

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

In the Matter of)	
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	
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
)	
Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering)	WC Docket No. 08-190
)	
Review of Wireline Competition Bureau Data Practices)	WC Docket No. 10-132
)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”) submits these reply comments in response to the Federal Communication Commission’s (“Commission”) Notice of Proposed Rulemaking (“NPRM”) on how best to modernize the Wireline Competition Bureau’s (“Bureau”) Form 477 Data Program.¹ As T-Mobile explained in its initial comments, the Paperwork Reduction Act² precludes the Commission from duplicating information collections by other agencies, mandates that the Commission ensure that the information it does collect has “practical utility,” and that the Commission minimizes burdens on reporting parties. Here, NTIA is already collecting

¹ *Modernizing the FCC Form 477 Data Program*, Notice of Proposed Rulemaking, WC Docket Nos. 11-10, 07-38, 08-190, and 10-132 (rel. Feb. 8, 2011) (“NPRM”) (unless otherwise stated, all comments cited in this document are filed in WC Docket Nos. 11-10, 07-38, 08-190, and 10-132).

² 44 U.S.C. § 3501 *et seq.*

similar data in support of the National Broadband Map, and some of the proposed changes would duplicate NTIA's data collection. Similarly, the Commission already has access to spectrum data and need not collect such information again via Form 477. Furthermore, to be of any use, Form 477 must recognize and accommodate the obvious technological and marketplace differences between wireline and wireless service and tailor the data collection accordingly. Like T-Mobile, several commenters point out that requiring mobile broadband providers to measure "actual" wireless broadband speeds or signal strength is, from a practical standpoint, technologically impractical given the range of factors – including handset and antenna design and user location – that can affect both. Similarly, other commenters also buttress T-Mobile's point that the marketplace already provides adequate service quality and customer satisfaction data, and thus additional governmental collection and compilation is not needed.

I. Proponents of More Extensive Data Collection Fail to Recognize the Obvious Differences Between Wireless and Wireline Service.

The Commission should ignore the absurd argument put forth by some commenters that data collection should be "technology neutral" by collecting identical information from mobile wireless and fixed networks.³ Collecting the same data from users of very different technologies and services without taking into account significant differences in the services will not yield useful information. To state the most obvious, mobile phones *move*, and thus, unlike fixed service, the subscriber has no true "service address" that defines where he or she can receive service. In the face of that reality, while it might make some sense to collect detailed service or billing address data as a proxy for coverage of a wireline network, it makes no sense to evaluate

³ Comments of Pennsylvania Public Utilities Commission, 2 (filed Apr. 1, 2011) ("It does not make sense to impose requirements on one type of carrier while not requiring the same information from other providers that may be using a different network or technology to deliver similar services"); Comments of John Staurulakis, Inc., 6-7 (filed Mar. 30, 2011).

the coverage of a mobile wireless network by reference to the billing addresses of subscribers. It is not “technologically neutral” to ignore these fundamental differences when attempting to collect *usable* data. Indeed, ignoring these differences would be arbitrary and capricious.

The Commission should also reject CenturyLink and Qwest’s suggestion that the Commission should impose an equally heavy burden on all providers just for the sake of doing so.⁴ Rather, the Commission should seek to minimize the burden on all providers. Although it is important to avoid creating competitive advantages to some carriers through an uneven data collection, the Commission should reject calls to artificially increase data collection demands simply to even out the burden. Particularly where information is publicly available or competitive markets enable a lighter regulatory touch, the Commission should reduce the burden of collection as much as possible.

A. “Actual” Speed or Capacity Data Is of Limited Utility for Wireless networks and Should Not Be Collected.

Commenters arguing that the Commission should force wireless providers to measure “actual” speeds ignore the engineering realities of wireless service. As several commenters in addition to T-Mobile point out, wireless signals must travel over the air – encountering terrain, walls, tree canopy, weather – and are dependent upon handset antenna quality and a host of other factors.⁵ Mobile wireless services have a different character, a different set of capabilities, and a

⁴ Joint Comments of CenturyLink, Inc. and Qwest Communications International Inc., 11-12 (filed Mar. 30, 2011) (acknowledging that “identical data collections may not be appropriate for all service providers and technologies,” but arguing that the burden imposed on providers “should be reasonably comparable” to avoid “competitively advantag[ing] or disadvantag[ing] any ... category of service provider”).

