

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Connect America Fund) WC Docket No. 10-90
Universal Service Reform – Mobility Fund) WT Docket No. 10-208
)
)

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

Michael F. Altschul
Senior Vice President and General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

Scott K. Bergmann
Assistant Vice President, Regulatory Affairs

CTIA – The Wireless Association®
1400 16th Street, NW, Suite 600
Washington, DC 20036

(202) 785-0081

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I. INTRODUCTION AND SUMMARY

CTIA–The Wireless Association[®] (“CTIA”) files these comments in response to the Wireless Telecommunications Bureau’s and Wireline Competition Bureau’s Public Notice (“Notice”) in the above-captioned proceedings.¹ CTIA applauds the Bureaus for heeding calls – including CTIA’s own² – to evaluate the results of the Mobility Fund Phase I reverse auction before finalizing decisions on the structure and execution of Phase II. At the same time, the broad range of critical decisions in this proceeding are often interdependent. Formulating definitive positions on some issues may be better delayed until other, more fundamental issues are decided. Thus, this Notice and the responsive comments should be seen as part of an ongoing conversation on the implementation of Mobility Fund Phase II.

As discussed in more detail below, the Commission should use commercial data to identify wireless coverage, but also should permit carriers to correct that data through a clear process. If the Commission decides to use a reverse auction mechanism, it should adopt its

¹ *Further Inquiry Into Issues Related to Mobility Fund Phase II*, WC Docket No. 10-90; WT Docket No. 10-208, Public Notice, DA 12-1853 (Nov. 27, 2012) (“Notice”).

² Comments of CTIA–The Wireless Association[®], WC Docket No. 10-90, *et al.*, at 4-6 (filed Jan. 18, 2012) (“CTIA FNPRM Comments”).

proposal to use road miles as a component of bidding units, as road miles are the best proxy for measuring mobility.

Additionally, while the appropriate scope of public interest obligations will depend on other pivotal decisions before the full Commission, there are several clear principles that should govern the Commission’s approach to public interest obligations of Mobility Fund Phase II recipients:

- First, the scope of all public interest obligations must be crystal clear in time for bidders to formulate their strategies prior to deciding whether or how to participate in the program. This is particularly true if the Commission chooses to use a reverse auction, because bidders will need to fully understand in advance the nature of their obligations in order to bid intelligently.
- Second, any obligations should be narrowly tailored to avoid discouraging participation. For example, outage reporting and overbroad Tribal engagement obligations would be burdensome, unnecessary, and inappropriate in the context of this proceeding.
- Third, any obligations should be tailored to reflect the characteristics of mobile service; the Commission should not reflexively impose the reporting and performance requirements applicable to local exchange carriers (“LECs”) or even fixed Eligible Telecommunications Carriers (“ETCs”), particularly at a time when over one-third of U.S. households are wireless only.³
- Finally, any accountability and oversight requirements should be carefully calibrated with the term of support. For example, if the Commission adopts a shorter term of support, it should craft accountability and oversight requirements accordingly.

³ The Centers for Disease Control and Prevention issued a report on December 20, 2012, detailing preliminary results from the January–June 2012 National Health Interview Survey, which shows the number of American homes with only wireless telephones continues to grow. According to the report more than one-third of American homes (35.8 percent) had only wireless telephones during the first half of 2012—an increase of 1.8 percent since the second half of 2011. In addition, the report indicated nearly one of every six American homes (15.9 percent) received all or almost all calls on wireless telephones despite also having a landline telephone. See *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January–June 2012*, Stephen J. Blumberg, Ph.D., and Julian V. Luke Division of Health Interview Statistics, National Center for Health Statistics, available at <https://prodnet.www.neca.org/publicationsdocs/wwpdf/1220cdc.pdf> (last visited Dec. 20, 2012).

CTIA continues to support the Commission's effort to create a robust and sustainable Mobility Fund, and will continue to offer its assistance as the Bureaus move forward with the permanent support mechanism for mobile broadband.

