

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
)
Service Obligations for Connect America Phase II)
and Determining Who is an Unsubsidized)
Competitor)
)

To: The Commission

COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®

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I. INTRODUCTION AND SUMMARY

CTIA–The Wireless Association® (“CTIA”)¹ presents the following comments in response to the Wireline Competition Bureau’s (“Bureau”) public notice regarding service obligations and defining unsubsidized competitors in the Connect America Fund (“CAF”) Phase II.² As discussed in more detail below, CTIA urges the Commission to recognize that mobile wireless broadband providers – particularly 4G LTE broadband providers – are already in fact “unsubsidized competitors” to fixed broadband providers. The Commission decided not to make CAF Phase II support available in areas served by “unsubsidized competitors” in order to make the program more efficient and competitively neutral; it therefore would undermine both goals

¹ CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization includes 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.

² *Wireline Competition Bureau Seeks Further Comment on Issues Regarding Service Obligations for Connect America Phase II and Determining Who Is an Unsubsidized Competitor*, WC Docket No. 10-90, Public Notice, DA 13-284 (rel. Feb. 26, 2013) (“*Unsubsidized Competitors Public Notice*” or “Public Notice”).

arbitrarily to exclude a category of viable competitors that have rapidly captured a significant share of the consumer broadband market. The Bureau has the authority to include mobile wireless broadband providers in the analysis, and the standards for mobile wireless broadband providers' "challenge" filings must be thoroughly and clearly articulated from the outset.

Of course, recognizing that mobile wireless broadband providers are "unsubsidized competitors" to fixed broadband providers is a hollow exercise if the performance standards for such providers are set arbitrarily to exclude the broadband service that consumers are increasingly choosing – mobile broadband. Given 4G LTE mobile wireless broadband's broad and rapid adoption by consumers, the Commission should base all performance metrics on actual data regarding the services consumers are using in the marketplace, including both fixed and mobile broadband data in the analysis.

II. THE CAF PHASE II RULES SHOULD RECOGNIZE THAT MOBILE WIRELESS PROVIDERS ARE UNSUBSIDIZED COMPETITORS

The *Unsubsidized Competitors Public Notice* appropriately seeks comment on whether mobile providers should be "allowed to participate in the challenge process, giving them the opportunity to qualify as unsubsidized competitors and exclude areas from support if they are able to meet the performance and pricing requirements."³ Given that mobile wireless providers are competing with ILECs for voice and broadband customers, typically without receiving any universal service support, the Commission should recognize mobile wireless providers as unsubsidized competitors.

³ *Unsubsidized Competitors Public Notice* at ¶ 11.

A. Recognizing Mobile Wireless Providers’ Status as Unsubsidized Competitors Is Necessary for the Efficiency and Competitive Neutrality of the CAF

Recognizing that mobile wireless providers represent unsubsidized competitors is necessary to “establish a framework to distribute universal service funding in the most efficient and technologically neutral manner possible.”⁴ Specifically, defining “unsubsidized competitors” in an inclusive way is necessary for technology neutrality. In responding to criticisms that it would violate the principle of competitive neutrality to provide price cap ILECs with the sole initial opportunity to receive CAF Phase II support in exchange for a statewide commitment, the Commission found that its reform plans “generally advance the principle of competitive neutrality by limiting support to only those areas of the nation that lack unsubsidized providers. Thus, providers that offer service without subsidy will no longer face competitors whose service in the same area is subsidized by federal universal service funding.”⁵ There is no question that mobile wireless providers are providing service without subsidy in areas where ILECs are receiving universal service support.⁶ Thus, an inclusive definition of “unsubsidized competitor” is necessary to ensure the competitive neutrality of CAF Phase II, consistent with the Commission’s own finding.