⁵ See Comments of CTIA, 12-13 (filed Mar. 30, 2011) (“CTIA Comments”); Comments of Sprint Nextel Corporation, 7-8 (filed Mar. 30, 2011) (“Sprint Comments”); Comments of Verizon and Verizon Wireless, 11-12 (filed Mar. 30, 2011) (“Verizon Comments”).

different technical and operating environment than wireline operators which, among other things, transmit their signals through the much more controlled, but geographically limited, environment of a wire or fiber optic cable. As a result, mobile signal strength, speed and capacity measurements “can change from minute to minute or between locations even a few meters apart.”⁶

On the other hand, the advertised speed data – expressed in terms of “up to” speeds – can be projected by wireless carriers, and this information is useful for consumers. And because these are “up to” speeds, they are not affected by the number of simultaneous users, changes in location, in weather, in handsets, or many other factors. But it is still the case that theoretical speed information need not – and cannot consistent with the Paperwork Reduction Act – be collected on Form 477 because it is already collected by the National Telecommunications and Information Administration (“NTIA”) through the State Broadband Data and Development Grant Program (“SBDD”) program.⁷

B. The Commission Should Not Collect Service Quality Data from Wireless Providers.

The Paperwork Reduction Act precludes the Commission from duplicating collection of data that carriers already submit and requires that the Commission minimize burdens imposed on reporting parties.⁸ Thus, the Commission should reject requests for it to collect service quality

⁶ See also Comments of T-Mobile USA, Inc., 11 (filed Mar. 30, 2011) (“T-Mobile Comments”).

⁷ See *id.* at 6-8.

⁸ 44 U.S.C. § 3501 *et seq*; *Dole v. United Steelworkers of Am.*, 494 U.S. 26, 32 (1990). See also T-Mobile Comments at 3-4, 6.

data from wireless providers,⁹ which largely would duplicate information already submitted or otherwise available in the market.

In the highly competitive world of wireless services, there is no apparent reason why the government needs to collect additional service quality information. As T-Mobile and others have pointed out, service quality information is already available to the Commission from a wide variety of sources and does not need to be collected through a burdensome information collection. Jitter, dropped calls, slow throughput speeds – all of these dimensions of service quality receive substantial attention through the popular media and blogs.¹⁰ And essential service quality data like outage reporting is already reported to the Commission under outage reporting rules.¹¹ Moreover, the Commission can also track consumer satisfaction via its own consumer complaint process.

⁹ See Comments of New Jersey Division of Rate Counsel, ii, 11-12 (filed Mar. 30, 2011) (“New Jersey Rate Counsel Comments”); Comments of Michigan Public Utilities Commission, 2 (filed Mar. 30, 2011) (“Michigan PUC Comments”); Comments of Communications Workers of America, 8-19 (filed Mar. 30, 2011) (“CWA Comments”); Comments of the California Public Utilities Commission and the People of the State of California, 12-14 (filed Mar. 30, 2011) (“California PUC Comments”); Comments of Free Press, 8-10 (filed Mar. 30, 2011).

¹⁰ See CTIA Comments at 21; T-Mobile Comments at 14-15. See also J.D. Power: Telecom, <http://www.jdpower.com/telecom> (last visited Apr. 14, 2011); Consumer Reports: Cell Phones and Services, <http://www.consumerreports.org/cro/electronics-computers/phones-mobile-devices/cell-phones-services/index.htm> (last visited Apr. 14, 2011); Nick Jones, *AT&T, T-Mobile, Sprint, and Verizon Pitted Head to Head in Dropped Call Survey*, KNOWYOURCELL.COM, Apr. 6, 2011, http://www.knowyourcell.com/news/840886/att_tmobile_sprint_and_verizon_pitted_head_to_head_in_dropped_call_survey.html; Chris Gaylord, *Verizon vs. AT&T vs. Sprint vs. T-Mobile: Who's best in your city?*, THE CHRISTIAN SCIENCE MONITOR, Jan. 31, 2011, <http://www.csmonitor.com/Innovation/Horizons/2011/0131/Verizon-vs.-AT-T-vs.-Sprint-vs.-T-Mobile-Who-s-best-in-your-city>.

¹¹ 47 C.F.R. § 4.1 *et seq.*

Some commenters appear to equate service quality with coverage. But these commenters arguing that service availability depends on service quality¹² misunderstand the unique aspects of wireless service. Service availability depends on *coverage area, i.e.*, “where a consumer can receive an adequate signal.”¹³ Coverage maps, like the NTIA’s Broadband Mapping Program,¹⁴ and the maps available on carrier websites show availability – where users can obtain service – and this data is available to both the Commission and consumers alike.

Similarly, commenters arguing that service quality data is necessary to determine the substitutability of products are wrong as a matter of economics. Whether one product is a substitute for another is a matter of consumer use and preferences, and not one of technical specifications. Consumers balance a variety of factors in their consumption decisions every day. While technical factors such as latency, packet loss and jitter can affect the applications that can be run over a particular broadband technology, they do not tell you the extent to which consumers value the incremental functionality of improvements in those aspects of service quality versus other aspects of the service. As an example, consumers could have perfect service and complete satisfaction with wireless services and still have need for wireline services for certain functions. Conversely, a consumer that values mobility may forego wireline service altogether, in favor of wireless service, even if that wireless service has quality limitations.

