

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of )  
 )  
Inquiry Concerning the Deployment of Advanced ) GN Docket No. 12-228  
Telecommunications Capability to All Americans in )  
a Reasonable and Timely Fashion, and Possible Steps )  
to Accelerate Such Deployment Pursuant to Section )  
706 of the Telecommunications Act of 1996, as )  
Amended by the Broadband Data Improvement Act )  
 )

**COMMENTS OF  
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To: The Commission

**COMMENTS OF  
CTIA–THE WIRELESS ASSOCIATION®**

**I. INTRODUCTION AND SUMMARY**

CTIA–The Wireless Association® (“CTIA”)<sup>1</sup> provides these comments on the Commission’s Ninth Broadband Progress Notice of Inquiry (“*NOI*”).<sup>2</sup> As discussed in detail below, the Commission has repeatedly acknowledged the tremendous and substantial progress toward universal mobile broadband in this country. And yet, the Commission ultimately has concluded that such progress, though world-leading, is not “reasonable and timely” under Section 706. CTIA submits that the Commission’s assessments of broadband availability must

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<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

<sup>2</sup> *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 12-228, Ninth Broadband Progress Notice of Inquiry, FCC 12-91 (rel. Aug. 21, 2012) (“*NOI*”).

account for the rapid deployment, availability and adoption of mobile broadband services by U.S. consumer and businesses. With regard to wireless broadband, these metrics should assess progress as compared to the services currently offered in the competitive wireless marketplace. As Chairman Genachowski eloquently stated, “The U.S. leads the world in 3G subscribers by a wide margin. We are leading the world in deploying 4G mobile broadband.”<sup>3</sup> The only logical conclusion that flows from this statement, and from the numerous facts before the Commission, is that broadband is being deployed in a reasonable and timely manner.

Indeed, mobile broadband deployment is occurring on a reasonable and timely basis, but the Commission can do the following to further promote the goals of Section 706:

- The Commission can free up additional spectrum for wireless broadband,
- The Commission can increase Universal Service Fund (“USF”) Mobility Fund support for rural wireless broadband, and
- The Commission can take concrete steps to facilitate wireless broadband infrastructure deployment.

## **II. MOBILE BROADBAND IS BEING DEPLOYED IN A REASONABLE AND TIMELY FASHION**

In the *NOI*, the Commission seeks comment on whether broadband is being deployed in a “reasonable and timely fashion.”<sup>4</sup> Wireless service providers are rapidly deploying and upgrading mobile wireless broadband networks across America to meet staggering consumer

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<sup>3</sup> *Remarks of Chairman Genachowski on the Office of Engineering and Technology and the Wireless Telecommunications Bureau Presentation on White Spaces for Wireless Broadband*, July 19, 2012, available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0719/DOC-315292A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0719/DOC-315292A1.pdf) (last accessed Sept. 18, 2012).

<sup>4</sup> *NOI* ¶ 1.

demand, far ahead of any “reasonable and timely” benchmark. The Commission itself has praised the industry’s performance and efforts, describing industry’s “tremendous effort...to bring broadband to all Americans,” including providers investing “tens of billions of dollars annually in expanding their broadband networks, increasing speed and improving quality.”<sup>5</sup> In the *2012 Eighth Broadband Progress Report* (“*Eighth Report*”) the Commission concluded that the industry had “made great progress,”<sup>6</sup> and the Chairman characterized that report as “reflect[ing] the huge strides that both the private and public sector have made to extend broadband.”<sup>7</sup> And yet, the Commission, in that report, concluded that broadband deployment is not “reasonable and timely.”<sup>8</sup> This mismatch between clear, substantial, and acknowledged progress toward universal broadband and the Commission’s ultimate conclusion in the *Eighth Report* shows the need for clearer and more reasonable measures of progress.

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<sup>5</sup> *NOI* ¶ 2.

<sup>6</sup> *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 11-121, Eighth Broadband Progress Report, FCC 12-90, ¶ 2 (rel. Aug. 21, 2012) (“*Eighth Report*”).

<sup>7</sup> *NOI*, Chairman Genachowski’s Statement at 1. Chairman Genachowski also recently characterized the wireless industry as a whole as “setting records and breaking milestones at such a rapid pace,” noting that “around, the world, more people now have mobile phones than electricity or running water .... That makes mobile phones the most pervasive technology in history.” Prepared Remarks of FCC Chairman Julius Genachowski to International CTIA Wireless 2012, at 2, New Orleans, May 8, 2012, *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-313945A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-313945A1.pdf) (last accessed Sept. 18, 2012).

<sup>8</sup> *Eighth Report* ¶ 1.

**A. Mobile Broadband Infrastructure Has Been and Is Being Deployed at a Remarkably Rapid Pace**

High-speed mobile broadband has been deployed more rapidly than any modern technology. Despite its very recent emergence, high-speed mobile broadband is already available to the overwhelming majority of Americans, due to herculean efforts by industry over the past three years. As the Commission itself noted in the just-released *Eighth Report*,

“In the summer of 2010, there was no LTE deployment in the United States. Just 18 months later, in January 2012, three mobile wireless providers had launched LTE networks, and best available estimates are that these LTE networks (combined) covered 211 million people.”<sup>9</sup>

Indeed, “[b]est available estimates of mobile broadband coverage by 3G or better technologies (including CDMA EV-DO, EV-DO Rev. A, WCDMA/HSPA, HSPA+, mobile WiMAX, and LTE) indicate growth from 98.1% of the U.S. population in November 2009 to 99.4% in January 2012.... In addition, the percentage of the population covered by at least four mobile broadband providers increased from 58 percent to 79 percent during that

**“93.7 percent of the rural U.S. population was already covered by 1 or more providers of mobile broadband as of August 2010”**

period.”<sup>10</sup> The covered populations are not just in metropolitan areas, either. According to the *Fifteenth Mobile Wireless Competition Report*, 93.7 percent of the rural U.S. population was already covered by 1 or more providers of mobile broadband as of August 2010.<sup>11</sup>

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<sup>9</sup> *Eighth Report* ¶ 6.

<sup>10</sup> *NOI* at n.12.

<sup>11</sup> *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless*, Fifteenth Report, FCC 11-103 ¶ 381 (June 27, 2011) (“*Fifteenth Mobile Wireless Competition Report*”).