II. MANY OF THE QUESTIONS IN THE NOTICE ARE INTERRELATED, AND MAY ALSO DEPEND ON UNRESOLVED ISSUES ABOUT THE STRUCTURE OF PHASE II

The implementation of an ongoing support mechanism for mobility must be a comprehensive, orderly undertaking developed through a process that fully engages stakeholders. The Notice poses a number of specific useful questions, but leaves open several broader issues raised in the *FNPRM*. Until the Commission defines more elements of the larger framework of the support mechanism, it is difficult for commenters to fully comment on the more granular components of the mechanism.

For example, the *FNPRM* sought comment on whether the Commission should distribute Phase II support using a reverse auction or based on an economic cost model.⁴ The Notice seeks comment on a number of questions related to a reverse auction, but the Commission has not yet decided that issue.⁵ Whether a reverse auction or a cost model is used to distribute support will affect many of the issues raised in the Notice, including how support areas should be identified, the term of support, and the public interest obligations of recipients. Commenters are less likely to be able to provide adequate, informed, and targeted feedback on many important issues without knowing which approach the Commission will use.

⁴ See *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 18070 ¶ 1122, 18082 ¶ 1174 (2011) (USF/ICC Transformation Order and FNPRM or Order or FNPRM), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

⁵ Notice ¶ 5 (“Under the Commission’s proposal, a Mobility Fund Phase II reverse auction would assign support...”).

Furthermore, many of the questions in the Notice itself are interdependent and difficult to answer in isolation. For example, if the Commission chooses to adopt a shorter term of support, that would likely justify imposing less rigorous public interest obligations. Where the record indicates that certain issues are interdependent, the Commission should carefully take that interdependence into account.

CTIA provides its comments below based on the information available today, and is prepared to supplement its answers as additional information regarding the Commission's long-term plans for supporting mobile broadband become available.

III. THE COMMISSION SHOULD USE COMMERCIAL DATA TO IDENTIFY WIRELESS COVERAGE, SUPPLEMENTED BY CARRIER FILINGS

The Commission should use commercial data to identify wireless coverage, but also should permit carriers to correct that data using a straightforward and clear process. Should the Commission decide to use a reverse auction mechanism, the Commission should adopt its proposal to use road miles as the bidding units, as road miles are the best proxy for measuring mobility.

A. Commercial Data Is Well-Suited For Identifying Wireless Coverage

The Commission should rely on Mosaik commercial wireless coverage data (subject to the challenge process described below). As CTIA previously has argued, Mosaik data is the most comprehensive information available regarding wireless coverage, and is based on data collected from wireless carriers.⁶ While that data is not perfect, it represents an excellent starting point. There is no reason to collect additional information from carriers to determine which

⁶ Comments of CTIA – The Wireless Association®, GN Docket No. 12-228, at 18 (Sept. 20, 2012)(“For example, Mosaik Solutions collects carriers’ own data regarding the scope of their networks.”).

areas lack coverage today. An appropriately designed challenge procedure, as outlined below, would be a more efficient way to ensure that the data is accurate.

CTIA does not have direct information regarding the effectiveness of the centroid method in Phase I for determining the eligibility of particular census blocks. CTIA has heard anecdotally about some instances of anomalous results from the use of the centroid method (e.g., where the centroid fell in an area with neither population nor roads, while coverage was good elsewhere in the census block and vice versa). CTIA encourages the Commission to evaluate carefully whether the centroid method was successful and should be retained in Phase II.

CTIA supports the Commission's proposal in the FNPRM to allow areas receiving one-time Mobility Fund Phase I support to receive funds in Mobility Fund Phase II.⁷ Areas that received Phase I support for initial build-out of advanced mobile services may still require ongoing support in order to sustain services in those areas. Denying such participants Phase II funds could leave certain Phase I projects stranded and would fail to achieve the ultimate goal of bringing mobile broadband service to the all Americans.

B. The Process for Correcting the Commercial Data Should be Clear

As noted above, CTIA supports the use of commercial Mosaik data as a starting point to identify areas eligible for support. However, the Mosaik data is not perfect,⁸ and the Commission should implement a process permitting carriers to identify under- and over-inclusions in the list of eligible areas, similar to the approach in Phase I. Such a process, if properly implemented, would increase the accuracy of the eligibility data in an efficient manner

⁷ Notice ¶ 7; FNPRM, 26 FCC Rcd at 18070 n.2247.