II. The Commission Should Not Collect Price Data, Which Is of Limited Utility and Is Easily Available on Provider Websites.

Price data is easily available on provider websites and the Commission cannot – consistent with the President’s directive to eliminate paperwork burdens that simply saddle

¹² New Jersey Rate Counsel Comments at 11-12; Michigan PUC Comments at 2.

¹³ See T-Mobile Comments at 5.

¹⁴ See *id.* at 6-8.

businesses with administrative costs – impose the burdens of this additional collection on providers. Moreover, the Commission should resist the temptation to try to “standardize” – even only for reporting purposes – carrier offerings to facilitate price comparison because doing so would frustrate the market’s ability to tailor services to customers’ needs through carrier experimentation with different combinations of services. For wireless voice, even the lowest-minutes, lowest-cost monthly option varies widely among providers and changes over time.¹⁵ Similarly, standalone wireless broadband services from different providers contain a variety of different dimensions.¹⁶ This is market competition at work. While it is not tidy, it provides consumers with the broadest range of options and the opportunity to pick the service package that best fits their needs.

Beyond these published rates that are already available on websites, comments confirm that further collection of price data would be counterproductive and unduly burdensome.¹⁷ A feature of the highly competitive wireless marketplace is that prices and service packages change

¹⁵ Baseline service offerings differ even among the four nationwide carriers, including different sized “buckets” for different prices and different terms for “unlimited nights and weekends.” *See, e.g.*, T-Mobile, <http://www.t-mobile.com/shop/plans/cell-phone-plans.aspx?catgroup=individual>; Verizon, <http://www.verizonwireless.com/b2c/store/controller?item=planFirst&action=viewPlanOverview>; AT&T, <http://www.wireless.att.com/cell-phone-service/cell-phone-plans/index.jsp>; Sprint, <http://shop2.sprint.com/NASApp/onlinestore/en/Action/DisplayPlans> (all links last visited Apr. 14, 2011).

¹⁶ Baseline wireless broadband service offerings are even more disparate than wireless voice. *See, e.g.*, T-Mobile, <http://www.t-mobile.com/shop/plans/cell-phone-plans.aspx?catgroup=mobilebroadband>; Sprint, <http://shop2.sprint.com/NASApp/onlinestore/en/Action/DisplayPlans> (all links last visited Apr. 14, 2011).

¹⁷ *See* CTIA Comments at 16-18; Comments of AT&T Inc., 22-30 (filed Mar. 30, 2011); Comments of the Independent Telephone and Telecommunications Alliance (ITTA), 5-6 (filed Mar. 30, 2011); Comments of National Cable & Telecommunications Association (NCTA), 10-12 (Mar. 30, 2011); Sprint Comments at 4-5; Comments of Time Warner Cable Inc., 8-10, 12-14 (filed Mar. 30, 2011); Comments of the United States Telecom Association (“USTelecom”), 13-15 (filed Mar. 30, 2011); Verizon Comments at 17-20.

frequently with promotions, and can vary by locale, target populations and – in the case of “winbacks” – from consumer to consumer.

The Commission should thus reject calls to collect promotional price data,¹⁸ which would impose a voluminous collection obligation, but with little meaning by the time the Commission could ever analyze the information. For the same reason, the Commission should reject the New Jersey Rate Counsel’s unduly burdensome suggestions to impose a new regulatory framework on the competitive mobile broadband market by instituting monthly price data collection.¹⁹

III. To the Extent the Commission Collects Subscription Data, It Should Require Only That Carriers Submit Aggregate Numbers of Voice Subscriptions.

Lastly, the Commission should reject the suggestion of the Massachusetts DTC that wireless carriers “identify the number of primary lines and the aggregate number of supplemental lines that are included on the primary accounts,” which will unduly burden providers without any countervailing benefit to the Commission.²⁰ The Massachusetts DTC does not cite any purpose in distinguishing between “primary” and “supplemental” lines, beyond a bald assertion that the data will “provide valuable information.”²¹

¹⁸ Comments of Massachusetts Department of Telecom and Cable (filed Mar. 30, 2011) (“Mass. DTC Comments”); NJ Rate Counsel Comments at 10.

¹⁹ New Jersey Rate Counsel Comments at 10.

²⁰ Mass. DTC Comments at 9.

²¹ *Id.*

CONCLUSION

T-Mobile appreciates the Commission's consideration of its data collection practices in Form 477. By adopting the recommendations above and in T-Mobile's initial comments, the Commission can best meet its own data collection needs while minimizing burdens on providers.

Respectfully submitted,

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