Since January 2012, providers large and small have continued to rapidly deploy 3G mobile broadband but are also upgrading their systems to offer advanced, high-speed LTE wireless broadband:

- As of August 16, Verizon's LTE network was available to more than 75 percent of the U.S. population in 371 markets across the U.S., and will cover 260 million people in more than 400 markets by the end of 2012.<sup>12</sup>
- AT&T covered 47 markets with LTE, home to more than 74 million people, as of July 9, 2012, by September 7 offered 4G LTE in 60 markets, and plans to reach 100 markets by the end of 2012. Full LTE roll-out is expected by 2013.<sup>13</sup>
- Sprint launched LTE in Kansas City, St. Joseph, and 13 other markets on July 15, 2012,<sup>14</sup> and expects "to reach more than 120 million people (or roughly half of its CDMA footprint) by the year-end and 250 million by next year," completing nationwide deployment by the end of 2013.<sup>15</sup>
- T-Mobile USA said that it will make "\$4 billion in network investments over the next two years, representing \$1.4 billion in incremental network investments," and "launch 'broad' LTE coverage in the top 50 markets" while "continu[ing] to rely on its HSPA+ services that... currently cover more than 200 million potential customers."<sup>16</sup>
- Leap Wireless (Cricket) "currently plans to deploy LTE across approximately two-thirds of its current network footprint over the next two to three years" and

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<sup>12</sup> Verizon LTE Information Center at <http://news.verizonwireless.com/LTE/Overview.html> (last accessed Sept. 18, 2012).

<sup>13</sup> Brian Horowitz, *AT&T Expands 4G LTE Coverage as iPhone 5 Looms*, Enterprise Networking News, (Sept. 7, 2012), available at <http://www.eweek.com/c/a/Enterprise-Networking/ATandT-Expands-4G-LTE-Coverage-as-iPhone-5-Looms-611807/> (last accessed Sept. 18, 2012).

<sup>14</sup> *Interactive Map shows Sprint's new LTE coverage in KC*, Kansas City Star, (Jul. 16, 2012), available at <http://www.kansascity.com/2012/07/16/3704285/interactive-map-shows-sprints.html> (last accessed Sept. 18, 2012).

<sup>15</sup> *Sprint to Expand LTE in 100 Cities – Analyst Blog*, Zachs Equity Research, (Sept. 12, 2012), available at <http://community.nasdaq.com/News/2012-09/sprint-to-expand-lte-in-100-cities-analyst-blog.aspx?storyid=172364> (last accessed Sept. 18, 2012).

<sup>16</sup> Dan Meyer, *T-Mobile USA unveils network initiatives, LTE planned for 2013; iPhone on the horizon?* RCR Wireless (Feb. 23, 2012), available at <http://www.rcrwireless.com/article/20120223/carriers/t-mobile-usa-unveils-network-initiatives-lte-planned-for-2013/> (last accessed Sept. 18, 2012).

“to cover up to approximately 25 million POPs with LTE network technology in 2012.”<sup>17</sup>

- U.S. Cellular has launched LTE, its initial roll-out serving markets in Iowa, Wisconsin, Maine, North Carolina, Texas, and Oklahoma.<sup>18</sup> It noted in April that “about 25 percent of U.S. Cellular’s customers are within reach of the LTE network now, and 54 percent will have LTE coverage by year's end.” On August 3, 2012, they announced that the “4G LTE network covers 30 percent of customers; expect to reach 58 percent of customers by year end.”<sup>19</sup>
- CellCom (operating in “Northeast and Central Wisconsin and select areas of Michigan’s Upper Peninsula”) launched its 4G LTE network in “seven areas of Northeast and Central Wisconsin” on April 30, 2012. The first phase of CellCom’s 4G roll-out included sites in Green Bay, Sturgeon Bay, Appleton, Oshkosh, Wausau, and parts of Oconto and Marinette Counties.<sup>20</sup>
- Approximately 20 companies are part of Verizon’s “rural LTE program,” and are building networks using spectrum covering more than 2.7 million people in rural portions of 14 states. Six are expected to have launched service by year-end 2012.<sup>21</sup> Participating companies include:
  - Appalachian Wireless (Kentucky)<sup>22</sup>

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<sup>17</sup> Press Release, Cricket Communications, Inc., Cricket and Clearwire Announce Long-Term Wholesale 4G LTE Agreement (Mar. 14, 2012), available at <http://corporate.clearwire.com/releasedetail.cfm?ReleaseID=657143> (last accessed Sept. 18, 2012).

<sup>18</sup> Stephen Lawson, *U.S. Cellular Throws Its 4G LTE Hat in the Ring*, PCWorld, (Mar. 22, 2012), available at [http://www.peworld.com/article/252376/us\\_cellular\\_throws\\_its\\_4g\\_lte\\_hat\\_in\\_the\\_ring.html](http://www.peworld.com/article/252376/us_cellular_throws_its_4g_lte_hat_in_the_ring.html) (last accessed Sept. 18, 2012).

<sup>19</sup> Press Release, U.S. Cellular, *U.S. Cellular Reports Second Quarter 2012 Results* (Aug. 3, 2012), available at [http://phx.corporate-ir.net/phoenix.zhtml?c=106793&p=irol-newsArticle\\_print&ID=1722234&highlight=](http://phx.corporate-ir.net/phoenix.zhtml?c=106793&p=irol-newsArticle_print&ID=1722234&highlight=) (last accessed Sept. 18, 2012).

<sup>20</sup> Press Release, CellCom, *CellCom launches its 4G LTE Network; Mobile broadband device debuts as first 4G product* (Apr. 30, 2012), available at <http://www.nsightnews.com/nsight-cellcom-news/nsight-cellcom-press-releases/233-cellcom-launches-its-4g-lte-network-> (last accessed Sept. 18, 2012).

<sup>21</sup> Phil Goldstein, *Verizon expects 6 rural LTE carrier partners to launch by year-end*, FierceWireless, (Sept. 18, 2012), available at <http://www.fiercewireless.com/story/verizon-expects-6-rural-lte-carrier-partners-launch-year-end/2012-09-18> (last accessed Sept. 18, 2012).

<sup>22</sup> Press Release, Appalachian Wireless, *Attention: 4G is Coming!* (Oct. 6, 2011), available at <http://www.appalachianwireless.com/?page=gennews1> (last accessed Sept. 18, 2012).

- Bluegrass Cellular (Central Kentucky)
- Carolina West Wireless (North Carolina)<sup>23</sup>
- Chariton Valley (Missouri)<sup>24</sup>
- Chat Mobility (Lyrix Wireless and Cellular 29 Plus in south central and southwest Iowa)<sup>25</sup>
- Convergence Technologies (Indiana)<sup>26</sup>
- Copper Valley Telecom (serving customers within a 15,000 square mile region of south-central Alaska)<sup>27</sup>
- Cross Telephone (serving eastern and southeastern Oklahoma)<sup>28</sup>
- Custer Telephone (Challis, Idaho)<sup>29</sup>
- Matanuska Telephone Association / MTA Wireless (Alaska) has signed an agreement to build and operate an LTE network in “Denali Borough and

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<sup>23</sup> Press Release, *Carolina West Wireless, Carolina West Wireless and Verizon Wireless Partner in Rural America Initiative* (Apr. 21, 2011), available at <http://www.carolinawest.com/press-room/carolina-west-wireless-and-verizon-wireless-partner-in-rural-america-initiative/> (last accessed Sept. 18, 2012).