In addition, an inclusive definition of “unsubsidized competitor” will increase the efficiency of the fund by eliminating support in areas where it is unnecessary to ensure that consumers have access to voice and broadband service. The Commission imposed budgetary constraints on the CAF Phase II in order to “provide for more predictable funding for carriers and ... protect consumers and businesses that ultimately pay for the fund through fees on their

⁴ *Id.* at 17667 ¶ 1.

⁵ *Id.* at 17731 ¶ 177.

⁶ *See infra* Section II.B.

communications bills.”⁷ Providing support in an area served by an unsubsidized competitor would undermine the efficiency needed to serve these goals.

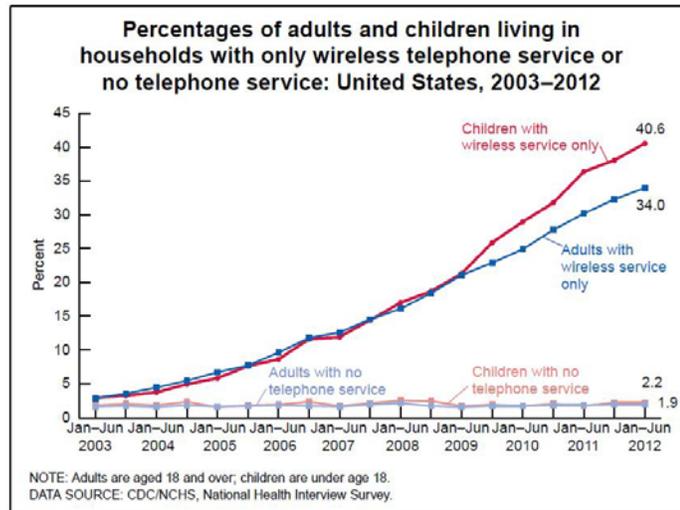
B. Consumer Behavior Shows That Mobile Broadband Services Are Real Market Competitors

The Commission is well aware of the rapidly growing number of consumers who have abandoned fixed service altogether for voice service – the service that is supported by universal service.⁸ Mobile wireless providers are already well-established as strong competitors to fixed broadband connections as well. As the following chart, from the FCC’s *Sixteenth Wireless Competition Report* illustrates, mobile wireless is increasingly becoming the communications mode of choice:

Wireless-Only Households, 2003-2012

⁷ 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 at 17672 ¶ 18 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

⁸ See, e.g., *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, Including Commercial Mobile Services*, Sixteenth Report, FCC 13-34, WT Docket No. 11-186, at ¶ 367, rel. Mar. 21, 2013 (“*Sixteenth Wireless Competition Report*”) (noting that approximately 34.0 percent of all adults in the U.S. – and 60 percent of adults aged 25-29 – lived in wireless-only households during the first half of 2012).



Source: *Sixteenth Wireless Competition Report* at ¶ 367, Chart 45.

Mobile wireless has of course become much more than a voice service. Over the past several years, America’s wireless companies have made significant investments in next-generation networks that enable a variety of innovative mobile broadband services. By the Commission’s own data:

- By December 2011 there were nearly 31 million mobile wireless data connections at and above 3 Mbps download / 768 kbps upload, accounting for 38 percent of all connections at that speed – more than any technology other than cable modem (at 42 percent).⁹

And these data – compelling as they are – do not even capture the full scope of 4G LTE deployment, which was just beginning to pick up steam at that time. As the Commission itself recently noted:

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

⁹ *Internet Access Service: Status as of December 31, 2011* (FCC WCB IATD Feb. 2013) at Table 7 (available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0213/DOC-318810A1.pdf).

estimates are that these LTE networks (combined) covered 211 million people.¹⁰

Some other crucial facts include the following:

- U.S. subscribers are overwhelmingly adopting mobile broadband:
 - In 2013 alone, nearly 132 million smartphones will be sold in the U.S.¹¹
 - And by mid-2012 78% of U.S. adults had a smartphone.¹²
 - Sales of smartphones eclipsed PC sales as early as 2011.¹³

- Mobile broadband devices are driving dramatic changes in consumer usage. For example:
 - A smartphone on a 4G network uses 50% more data than the same smartphone on a 3G network.¹⁴
 - The average smartphone data usage almost tripled in 2011 and continues to grow.¹⁵

- Consumers are embracing the “Apps Economy” and new “data-intensive” services:
 - In June 2012, the application stores for Apple and Android had a collective 3 billion downloads.¹⁶

¹⁰ *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, 27 FCC Rcd 10342, 10348 ¶ 6 (2012) (“*Eighth Broadband Report*”).