⁸ Notice ¶ 8.

by relying on the parties most interested and best informed about a particular area – the carriers in that area.

In contrast to the Phase I carrier correction process, however, the Commission should set clear standards for what constitutes an adequate demonstration of coverage or lack of coverage so that challenges can be resolved clearly and simply. Some CTIA members submitted correction filings in Phase I which were rejected, even though the standards for such filings were never clear. In Phase II, the standards for such filings should be very clear, and the required showing should not be overly burdensome. A burdensome standard would dissuade carriers from identifying data errors, to the detriment of the accuracy of the process. The accuracy of the mechanism is even more important in Phase II because the total amount of support is higher and the flow of support is ongoing, and carriers whose challenges are rejected are not allowed to bid on the subject areas.

C. Road Miles Must be a Component of Any Definition of Bidding Units

CTIA commends the Commission for recognizing the value of mobility by using road miles as the unit for bidding in an auction-based approach. As CTIA consistently has argued, the purpose of a Mobility Fund is to support the availability of voice and broadband services while consumers are mobile.⁹ Road miles are the best proxy for the areas where consumers are likely to use their mobile devices, which is why using road miles as, at minimum, an element in the bidding unit equation recognizes the importance of ensuring that mobile services are available to consumers where they live, travel, and work. Such an approach is consistent with CTIA’s 2011 Ubiquitous Mobility Study.¹⁰ CTIA encourages the FCC to examine the results of the Phase I

⁹ CTIA FNPRM Comments at 7.

¹⁰ CostQuest Associates, “U.S. Ubiquitous Mobility Study, September 21, 2011,” attachment to letter from Scott Bergmann, CTIA, to Marlene Dortch, FCC, WC Docket Nos. 10-90 *et al.*, at 4

auction closely before deciding whether to use road miles as the sole bidding unit, or as one element of a formula to determine the appropriate bidding unit including other factors.

IV. PUBLIC INTEREST OBLIGATIONS MUST BE CLEAR TO BIDDERS, AND SHOULD BE TAILORED TO MAXIMIZE PARTICIPATION AND TO REFLECT THE CHARACTERISTICS OF MOBILE BROADBAND SERVICE

A. Any Obligations Must Be Clear to Participants In Advance

As noted above, the appropriate scope of public interest obligations to be fulfilled by recipients of Mobility Fund Phase II funds will depend in part on pending Commission decisions about how to distribute ongoing support for mobility, including whether to use an auction or an economic model and how long to set the term of support. These structural fundamentals will determine the appropriate scope of public interest obligations. If an auction is used, bidders will price the cost of fulfilling any obligations into their bids. If an economic model is chosen, participants will want to ensure that the costs of obligations are adequately represented in the model. And a shorter term of support may require a lower level of public interest obligations than would a longer term of support, since the recipient is receiving less support in total, and has less time to deploy new networks before investments would become stranded. This calculus is particularly relevant for relatively expensive network performance obligations such as speed and throughput standards, but it also extends to other public interest obligations, most of which will directly affect the cost of providing service. Thus, CTIA's full position on public interest obligations will depend on which approach the Commission finally adopts, as well as the length of time chosen by the Commission.

In any event, and particularly if an auction is used, the scope of the obligations must be clear to bidders prior to the auction. While the Commission might craft standards that evolve

(filed Sept. 22, 2011)(finding “any analysis of mobile broadband coverage should include an analysis of not only where customer live, but also where they work and transit”).

over time (particularly if the term of support is ten years), bidders need to know *in advance* what obligations they are subject to in order to formulate meaningful bids. Clear obligations will also help ensure that the Commission gets the best price for the services provided, since participants are likely to bid more conservatively if the scope of their future obligations is at all uncertain.

B. Any Obligations Should Be Narrowly Tailored for Mobility

As CTIA previously has argued, the Commission should narrowly tailor any obligations on Mobility Fund participants in order to avoid creating disincentives to participation.¹¹ For example, Mobility Fund participants should not be required to comply with additional (or more granular) outage reporting obligations as a condition of their participation in the Mobility Fund. CTIA consistently has advocated for reasonable, narrowly tailored outage reporting requirements adopted in proceedings specific to that topic.¹² As a broad coalition of mobile and fixed broadband providers have observed, any outage reporting structure must take account of the complex technical issues involved in outage reporting and appropriately balance the significant costs of granular reporting against the benefits and goals to be achieved.¹³ This balancing was appropriately achieved in a separate proceeding established for this purpose, and it would be inappropriate for the Commission now to adopt additional outage reporting obligations here.