<sup>24</sup> Bernie Arnason, *Verizon Adds Chariton Valley to Verizon Rural 4G Program*, Telecompetitor (Sept. 9, 2011), available at <http://www.telecompetitor.com/verizon-adds-chariton-valley-to-verizon-rural-4g-program/> (last accessed Sept. 18, 2012).

<sup>25</sup> Tammy Parker, *Two Verizon rural LTE partners new launch as program gains new operators*, FierceBroadbandWireless, (Mar. 25, 2012), available at <http://www.fiercebroadbandwireless.com/story/two-verizon-rural-lte-partners-near-launch-program-gains-new-operators/2012-03-25> (last accessed Sept. 18, 2012).

<sup>26</sup> Press Release, *Convergence Technologies Inc. (CTI) Announces LTE Partnership with Verizon Wireless*, (Apr. 29, 2011), available at <http://www.ntca.org/new-edge/wireless/verizon-signs-an-untraditional-rural-lte-partner> (last accessed Sept. 18, 2012).

<sup>27</sup> *Copper Valley jumps on Verizon rural LTE bandwagon; Alaska set for LTE by end-2013*, Telegeography, June 20, 2012, available at <http://www.telegeography.com/products/commsupdate/articles/2012/06/20/copper-valley-jumps-on-verizon-rural-lte-bandwagon-alaska-set-for-lte-by-end-2013/> (last accessed Sept. 18, 2012).

<sup>28</sup> Bernie Arnason, *Cross Telephone Latest to Partner with Verizon for Rural LTE*, Telecompetitor, (Dec. 22, 2010), available at <http://www.telecompetitor.com/cross-telephone-latest-to-partner-with-verizon-for-rural-lte/> (last accessed Sept. 18, 2012).

<sup>29</sup> Bernia Arnason, *Verizon Adds Another Partner to Rural 4G LTE Program*, Telecompetitor, (Apr. 20, 2011), available at <http://www.telecompetitor.com/verizon-adds-another-partner-to-rural-4g-lte-program/> (last accessed Sept. 18, 2012).

much of Matanuska-Susitna Borough,” an area covering 34,000 square miles”<sup>30</sup>

- Nemont / Sagebrush Cellular (Montana) will build an LTE network in “Valley, Daniels, Sheridan and Roosevelt counties in Montana, and a portion of Divide county in North Dakota”<sup>31</sup>
- Northwest Missouri Cellular<sup>32</sup>
- Pioneer Cellular launched LTE on April 30, 2012.<sup>33</sup> Their network “covers more than 260,000 people in 21 counties” across nearly 17,000 miles of western and southern Oklahoma<sup>34</sup>
- S&R Communications (of Indiana)<sup>35</sup>
- STRATA Networks of Roosevelt, UT, serving Uintah Basin<sup>36</sup>
- Thumb Cellular (operating in the Northeast corner of Michigan)<sup>37</sup>

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<sup>30</sup> *MTA Partners With Verizon Wireless To Bring LTE To Alaska*, Anchorage Daily News, (Mar. 30, 2012), available at <http://community.adn.com/adn/node/160463> (last accessed Sept. 18, 2012).

<sup>31</sup> Press Release, Nemont, *Nemont Partners With Verizon Wireless To Bring LTE to Northeast Montana*, (Mar. 19, 2012), available at <http://www.nemont.net/announcements.php> (last accessed Sept. 18, 2012).

<sup>32</sup> Bernie Arnason, *Nemont Partners With Verizon for Rural LTE Program*, *Telecompetitor*, (Mar. 23, 2012), available at <http://www.telecompetitor.com/nemont-partners-with-verizon-for-rural-lte-program/> (last accessed Sept. 18, 2012) (reference to Northwest Missouri Cellular within article about Nemont).

<sup>33</sup> Joan Engebretson, *Verizon Wireless Exec Details LTE in Rural America Progress*, *Telecompetitor*, (May 15, 2012), available at <http://www.telecompetitor.com/verizon-wireless-exec-details-lte-in-rural-america-progress/> (last accessed Sept. 18, 2012).

<sup>34</sup> *Id.*

<sup>35</sup> Joan Engebretson, *S and R Communications is Seventh Verizon Rural LTE Partner*, *Telecompetitor* (Apr. 13, 2011), available at <http://www.telecompetitor.com/s-and-r-communications-is-seventh-verizon-rural-lte-partner/> (last accessed Sept. 18, 2012).

<sup>36</sup> Bernie Arnason, *STRATA is Latest Rural Carrier to Join Verizon Rural 4G Program*, *Telecompetitor*, (Feb. 10, 2011), available at <http://www.telecompetitor.com/strata-is-latest-rural-carrier-to-join-verizon-rural-4g-program/> (last accessed Sept. 18, 2012).

<sup>37</sup> Bernie Arnason, *Thumb Cellular Latest Rural Carrier to Partner with Verizon for 4G LTE*, *Telecompetitor* (Jan. 10, 2011), available at <http://www.telecompetitor.com/thumb-cellular-latest-rural-carrier-to-partner-with-verizon-for-4g-lte/> (last accessed Sept. 18, 2012).

Other regional providers that have deployed or are deploying 4G technologies include:

- Clearwire, which currently provides WiMAX-based wireless broadband service, has announced its plans to make “an initial implementation of our LTE network that aims to target densely populated, urban areas of our existing 4G markets where current usage demands are high. New York City, San Francisco, Los Angeles, Chicago and Seattle will be among the 31 cities where we will launch our TDD-LTE network during the first half of 2013.”<sup>38</sup>
- Commnet Wireless, LLC (a subsidiary of Atlantic Tele-Network) has partnered with the Navajo Tribal Utility Authority to create NTUA Wireless LLC, which will provide both the first 4G and 3G services to the residents of the Navajo Nation in parts of Arizona, New Mexico and Utah.<sup>39</sup>
- New Mexico’s Fuego Wireless (part of Penasco Valley Telecommunications) is building its own LTE network with Alcatel-Lucent. Fuego Wireless plans to use the 700 MHz spectrum that it owns, covering 75,000 square miles and 1 million POPs in New Mexico and parts of Texas.<sup>40</sup>
- MetroPCS announced on April 26, 2012 that “it expects to cover 95% of its current CDMA network footprint with LTE by end of the third quarter.”<sup>41</sup>

These are just some of the efforts by a wide range of wireless service providers to deploy wireless broadband to urban, suburban, and rural customers as rapidly as possible.