¹¹ CEA, Consumer Electronics Detailed Forecast, 2011-2016 (Jan. 2013).

¹² Peter Farago, Flurry Analytics, *iOS and Android Adoption Explodes Internationally* (Aug. 27, 2012), <http://blog.flurry.com/bid/88867/iOS-and-Android-Adoption-Explodes-Internationally>.

¹³ See, e.g., “Milestone: More Smartphones Than PCs Sold in 2011,” *SmartPlanet* (Feb. 4, 2012), available at <http://www.smartplanet.com/blog/business-brains/milestone-more-smartphones-than-pcs-sold-in-2011/21828>.

¹⁴ Prepared Remarks of FCC Chairman Julius Genachowski, *Winning the Global Bandwidth Race: Opportunities and Challenges for Mobile Broadband* (Oct. 4, 2012), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-316661A1.pdf.

¹⁵ Cisco, CISCO VISUAL NETWORKING INDEX: GLOBAL MOBILE DATA TRAFFIC FORECAST UPDATE, 2011–2016 at 2 (Feb. 14, 2012), http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c_11-520862.pdf.

- In 2012, mobile video traffic exceeded 50% of wireless traffic for the first time. By 2017, it is projected that two-thirds of the world’s mobile data traffic will be video – a 16-fold increase from 2012 to 2017.¹⁷
- These changes have led to explosive growth in mobile broadband traffic:
 - Wireless data traffic on licensed mobile networks has repeatedly doubled year-over-year. From July 2011 to June 2012, reported wireless data traffic over all U.S. wireless devices totaled 1.16 trillion megabytes, compared to 568 billion megabytes a year before, a 104% increase year-over-year.¹⁸
 - By 2016, traffic on licensed mobile networks is projected to grow 16-fold.¹⁹ Globally, by 2016, over 80 percent of broadband connections will be mobile.²⁰
- We are entering a new phase of integration of mobile broadband services into new fields.
 - These “verticals” will harness mobile broadband to improve not just business productivity but also education, health care, public safety, energy consumption, transportation, and e-government initiatives.
- We are also on the verge of what some refer to as the Internet of Things, in which machines communicate seamlessly with one another through M-2-M communications:
 - In 2011, total M2M traffic in the U.S. increased more than 250%.²¹

¹⁶ Prepared Remarks of FCC Chairman Julius Genachowski, *Winning the Global Bandwidth Race: Opportunities and Challenges for Mobile Broadband* (Oct. 4, 2012), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-316661A1.pdf.

¹⁷ Cisco, CISCO VISUAL NETWORKING INDEX: GLOBAL MOBILE DATA TRAFFIC FORECAST UPDATE, 2012–2017 at 1-3 (Feb. 14, 2013), http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-520862.pdf.

¹⁸ Press Release, CTIA-The Wireless Association, Consumer Data Traffic Increased 104 Percent According to CTIA-The Wireless Association Semi-Annual Survey (Oct. 11, 2012), <http://www.ctia.org/media/press/body.cfm/prid/2216>.

¹⁹ Prepared Remarks of FCC Chairman Julius Genachowski, *Winning the Global Bandwidth Race: Opportunities and Challenges for Mobile Broadband* (Oct. 4, 2012), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-316661A1.pdf.

