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October 20, 2011

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Universal Service and Intercarrier Compensation Reform
WC Docket Nos. 10-90, 07-135, 05-337, 03-109;
CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51

Dear Ms. Dortch:

T-Mobile USA, Inc. (“T-Mobile”) urges the Commission to proceed with its plan to adopt comprehensive reform of the universal service and intercarrier compensation systems at its open meeting next week. As the Commission has acknowledged, both the universal service and intercarrier compensation systems are fundamentally broken and must be reformed. This reform requires difficult decisions, but the Commission must make them now. This Commission has an historic opportunity to achieve meaningful reform – an opportunity that may slip away unless the Commission completes the process now. As it finalizes its order, the Commission should take actions consistent with the following fundamental principles that T-Mobile has advocated in this proceeding and that enjoy broad support across a wide range of stakeholders.

- ***The Commission should ensure an expeditious transition to a low, uniform intercarrier compensation rate, on a path to bill and keep.***¹

Reduction of all ICC rates to bill-and-keep will best serve the public interest and facilitate the efficient transition to IP networks. Wireless carriers operate under a bill-and-keep regime, and their customers benefit from lower rates and new and innovative services as a result. Bill-and-keep is also consistent with principles of cost-causation. The move to bill-and-keep would rid the intercarrier compensation system of the inefficiencies and arbitrage opportunities that have plagued it and speed the transition to more efficient feature-rich IP networks, thereby spurring investment and innovation, benefiting consumers and enhancing the country’s economic position. Also, wireless traffic should be treated as “local” if it originates and terminates in the

¹ See, e.g., T-Mobile Comments, WC Docket Nos. 10-90 *et al.* (filed Aug. 24, 2011) at 5-13 (“T-Mobile PN Comments”); T-Mobile Reply Comments, WC Docket Nos. 10-90 *et al.* (filed May 23, 2011) at 5-13 (“T-Mobile NPRM Reply”); T-Mobile Comments, WC Docket Nos. 10-90 *et al.* (filed April 18, 2011) at 22-31 (“T-Mobile NPRM Comments”).

same REAG, consistent with the Commission's original wireless "local" traffic rule and the evolution of the market and Commission licensing rules.²

Also, in connection with this transition, ***the Commission should ensure that it does not act in ways that would arbitrarily lock in ILEC revenue streams.***³ Any access recovery mechanism should be distributed over the shortest practicable transition period necessary for ILECs' business planning purposes. ***This can be done in a way that provides a reasonable transition for consumers to more rational rates that are still affordable.*** While rural consumers that are currently paying excessively low ILEC rates will see their rates rise somewhat, economically challenged urban consumers will be relieved from providing unnecessary subsidies, and the Commission can ensure that any rate increases leave rural rates at an affordable level.⁴

- ***The CAF must be technology-neutral and provide sufficient funding for mobile broadband.***⁵

To spur the growth of broadband competition and achieve the Commission's and the Administration's mobile broadband objectives, the Commission must ensure funding of mobile broadband at sufficient levels. The proposed \$300 million which has been reported in press accounts is a woefully inadequate amount for a mobility fund, given the unique consumer benefits of mobile wireless service, consumers' preference for mobile broadband service, and wireless carriers' disproportionate contribution to the USF program.⁶ It also would amount to less than 10% of what wireless consumers contribute to the universal service fund.

Determining the amount of support needed for mobility initially requires an analysis of the cost of deploying wireless broadband in the areas that would be uneconomic to serve without support. In this regard, the Wireline Bureau's study submitted into the record Wednesday, October 19 – which analyzes areas where only a single small or regional wireless carrier currently receives support – is entirely irrelevant as a basis for determining the proper measure of mobile broadband support.⁷ Nothing in the current rules would prevent more than one wireless

² Letter from Kathleen O'Brien Ham, T-Mobile, to Marlene H. Dortch, FCC, WC Docket Nos. 10-90 *et al.* (filed Sept. 30, 2011) at 4-5 ("T-Mobile Sept. 30 Letter").

³ *See, e.g.*, T-Mobile PN Comments at 14-19.

⁴ In this regard, the Lifeline program remains a strong back-stop for rate affordability.

⁵ T-Mobile PN Comments at 20-25; T-Mobile NPRM Reply at 14-25; T-Mobile NPRM Comments at 4-9.