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<sup>38</sup> Clearwire, *Announcing the Future of LTE*, available at <http://www.clearwire.com/company/featured-story> (last accessed Sept. 18, 2012).

<sup>39</sup> Press Release, Atlantic Tele-Network, Inc., *Navajo Tribal Utility Authority and Atlantic Tele-Network Announce Partnership to Deliver Rural 4G Service* (Apr. 4, 2011), available at <http://www.atni.com/news.html> (last accessed Sept. 18, 2012); see also Press Release, Atlantic Tele-Network, Inc., *Stimulus Grant Will Allow Commnet Wireless to Advance Rural Broadband Wireless* (Apr. 5, 2010), available at <http://ir.atni.com/releasedetail.cfm?ReleaseID=456820> (last accessed Sept. 18, 2012).

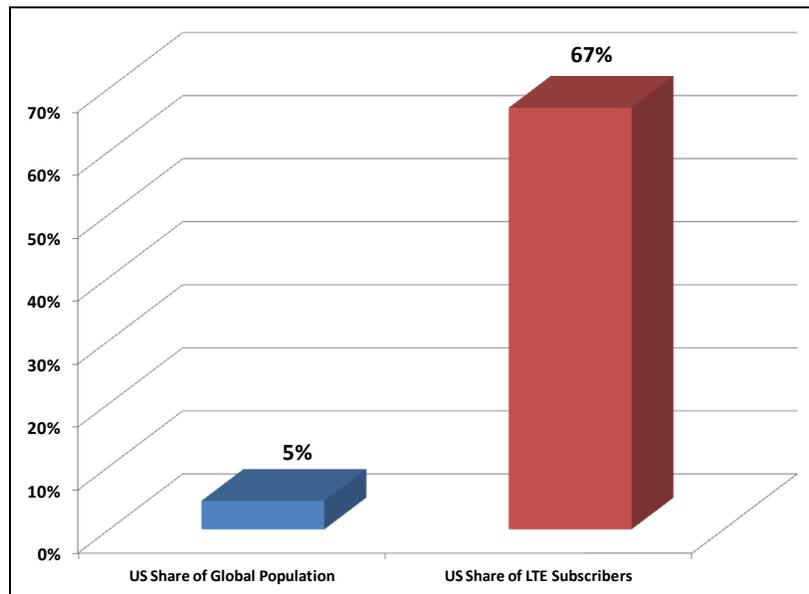
<sup>40</sup> Bernie Arnason, *Fuego Wireless is Latest Rural 4G LTE Entrant*, Telecompetitor, (Mar. 29, 2012), available at <http://www.telecompetitor.com/fuego-wireless-is-latest-rural-4g-lte-entrant/> (last accessed Sept. 18, 2012).

<sup>41</sup> *MetroPCS to Cover 95% of Footprint with LTE by 3<sup>rd</sup> Quarter*, PhoneScoop (Apr. 26, 2012), available at <http://www.phonescoop.com/articles/article.php?a=10302> (last accessed Sept. 18, 2012).

## B. The U.S. Leads the World in Mobile Wireless Broadband Deployment and Adoption

Efforts like those described above have vaulted the U.S. to the top of the international rankings when it comes to high-speed mobile wireless broadband. As the recent *Third International Broadband Data Report* concluded, the U.S. is “the global leader in LTE adoption” and “a global leader in and around mobile broadband.”<sup>42</sup> The U.S. has more than two-thirds of the world’s LTE subscribers, despite having only 5% of the world’s total mobile subscribers.<sup>43</sup>

**“The U.S. has more than two-thirds of the world’s LTE subscribers, despite having only 5% of the world’s total mobile subscribers”**



Source: CTIA Research, Informa Telecoms & Media Group WCIS+ database

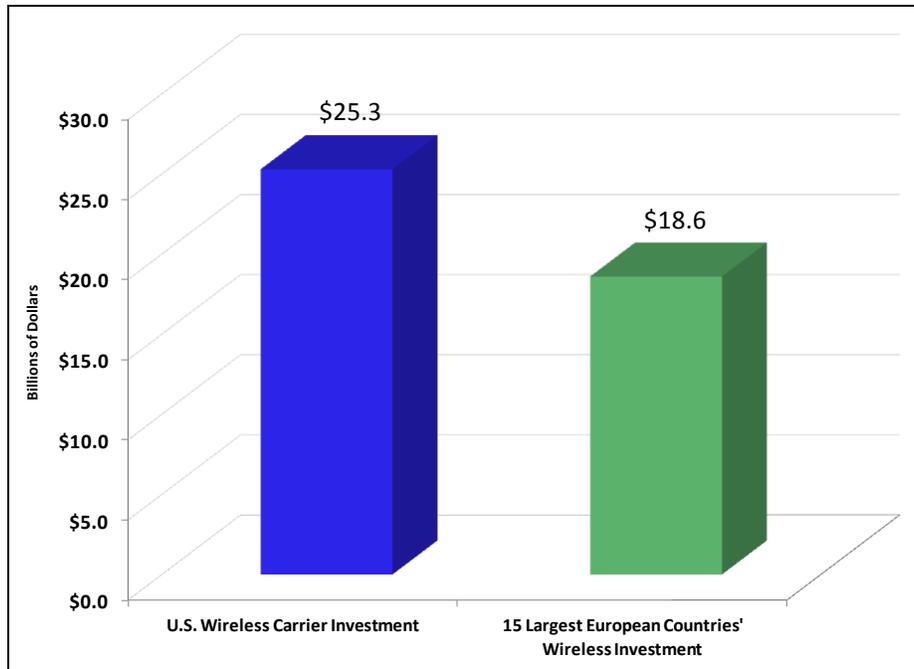
<sup>42</sup> International Comparison Requirements Pursuant to the Broadband Data Improvement Act; International Broadband Data Report, Third Report, DA 12-1334, ¶¶ 3-4 (Aug. 13, 2012) (“*Third International Broadband Data Report*”).

<sup>43</sup> Informa Telecoms & Media Group, WCIS database (last accessed May 1, 2012). See also, Chairman Julius Genachowski, “The Need For Speed,” TechCrunch.com, Sept. 16, 2012, <http://techcrunch.com/2012/09/16/the-need-for-speed/> (last accessed Sept. 18, 2012) (“We have 69% of the world’s LTE subscribers, making the United States the global test bed for LTE apps and services.”).