²⁰ William Bold and William Davidson, Qualcomm, MOBILE BROADBAND: REDEFINING INTERNET ACCESS AND EMPOWERING INDIVIDUALS IN THE GLOBAL INFORMATION TECHNOLOGY REPORT 2012, at 68, http://www3.weforum.org/docs/GITR/2012/GITR_Chapter1.5_2012.pdf.

²¹ M. Zubair Shafiq et al., A FIRST LOOK AT CELLULAR MACHINE-TO-MACHINE TRAFFIC – LARGE SCALE MEASUREMENT AND CHARACTERIZATION, SIGMETRICS’ 12, June 11–15, 2012, https://www.msu.edu/~shafiqmu/files/m2m_sigmetrics12.pdf.

- The cellular M2M market will reach 33.3 million connections in the U.S. in 2012 and grow to 114.7 million connections by 2016.²²
- Finally, CTIA notes that consumers are rapidly choosing mobile solutions.
 - As noted above, approximately 34 percent of U.S. households are now wireless-only.²³
 - Globally, by 2016, over 80 percent of broadband connections will be mobile.²⁴

In sum, by any metric, mobile wireless broadband is both a competitor to fixed broadband and is creating new opportunities for innovation and investment, and is often doing so without any universal service subsidy. The Commission must acknowledge this reality by including qualifying mobile wireless providers as “unsubsidized competitors” in the CAF Phase II analysis.

C. The Bureau Has Authority to Treat Mobile Wireless Broadband Providers as Unsubsidized Competitors

The Commission gave the Bureau authority to define “unsubsidized competitors” for purposes of the CAF Phase II. Specifically, the Commission “delegate[d] to the Wireline Competition Bureau the task of implementing the specific requirements” of the rule “exclud[ing] any area served by an unsubsidized competitor” from CAF Phase II support.²⁵

²² Compass Intelligence, *Why Most M2M Forecasts are Wrong*, (Nov. 7, 2012), <http://www.prnewswire.com/news-releases/why-most-m2m-forecasts-are-wrong-compass-intelligence-explains-and-states-the-m2m-market-will-reach-1147-million-connections-by-year-end-2016-177628091.html>.

²³ See *Sixteenth Wireless Competition Report* at ¶ 367.

²⁴ William Bold and William Davidson, Qualcomm, *MOBILE BROADBAND: REDEFINING INTERNET ACCESS AND EMPOWERING INDIVIDUALS IN THE GLOBAL INFORMATION TECHNOLOGY REPORT 2012*, at 68, http://www3.weforum.org/docs/GITR/2012/GITR_Chapter1.5_2012.pdf.

²⁵ *USF/ICC Transformation Order*, 26 FCC Rcd at 17729 ¶ 170. See also *Unsubsidized Competitors Public Notice* at ¶ 5.

The Commission’s definition of “unsubsidized competitor” in section 54.5 is limited to “fixed” providers,²⁶ but this definition is not controlling with regard to CAF Phase II. It was adopted as part of the generic requirements that apply “in concept” to all fund recipients, and the Commission specifically “defer[ed] to subsequent sections discussion of the specific broadband requirements that apply to each of our new or reformed mechanisms according to each mechanism’s particular purpose.”²⁷ Thus, the Bureau has authority to include otherwise qualifying mobile broadband providers as unsubsidized competitors.

D. Standards for the Challenge Process Must Be Clear from the Outset

The Commission proposes to incorporate wireless coverage into the “unsubsidized competitor” analysis through a “challenge process” requiring an “affirmative showing” that the wireless provider meets the performance and price criteria for CAF Phase II, subject to rebuttal by other parties.²⁸ CTIA has no objection to the use of such a challenge process, but the demonstration that is required in such challenge filings must be spelled out clearly from the outset and should not establish unreasonable burdens for mobile providers.

The need for clarity in coverage challenge filings is demonstrated by the Mobility Fund Phase I auction challenge process. There, the Commission established a vague standard for challenge filings, and many such filings were rejected without analysis.²⁹ No legitimate purpose

²⁶ *USF/ICC Transformation Order*, 26 FCC Rcd at 17701 ¶ 103.