⁶ *See also* Letter from Steve Largent, CTIA, to Julius Genachowski, FCC, WC Docket Nos. 10-90 *et al.* (filed Oct. 18, 2011) at 1-3.

⁷ Letter from Jennifer Prime, FCC, to Marlene Dortch, FCC, WC Docket Nos 10-90 *et al.* (filed Oct. 19, 2011) at 4-6.

carrier from being designated as an eligible telecommunications carrier (“ETC”) in an area that would be uneconomic to serve absent any subsidy. It also would be patently inequitable to exclude areas covered by large wireless carriers from the analysis. Just like large ILECs, large wireless carriers face fierce competition in urban areas that prevents them from using urban revenues to cross-subsidize rural areas.⁸ For these reasons, the Wireline Bureau’s late-filed study sheds no useful light on the Commission’s task of defining the correct amount of support to ensure that all consumers have access to mobile broadband.

The greatly expanded and disproportionate support amounts for incumbent wireline broadband services proposed in the ABC Plan would violate the “statutory command” of competitive neutrality, as well as the requirement of technological neutrality.⁹ Instead, mobility support in the \$1.2 - \$1.5 billion range would more appropriately reflect the value of mobile broadband to the public, and still reflects less than half of wireless consumers’ contributions to the fund.¹⁰ Moreover, awarding ILECs an automatic and long-term “right-of-first-refusal” to CAF support is unfair to consumers and wireless carriers and will disadvantage mobile broadband services.

- ***Intercarrier compensation reductions cannot “offset” needed universal service support.***

The Commission cannot treat wireless carriers’ intercarrier compensation savings as a substitute for universal service support where it is needed.¹¹ Consistent with the Commission’s own past findings, wireless carriers will “pass through . . . [industry-wide] cost reductions”¹² resulting from intercarrier rate reductions in the form of lower consumer rates and innovative services and pricing plans. Once these savings are competed away by the market, they will not be available to subsidize the deployment of services in high-cost areas that cannot otherwise sustain such services. To the extent that any savings are used for network investment, the market will require carriers to spend them in areas where carriers can earn a reasonable return on their investment. Rural and other high-cost areas need high-cost support precisely because investment there is otherwise uneconomic.

⁸ See, e.g., CenturyLink Comments, WC Docket Nos. 10-90 *et al.* (filed April 19, 2001) at 4.

⁹ *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 622 (5th Cir. 2000) (“*Alenco*”).

¹⁰ T-Mobile PN Comments at 22-23.

¹¹ T-Mobile Sept. 30 Letter at 2-3.

¹² *Price Cap Performance*, 12 FCC Rcd at 16702 ¶ 153.

- ***The Commission should adopt an IP interconnection regime.***¹³

T-Mobile urges the Commission to promulgate IP interconnection rules addressing the structure, terms, and conditions of IP traffic exchanges. Carriers should be prohibited from imposing inefficient transport costs and unnecessary interconnection requirements. The thousands of costly, inefficient interconnection points on the PSTN should be replaced by no more than 30 IP interconnection points, to be defined by the recently formed Technical Advisory Council (“TAC”), to establish exchange points for Voice over Internet Protocol (“VoIP”) traffic. The Commission also should transition the largest carriers to the new IP interconnection regime within a two- to three-year period, with all other carriers following over a longer time frame. The adoption of an IP interconnection regime is also the most effective way to address the transport and tandem switching loophole in the reform proposals now under consideration.¹⁴

The universal service and intercarrier compensation systems must be reformed without further delay. Failure to take this opportunity would undermine Americans’ access to mobile broadband services, and with it our competitiveness in the global economy. T-Mobile urges the Commission to do so consistent with the broadly accepted principles discussed in this letter.

Sincerely,

/s/Kathleen O’Brien Ham
Kathleen O’Brien Ham
Vice President, Federal Regulatory Affairs

cc (email): Chairman Julius Genachowski
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Mignon Clyburn
Zachary Katz
Christine Kurth
Angela Kronenberg
Margaret McCarthy
Sharon Gillet
Rick Kaplan
Carol Matthey
Rebekah Goodheart
Jane Jackson
Margaret Wiener
Amy Bender

¹³ T-Mobile NPRM comments at 17-22. *See also* T-Mobile PN comments at 9-11; T-Mobile NPRM Reply at 5-9.

¹⁴ T-Mobile Sept. 30 Letter at 4-5.