As Chairman Genachowski noted in a recent speech,

“The U.S. leads the world in 3G subscribers by a wide margin. We are leading the world in deploying 4G mobile broadband at scale, with 69% of the world’s LTE subscribers, making America the testbed for the development of 4G apps and services.”<sup>44</sup>

The U.S. leads the world in mobile broadband – despite its dispersed population and large land mass – due in large part to the enormous private investments in wireless broadband infrastructure. U.S. wireless carriers invested over \$25 billion in 2011 alone, compared to \$18.6 billion in the fifteen largest European economies combined.<sup>45</sup>



Source: Forbes, Bank of America Merrill Lynch

<sup>44</sup> Remarks of Chairman Genachowski on the Office of Engineering and Technology and the Wireless Telecommunications Bureau Presentation on White Spaces for Wireless Broadband, July 19, 2012, available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0719/DOC-315292A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0719/DOC-315292A1.pdf) (last accessed Sept. 18, 2012).

<sup>45</sup> Larry Downes, “How the FCC Sees Broadband’s 95% Success and 100% Failure,” Aug. 23, 2012, Forbes, available at <http://www.forbes.com/sites/larrydownes/2012/08/23/how-the-fcc-sees-broadbands-95-success-as-100-failure/> (last accessed Sept. 18, 2012).

FCC actions, including freeing spectrum for broadband and streamlining local regulatory approval processes for tower siting have also helped put the U.S. on top. These massive private investments have brought high-speed mobile wireless broadband to millions in the U.S., and have resulted in significant progress toward the goal of universal broadband access.

**C. The Commission’s Current Approach to Assessing Progress is Fundamentally Flawed, and Should Be Reformed**

Despite the unprecedentedly rapid deployment of wireless broadband and the U.S. global leadership in high-speed mobile broadband, the *Eighth Report* concluded that “broadband is not yet being deployed ‘to all Americans’ in a reasonable and timely fashion.”<sup>46</sup> This disconnect between the gathered facts and the ultimate conclusion is a result of a flawed methodology in executing Section 706’s mandate. The statute charges the Commission with determining if “reasonable and timely” progress is being made toward the ultimate goal of bringing broadband to “all Americans.”<sup>47</sup> Yet rather than evaluating *progress* toward the goal of universal access to broadband, the Commission has evaluated *attainment* of the goal. Instead of evaluating the achievement of a single, final milestone, the Commission should establish practical standards and then measure progress toward achieving that ultimate goal, as Section 706 directs.

While the *Eighth Report* focuses on measuring attainment rather than progress, the *NOI* does indicate one measure of progress that the Commission considers: international comparisons. Specifically, the *NOI* states:

“[T]he Commission also has concluded that broadband deployment is more likely to be reasonable and timely if communities in the United States compare favorably to foreign communities on broadband service capability metrics and is less likely to be

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<sup>46</sup> *Eighth Report* ¶ 1.

<sup>47</sup> 47 U.S.C. § 1302.

reasonable and timely if U.S. communities compare unfavorably.”<sup>48</sup>

As discussed above, and as the Commission has acknowledged, the U.S. compares very favorably to foreign communities with regard to wireless broadband deployment and adoption – indeed, the U.S. leads the world in deployment and adoption of LTE.<sup>49</sup> Using the Commission’s own measure of international comparisons, wireless broadband certainly is being

**“As the Commission has acknowledged, the U.S. compares very favorably to foreign communities with regard to wireless broadband deployment and adoption – indeed, the U.S. leads the world in deployment and adoption of LTE”**

deployed in the U.S. in a “reasonable and timely” fashion. However, the Commission should not rely solely on international comparisons, however, to judge the deployment of broadband under Section 706. Such comparisons provide only one measure of reasonable progress.

### **III. MOBILE BROADBAND IS AN IMPORTANT PART OF THE SECTION 706 ANALYSIS**

#### **A. The Commission Should Account For Mobile Broadband Availability in this Proceeding**

As the Commission observed in the *Eighth Report*, the “growing impact and demand for mobile services is significant.”<sup>50</sup> This passing comment belies the enormous importance that consumers have come to place on mobile broadband in a short time. Mobile broadband connections are growing faster than any class of connections – at speeds both above 768 kbps and 3 Mbps. In 12 months between mid-year 2010 and mid-year 2011:

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<sup>48</sup> *NOI* ¶ 44.

<sup>49</sup> *Infra.* § II(B).

<sup>50</sup> *Eighth Report* ¶ 85.

- mobile wireless subscribers using connections offering download speeds of at least 3 Mbps grew from 9% to 26% of users of all technologies offering those speeds;<sup>51</sup>
- mobile wireless accounted for more than 64.5% of all new connections offering download speeds of at least 3 Mbps, regardless of technology;<sup>52</sup>
- mobile wireless subscribers using connections offering download speeds of at least 768 kbps grew from 38% to 49% of users of all technologies offering those speeds;<sup>53</sup> and
- mobile wireless accounted for more than 85% of all new connections offering download speeds of at least 768 kbps regardless of technology.<sup>54</sup>

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<sup>51</sup> Compare Industry Analysis and Technology Division, Wireline Competition Bureau, INTERNET ACCESS SERVICES: STATUS AS OF JUNE 30, 2010, at p.25 Chart 8 (rel. Mar. 2011) available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-305296A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-305296A1.pdf) (“INTERNET ACCESS STATUS - JUNE 2010”), with Industry Analysis and Technology Division, Wireline Competition Bureau, INTERNET ACCESS SERVICES: STATUS AS OF JUNE 30, 2011, at p.26 Chart 8 (rel. June 2012) available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-314630A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-314630A1.pdf) (“INTERNET ACCESS STATUS - JUNE 2011”).

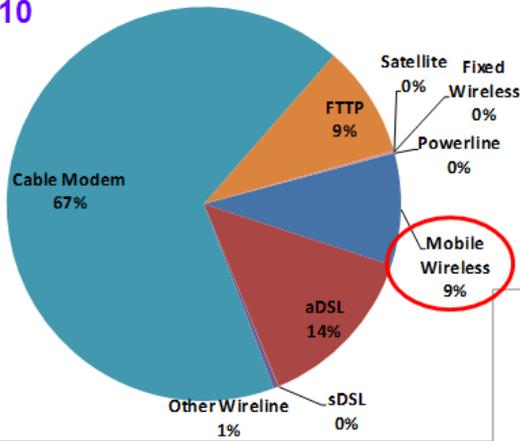
<sup>52</sup> See INTERNET ACCESS STATUS - JUNE 2011 at Table 9 (share based on change in total connections offering this download speed attributable to mobile wireless between June 2010 and June 2011).

<sup>53</sup> Based on comparison of mobile wireless subscribers and total subscribers using connections at specified speeds detailed in INTERNET ACCESS STATUS - JUNE 2011 at p.31, Table 12, and INTERNET ACCESS STATUS - JUNE 2010 at p.30, Table 12.

<sup>54</sup> Share based on change in mobile wireless subscribers and total subscribers using connections at specified speeds detailed in INTERNET ACCESS STATUS - JUNE 2011 at p.31, Table 12, and INTERNET ACCESS STATUS - JUNE 2010 at p.30, Table 12.