²⁷ *Id.* at 17691 ¶ 75.

²⁸ *Unsubsidized Competitors Public Notice* at ¶ 11.

²⁹ *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, 27 FCC Rcd 4725, 4735 ¶ 21 (WTB/WCB 2012).

is served by making carriers guess at the precise quantum of proof they must offer to show the coverage or performance of their networks.

III. THE FCC SHOULD TAKE INTO ACCOUNT THE RANGE OF CONSUMER BROADBAND BEHAVIOR WHEN SETTING PERFORMANCE CRITERIA

Allowing mobile wireless carriers to qualify as “unsubsidized competitors” in the CAF Phase II analysis will be a hollow exercise if the performance metrics for the program are set arbitrarily to exclude mobile wireless broadband offerings. In setting performance criteria for CAF Phase II – including speed, latency, usage/capacity, and pricing – the Commission should base its metrics on analysis of real-world usage and products adopted by consumers in the marketplace, including mobile wireless broadband usage.

As discussed above, consumers are rapidly adopting mobile wireless broadband, and the service’s success in the marketplace demonstrates its value to consumers.³⁰ The proposals for the performance metrics discussed in the *Unsubsidized Competitors Public Notice* all are drawn entirely from providers and users of fixed services. For example, the average usage data cited in the *Unsubsidized Competitors Public Notice* (16.8 GB from a commercial study and 32.3 GB from the Measuring Broadband America program) both are based solely on usage of fixed broadband services.³¹ Given the increasing prevalence and adoption of 4G mobile data services, the Commission should include data drawn from such services – along with data regarding fixed services – in formulating the performance criteria applicable for unsubsidized competitors in the

³⁰ See *supra* Section I.B.

³¹ *Unsubsidized Competitors Public Notice* at ¶ 23.

CAF Phase II. Indeed, the Commission has compiled a host of data on consumer usage, network performance, and service plans in the recently-released *Sixteenth Wireless Competition Report*.³²

Using real-world data would provide a more accurate benchmark than hypothetical performance criteria in this case. For example, the *Unsubsidized Competitors Public Notice* includes a proposal to estimate usage requirements for a variety of potential online activities to set a usage threshold.³³ Every broadband user has unique needs, however, and there is no factual basis in the record to estimate an “average” range of activities or intensity of use for any given usage. For this reason, the Commission should investigate the use of actual data over hypothetical estimates in setting performance metrics.³⁴

Under reasonable standards based on actual consumer usage, including mobile wireless broadband usage, the proposal to set the speed criteria at 4 Mbps download and 1 Mbps upload, with upward movement over time to 6 Mbps download and 1.5 Mbps upload, is reasonable.³⁵ As discussed above, both fixed broadband services and 4G LTE mobile wireless broadband routinely meet or exceed these criteria. On the other hand, the proposal to set the minimum usage/capacity threshold at 100 GB is entirely unsupported by any data – fixed or mobile.³⁶ As noted above, the Commission should review actual consumer usage data, including mobile wireless broadband usage data, in determining all performance metrics for CAF Phase II.

³² See, e.g. *Sixteenth Wireless Competition Report* at Section V.D. Output and Usage Levels, Section VI. Mobile Wireless Services: Consumer Behavior, and Section VII.B. Downstream Segments.

³³ *Unsubsidized Competitors Public Notice* at ¶ 21, Chart 1.

³⁴ See *supra* at n. 32.

³⁵ *Unsubsidized Competitors Public Notice* at ¶ 9.

³⁶ *Id.* at ¶¶ 21-23.

IV. CONCLUSION

CTIA urges the Commission to include mobile wireless broadband providers as “unsubsidized competitors” in the CAF Phase II analysis, and set the relevant performance criteria based on actual data regarding the performance of the services that consumers are adopting in the marketplace, including mobile wireless broadband services.

Respectfully submitted,

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