&T at 53 (stating that AT&T “works with over 20,000 application developers in its devCentral program, which offers extensive information, tools, software kits and online assistance to enable the design of applications that function well over AT&T’s network.”); *see also* Sprint at 17, 20, 22 (discussing Sprint’s Open Device Initiative, Applications Developers Program, and Open Developer Conference); T-Mobile at 12-13 (discussing its Open Handset initiative); VZ at 4, 49 (discussing Verizon’s Open Development program, LTE Innovation Center, and Partner Port Program).

developers and manufacturers plainly are getting all the information they need to develop successful applications, devices, and other products.”³⁵

V. TRANSPARENCY AND DISCLOSURE MANDATES ARE UNNECESSARY.

The Commission should also refrain from requiring carriers to provide prescriptive consumer disclosures that, according to various network operators, will only limit innovation, provide a roadmap to those that would threaten network security, and reveal competitively sensitive information.³⁶ In the competitive mobile broadband marketplace, providers are already incentivized to provide consumers with practical, easy-to-understand information about their service offerings and differentiate themselves in the market by their transparency.³⁷ Most carriers also abide by CTIA’s Consumer Code, which will be updated to “specifically require relevant disclosures of providers’ network management practices.”³⁸ Here too, carriers are constantly modifying their consumer-facing information to improve disclosure and highlight competitive advantages

³⁵ T-Mobile at 10; *see also* ACT at 2 (“Software developers feel empowered by the many opportunities for development of software for mobile devices.”); MetroPCS at 32 (“[T]here are no signs that wireless consumers find themselves unable to obtain the apps that they desire.”); WCAI at 34 (“There is . . . no reason to believe that applications developers are having difficulty distributing their software products through applications stores right now.”); *see also* ACT at 5 (“From the perspective of application developers, we believe that mobile carriers have done a relatively good job at transparency. We attribute this not the charitable attitudes of carriers, but to the demand of their consumers for high quality applications to run on their networks and be included in their apps stores.”).

³⁶ *See* MetroPCS at 23 (“[T]ransparency requirements that go beyond the current regulations may arm those who want to harm a broadband network with the knowledge to do so.”); T-Mobile at 2 (“Imposition of the technically detailed, advance-notice disclosures advocated by Free Press and a few others would hamstring providers from responding quickly to new and unanticipated network congestion problems, provide a road map for engineering around network security and integrity mechanisms for nefarious purposes, and force providers to reveal competitively sensitive network information” and will confuse consumers.).

³⁷ *See* AT&T at 70-71 (“[C]ompetitive pressure has driven wireless providers to be highly responsive to consumer demands for transparency and disclosure, and to be increasingly open about their policies and practices.”); T-Mobile at 6 (“Most consumers want a practical and simple understanding of their service offering, which is what T-Mobile and other operators are motivated to provide.”); VZ at 10 (“The competitive broadband marketplace . . . drives service providers . . . to offer extensive information to consumers about their services.”).

³⁸ T-Mobile at 2.

and drive adoption.³⁹ For example, carriers go beyond the CTIA Consumer Code to provide consumers with tools to identify broadband coverage at the street address level, track data usage and provide information on network reliability.⁴⁰ Regulatory intervention may threaten this competitive dynamic or flash-freeze it with a one-size-fits-all government mandate.

CONCLUSION

The record shows that, in the wireless sector, the proposed open Internet rules are unnecessary and unjustified and are contrary to the goals of economic growth, investment, innovation, and the NBP. Mobile broadband is still a nascent industry and significant investment will be required to deploy 4G networks. The Commission should not alter the robust and positive trajectory that currently typifies the wireless broadband sector. The Commission should instead promote experimentation and innovation, through additional spectrum and a continued light-touch regulatory approach, and allow mobile broadband to reach its full potential.⁴¹

³⁹ See AT&T at 71 (“[W]ireless providers actively compete to provide clear, concise, and useful information to assist consumers in selecting their service plans, managing their services, and understanding their bills. . . . AT&T makes many tools available to wireless broadband consumers to ensure adequate disclosure beyond the baseline requirements established by the Consumer Code.”).

⁴⁰ See AT&T at 72; T-Mobile at 3-4; VZ at 10.

⁴¹ See AT&T at 3 (“In short, specialized and wireless broadband services are delivering, and will continue to deliver, untold benefits to consumers and the economy if the Commission maintains a hospitable regulatory environment for such services.”); Comments of the Information Technology and Innovation Foundation, GN Docket No. 09-191, WC Docket No. 07-52, at 20 (filed Oct. 12, 2010) (“[T]he dawn of the LTE era is the wrong time for regulators to put a finger on the scale and attempt to predetermine the application mix that will prove most valuable once the LTE rollout is complete.”); Sprint at 6 (“[T]he Commission’s first order of business should be to take steps to promote [4G] deployment and that it should be wary of imposing, especially at this time, any new prescriptive requirements that might inhibit 4G network deployment.”); VZ at 19 (“Adopting the proposed rules . . . would discourage 4G deployment and the resulting innovation, competition, and broader benefits for the United States economy that it will create.”).

Respectfully submitted,

By: /s/ Jonathan Spalter
Jonathan Spalter, Chairman
Allison Remsen, Executive Director
MOBILE FUTURE
1325 Pennsylvania Avenue, N.W.
Suite 600
Washington, DC 20004
(202) 756-4154
www.mobilefuture.org

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