## More People are Choosing Wireless for Faster Service

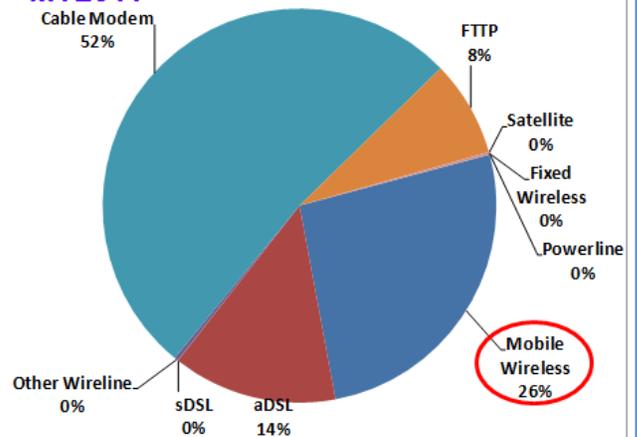
MY2010



- Between MY2010 and MY2011, wireless subscribers using connections offering download speeds of at least 3 Mbps grew to from 9% to 26% of users of all technologies offering those speeds.

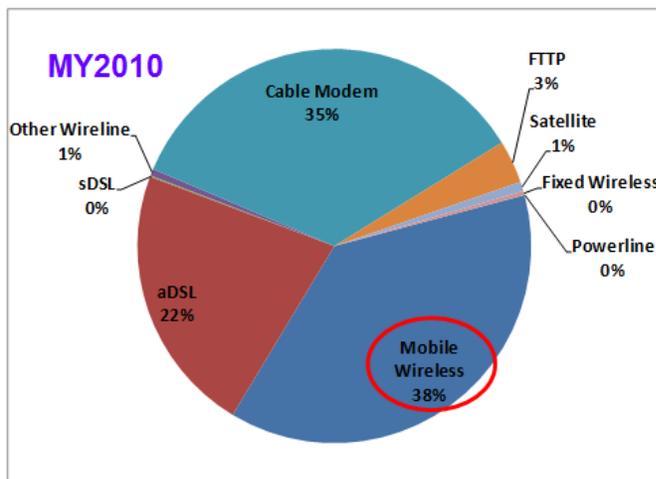
- Between MY2010 and MY2011, wireless accounted for more than 64.5% of all new connections offering download speeds of at least 3 Mbps, regardless of technology.

MY2011



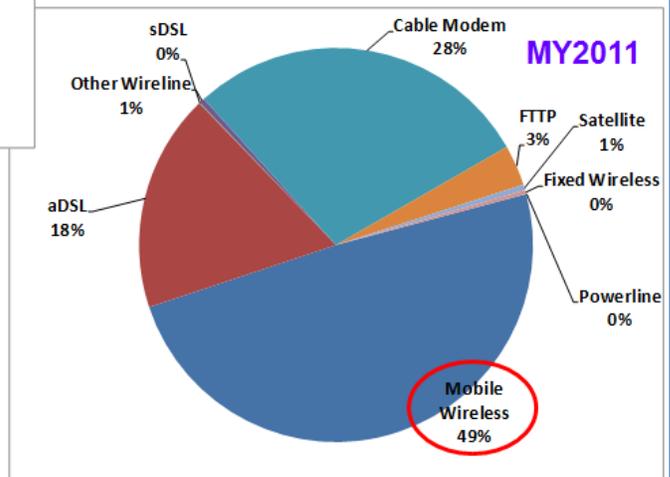
Source: FCC High-Speed Internet Access Reports

## More People are Choosing Wireless for Faster Service



- Between MY2010 and MY2011, wireless subscribers using connections offering download speeds of at least 768 kbps grew from 38% to 49% of users of all technologies offering those speeds.

- Between MY2010 and MY2011, wireless accounted for more than 85% of all new connections offering download speeds of at least 768 kbps regardless of technology.



Source: FCC High-Speed Internet Access Reports

In addition, research shows that mobile broadband is particularly important for minority and low-income consumers, who are more likely to rely on mobile broadband as their only broadband connection.<sup>55</sup>

<sup>55</sup> See, e.g., Aaron Smith, "Mobile Access 2010," Pew Internet and American Life Project (July 7, 2010), available at <http://www.pewinternet.org/Reports/2010/Mobile-Access-2010.aspx?r=1> (last accessed Sept. 18, 2012); Nicol E. Turner and Joseph S. Miller, "The Social Cost of Wireless Taxation: Wireless Taxation and its Consequences for Minorities and the Poor," Joint Center for Political and Economic Studies (November 2011), available at <http://www.jointcenter.org/sites/default/files/upload/research/files/The%20Social%20Cost%20of%20Wireless%20Taxation.pdf> (last accessed Sept. 18, 2012).

Given the enormous importance that consumers have come to place on mobile broadband, the Commission is correct that it should account for the rapid deployment of mobile broadband in the context of its annual report under Section 706.<sup>56</sup>

This approach is also consistent with the Commission’s decision in the *USF/ICC Transformation Order* that mobility is a distinct universal service goal.<sup>57</sup> Specifically, the Commission adopted a performance goal for the universal service program of ensuring “the universal availability of modern networks capable of delivering mobile broadband and voice service in areas where Americans live, work, or travel,”<sup>58</sup> and concluded that “ubiquitous mobile coverage must be a national priority.”<sup>59</sup> To this end, and consistent with CTIA’s advocacy, the Commission adopted a specific Mobility Fund to ensure that mobile broadband is available in areas where it would not otherwise be deployed.<sup>60</sup> An explicit analysis of consumers’ access to mobile broadband services will help the Commission better calibrate the need for universal service funding to support mobile broadband going forward.

No new data collections are necessary to perform this analysis. Wireless carriers already report on their voice and broadband deployment on FCC Form 477. In addition, the Commission has access to a number of other reliable data sources regarding mobile deployment. For

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<sup>56</sup> *NOI* ¶¶ 5, 22-30, 33-35.

<sup>57</sup> *See NOI* ¶ 5.

<sup>58</sup> *USF/ICC Transformation Order*, 26 FCC Rcd 17663, 17682 ¶ 53.

<sup>59</sup> *Id.* at 17771 ¶ 295.