¹¹ CTIA FNPRM Comments at 11.

¹² *See, e.g.*, Comments of CTIA – The Wireless Association[®], PS Docket No. 11-82 (Aug. 8, 2011).

¹³ *See* Joint Letter from American Cable Association, AT&T, CenturyLink, Comcast, CompTel, CTIA, Frontier, ITTA, Level 3, NCTA, Sprint, Time Warner, T-Mobile USA, Inc., US ISPA, US Telecom, Verizon, VON Coalition, Windstream, and XO Communications to James Barnett, FCC, PS Docket No. 11-82 (filed Nov. 14, 2011).

Similarly, Mobility Fund Phase II recipients should not be required to comply with overly burdensome Tribal engagement obligations such as those set forth in the Tribal Guidance Public Notice.¹⁴ Though motivated by good intentions, the Notice would impose such overwhelming burdens on providers that it actually would create disincentives for eligible telecommunications carriers (“ETCs”) to serve Tribal lands at all, contrary to the goals of the Commission and mobile wireless providers alike. Furthermore, tribal engagement obligations only should apply to ETCs receiving support specifically to serve Tribal areas.

Any obligations on fund participants should reflect the characteristics of mobile service. CTIA supports the imposition of reasonable measures for accountability but, if the obligations are excessive, wireless carriers may find that the costs outweigh the benefits and forego participation altogether. Most importantly, the Commission should refrain from reflexively requiring Mobility Fund recipients to comply with the reporting and performance requirements applicable to incumbent LECs or even to fixed ETCs. Instead, any reporting and performance obligations should be tailored to the specific characteristics and benefits of mobile service.¹⁵ Mobility Fund participants also should not be required to comply with obligations imposed on providers of fixed service in the Connect America Fund that are not relevant to mobile service.

¹⁴ *Office of Native Affairs and Policy, Wireless Telecommunications Bureau, and Wireline Competition Bureau Issue Further Guidance on Tribal Government Engagement Obligation Provisions of the Connect America Fund*, WC Docket Nos. 10-90 *et al.*, Public Notice, 27 FCC Rcd 8176 at page 3 (2012) (“Tribal Guidance Public Notice”).

¹⁵ CTIA FNPRM Comments at 11.

C. Accountability and Oversight Should Be Consistent With the Term of Support and the Obligations of Funding Recipients

The Commission should structure the disbursement of support payments over the term of support, but with recognition that carriers will have substantial up-front deployment costs at the beginning of the support term. Thus, the efficiency of the funding process would be improved if larger support amounts were distributed during the early years of the term. This approach is entirely consistent with the Commission's obligations under the Anti-Deficiency Act ("ADA") because carriers will use the larger disbursements in order to deploy the network facilities supported by the program. Moreover, the Commission can ensure that support payments are going to their intended purpose through appropriately tailored reporting obligations.

If the Commission adopts a shorter term of support (and, particularly in the case of reverse auctions, the Commission should carefully consider the term of support), it should calibrate accountability and oversight standards accordingly. For example, a shorter term of support would require less rigorous (and therefore less cumbersome) accountability and oversight standards, since providers would face the scrutiny of another auction or application process more frequently, and the total amount of money at risk would be less.

V. CONCLUSION

CTIA appreciates the opportunity to comment on the development of a mechanism to provide ongoing support for mobile broadband services in high cost areas and respectfully requests that the Commission carefully evaluate the views detailed above in implementing its Mobility Fund Phase II rules.

Respectfully submitted,

CTIA – THE WIRELESS ASSOCIATION®

By: /s/ Scott K. Bergmann

Scott K. Bergmann
Assistant Vice President, Regulatory Affairs

Michael F. Altschul
Senior Vice President and General Counsel

Christopher Guttman-McCabe
Vice President, Regulatory Affairs

CTIA – The Wireless Association®
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