<sup>60</sup> *Id.* at 17773 ¶ 299.

example, Mosaik Solutions collects carriers' own data regarding the scope of their networks,<sup>61</sup> and the State Broadband Initiative ("SBI") data is based on detailed surveys of broadband deployment conducted in each state.<sup>62</sup> Also, the wireless industry and the Commission currently are cooperating on an initiative to use third-party software to sample and assess broadband performance.<sup>63</sup> And consumers –as well as the Commission–can access articles and web postings describing up-to-the-minute wireless broadband speeds and performance. For example, just yesterday, the Wall Street Journal's Walt Mossberg reported:

“[u]sing an iPhone 5 on the Verizon LTE network in Silicon Valley and Washington, D.C., I averaged almost 26 megabits per second for downloads and almost 13 megabits per second for uploads. Download speeds peaked at 42 megabits per second. These speeds... are faster than most Americans' home Internet services.”

[http://online.wsj.com/article/SB10000872396390444450004578004370248427736.html?mod=WSJ\\_hp\\_mostpop\\_read](http://online.wsj.com/article/SB10000872396390444450004578004370248427736.html?mod=WSJ_hp_mostpop_read) (last visited Sept. 19, 2012).<sup>64</sup>

Given the extensive broadband service reporting to which wireless carriers already are subjected, additional reporting is not necessary in order to include mobile broadband in the annual Section 706 Report. Indeed, additional reporting obligations simply would serve to divert carrier resources away from the deployment of broadband networks. Smaller wireless carriers, in particular, would be burdened by more extensive reporting obligations.

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<sup>61</sup> See *NOI* ¶ 33. See also *Eighth Report* ¶ 40. The Commission's concerns about these data – particularly the Mosaik data – can be addressed through more granular analysis of the information.

<sup>62</sup> See *Eighth Report* ¶ 17.

<sup>63</sup> “FCC to Launch Mobile Broadband Services Testing and Measurement Program,” CG Docket No. 09-158, Public Notice, DA 12-1442 (rel. Sept. 4, 2012).

<sup>64</sup> Consumer Reports also tests and reports on wireless broadband performance. See <http://www.consumerreports.org/cro/cell-phones-services/buying-guide.htm?pn=6> (last visited Sept. 19, 2012).

## **B. Mobile Broadband Metrics Should Be Based on Services Available in the Market**

Consistent with the approach suggested in the FNPRM, the Commission should consider the range of mobile offerings available in the marketplace to determine criteria for analyzing access to “advanced communications capability.”<sup>65</sup> This approach is consistent with the way the Commission measures fixed broadband services in this proceeding.<sup>66</sup> In particular, consistent with CTIA’s prior advocacy in this regard and as discussed below, the Commission should avoid establishing arbitrary thresholds that would exclude some offerings in the market from consideration as “broadband.” Consumers’ subscribing to an offering demonstrates that it has value to them. And setting inclusive definitional thresholds in no way limits the Commission’s ability to seek comment on aspirational goals for broadband performance. Instead, any thresholds for mobile broadband analysis should be grounded firmly in the mobile broadband offerings that consumers are using in the marketplace. Such an approach is particularly warranted in the competitive mobile wireless sector, where providers are aggressively vying to tout the fastest speeds and most extensive network coverage.

### **1. Any Analysis of Mobile Broadband Speeds Should Reflect Services Consumers Are Using in the Marketplace**

Consistent with the discussion above, the Commission should analyze mobile broadband speeds in light of existing marketplace offerings. This is consistent with the approach that the Commission took in the *USF/ICC Transformation Order*. In the Mobility Fund, the Commission will require applicants to provide either 3G or 4G data services in order to be eligible for support, at the election of the provider. In this proceeding, the Commission similarly should assess the

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<sup>65</sup> See *NOI* ¶¶ 24-30.

<sup>66</sup> See, e.g., *Eighth Report* ¶ 6 (discussing evolution of the fixed broadband speed threshold in light of market changes).

range of mobile broadband offerings in the marketplace rather than setting an arbitrary threshold to “define” mobile broadband. The Commission’s report should study the mobile broadband technologies available in the marketplace and note the speeds that each is able to provide.

## **2. The FCC Need Not Adopt Latency Standards for Mobile Broadband.**

Last year, a survey by The American Consumer Institute found that “consumers who download data and content are generally satisfied with the speed and consistency of their service.”<sup>67</sup> In any event, any nominal latency experienced on wireless broadband networks always will be substantially less than the “latency” consumers would experience if they had to wait until they reached their homes or offices in order to access the Internet. There would be no utility in establishing an arbitrary latency threshold to define mobile broadband. However, if the Commission is still concerned with latency, CTIA notes that the FCC will soon obtain substantial new data on mobile broadband through the mobile broadband testing and measurement initiative. Pending receipt and analysis of this and other data regarding mobile broadband services, it would be premature reflexively to apply the 100 millisecond standard currently used for fixed broadband in the mobile context.

## **3. The Commission Should Report on Mobile Broadband Usage Plans in the Marketplace**

Given market pressure in the highly competitive wireless marketplace, wireless carriers’ data plans provide consumers with a range of capacity options to meet the diverse needs of U.S. consumers. There is no evidence, “given the ways in which most consumers use their mobile

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<sup>67</sup> ConsumerGram: The American Consumer Institute, “New Customer Satisfaction Survey: What Customers Are Saying about their Wireless Devices and Service?” (Mar. 10, 2011) available at <http://www.theamericanconsumer.org/wp-content/uploads/2011/03/wireless-satisfaction21.pdf> (last accessed Sept. 19, 2012).

devices,” that “many consumers exceed those capacity limits.”<sup>68</sup> To the extent that the FCC wishes to consider mobile usage, it should report on mobile broadband usage plans offered in the marketplace. There is no utility in establishing a “benchmark” for reporting purposes.

#### **IV. THE COMMISSION SHOULD FREE ADDITIONAL SPECTRUM FOR BROADBAND, INCREASE MOBILITY FUND SUPPORT, AND FACILITATE DEPLOYMENT OF WIRELESS INFRASTRUCTURE TO PROMOTE CONTINUED DEPLOYMENT OF MOBILE BROADBAND**

As noted above, CTIA believes that mobile broadband deployment is occurring on a reasonable and timely basis. However, the Commission can further promote wireless broadband deployment and thereby fulfill its obligations under Section 706 by freeing up spectrum for wireless broadband, increasing Mobility Fund support for rural wireless broadband, and fully supporting its own internal tower siting approval processes and the improvement of local tower siting approval processes.

##### **A. The Commission Must Continue Efforts to Make More Spectrum Available for Wireless Broadband**

Chairman Genachowski recently observed that “no one can factually dispute that there is a spectrum crunch.”<sup>69</sup> CTIA agrees beyond question that there exists an urgent need for additional spectrum for mobile broadband services. Indeed, as the Chairman noted, the Commission started to “blow the whistle on the spectrum crunch”<sup>70</sup> years ago and has emphasized that unleashing more spectrum must be a “national priority.”<sup>71</sup> CTIA applauds the

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<sup>68</sup> *NOI* ¶ 29.

<sup>69</sup> Julius Genachowski, Chairman, FCC, Panelist at the Stanford Institute for Economic Policy Research, September 12, 2012, *available at* [http://www.youtube.com/watch?v=P4KRktxj9sA&feature=player\\_embedded#t=1621s](http://www.youtube.com/watch?v=P4KRktxj9sA&feature=player_embedded#t=1621s).

<sup>70</sup> *Id.*

<sup>71</sup> Julius Genachowski, Chairman, FCC, Prepared Remarks at CTIA Wireless 2011, 1 (Mar. 22, 2011).

Commission, the National Telecommunications and Information Administration (“NTIA”), the Obama Administration, and Congress (on a bipartisan basis) for establishing the identification and allocation of wireless broadband spectrum as a key policy objective, and CTIA encourages the Commission to work with stakeholders to rapidly free up the spectrum necessary to achieve its goal.

The Commission should move aggressively on proceedings to establish the rules and procedures for the incentive auction, both the reverse and the forward auction. For the reverse auction, the rules should be designed in a manner that is easy for broadcasters to understand so as to facilitate participation. In addition, it should continue working with NTIA to reallocate federal spectrum for commercial mobile broadband use. In particular, it should prioritize the reallocation of the 1755-1780 MHz band for mobile broadband use and the pairing of that band with the 2155-2180 MHz band.<sup>72</sup> Finally, the Commission should continue to explore other possibilities for additional spectrum for wireless broadband.

#### **B. Additional Mobility Fund Support Will Broaden Deployment**

CTIA has expressed concern in the past about the proposed size of the Mobility Fund, particularly compared to the size of the funds used to support fixed services, given that consumers have shown the value they place on mobile service. Additional funding would help expand mobile broadband deployment into areas where the high cost of service makes deployment uneconomic. As CTIA has argued previously, full universal coverage of mobile broadband is conservatively estimated to cost approximately \$7.8 to \$21 billion additional

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<sup>72</sup> See, e.g., Reply Comments of CTIA–The Wireless Association®, ET Docket No. 10-142, WT Docket Nos. 04-356, 07-195, 5-7 (filed July 22, 2011); Comments of CTIA–The Wireless Association®, ET Docket No. 10-142, WT Docket Nos. 04-356, 07-195, 8-10 (filed July 8, 2011).

dollars in initial investment alone, not including spectrum costs or ongoing operation.<sup>73</sup> Yet the Mobility Phase I USF program is capped at \$300 million, and the budget for the permanent Mobility Fund (Phase II) has been set at \$500 million, and the Commission has implemented a phase out of existing support.<sup>74</sup> The Commission should expand the budget for Mobility Fund to further promote deployment of wireless broadband networks in otherwise uneconomic areas. Every additional dollar the Commission directs toward the Mobility Fund will directly support wireless broadband deployment to unserved Americans.

### **C. Facilitate Deployment of Wireless Infrastructure**

Wireless carriers continue to face a multitude of regulatory and procedural obstacles to rapid infrastructure deployment. The Commission can directly affect the roll-out of wireless infrastructure by addressing key internal staffing and resources issues and by providing guidance and incentives to local jurisdictions.

Specifically, the Commission should dedicate sufficient staffing and support resources to the teams responsible for implementing the revised Antenna Structure Registration procedures which recently became effective.<sup>75</sup> Adequate support and staffing will minimize any additional delay to wireless infrastructure build-out caused by these new and complex procedures.

Similarly, the Commission should allocate sufficient resources to its National Environmental Policy Act (“NEPA”) Team to reduce the timeline for resolution of Section 106 and NEPA

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<sup>73</sup> CTIA Sept. 22, 2011 *Ex Parte* at 1. *See also*, CTIA Comments, WT Docket No. 10-208, at 11 (filed Dec. 16, 2010).

<sup>74</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17673 ¶ 22.

<sup>75</sup> *National Environmental Policy Act Compliance for Proposed Tower Registrations Effects of Communications Towers On Migratory Birds*, WT Docket Nos. 08-61 and 03-187, Order on Remand, FCC 11-181 (rel. Dec. 9, 2011) (“*Migratory Bird Order on Remand*”); *see* 77 Fed. Reg. 36177 (June 18, 2012) (announcing June 18, 2012 effective date of new information collections from the *Migratory Bird Order on Remand*).

issues. Fully supporting these internal Commission functions will help minimize delays as carriers seek the necessary regulatory approvals to deploy wireless broadband infrastructure.

The Commission should act as an information resource to such local jurisdictions and provide technical and legal guidance concerning these regulations and processes. By advising local agencies on their roles and responsibilities, and on best practices

**“The Commission should also explore ways to educate and incentivize local jurisdictions to streamline their processes and to fully comply with federal telecommunications regulations and processes”**

in tower siting, the FCC will help ensure that the timing of local approvals is regular, predictable, and minimized.

For example, the FCC should encourage local governments to provide as much information as possible to applicants through their websites. Putting such information online improves local processes and is a critical step toward addressing the alleged problem of incomplete applications. The FCC also should encourage local governments, where possible, to develop online application submission procedures, and share its expertise in this area with localities.<sup>76</sup>

Furthermore, the Commission should consider sponsoring a “Municipal Race to the Top” program as recommended by the Technological Advisory Council Chairman’s Report.<sup>77</sup> Such a program would reward municipalities that adopt best practices for approving wireless infrastructure deployment projects, and would provide a platform for advertising and publicizing

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<sup>76</sup> See generally, Reply Comments of CTIA – The Wireless Association®, WT Docket No. 11-59, at ii and throughout (filed Sept. 30, 2011).

<sup>77</sup> Memorandum from Tom Wheeler, Technical Advisory Council Chairman, to Julius Genachowski, Chairman, FCC, at 1 (rel. April 22, 2011), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-306065A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-306065A1.pdf) (last accessed Sept. 18, 2012).

such best practices. Such a program would motivate rapid approvals while continuing to respect the role of local authorities.

## CONCLUSION

For the above reasons, the Commission should evaluate mobile broadband deployment as an integral part of its Section 706 analysis. This analysis should evaluate the “reasonable and timely” deployment and adoption of broadband by measuring existing deployment and adoption. Wireless broadband metrics should be based on services now on the market. Based on the best data available, the Commission should conclude that the U.S. is currently leading the world in the deployment and adoption of high-speed mobile broadband, and that such deployment is “reasonable and timely.” However, the Commission can and should act to preserve and promote the current success by freeing up spectrum for wireless broadband, increasing Mobility Fund support for rural wireless broadband, and facilitating the deployment of wireless infrastructure by fully supporting its own internal tower siting approval processes and by supporting the improvement of local tower siting approval processes.

Respectfully submitted,

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