

November 14, 2013

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

Re: Success in the Marketplace is Best Left to Competition
WC Docket Nos. 10-90 and 05-337

Dear Ms. Dortch:

Earlier this month, NTCA – The Rural Broadband Association released a study (the “Vantage Point Paper”)¹ that is just another attempt by NTCA to forestall broadband competition in rural areas. This is also an untimely effort to revisit a sound Commission conclusion in the *USF/ICC Transformation Order*.² The Vantage Point Paper makes inaccurate claims about the quality of satellite broadband service in an effort to persuade the Commission to allow rural carriers to leverage and retain their incumbent status – to the detriment of rural broadband consumers across the United States. Rather than attempting to lodge inaccurate claims about competitors’ service, the satellite industry simply seeks a technology-neutral, level playing field in the regulatory arena. With a level regulatory playing field, the satellite industry is confident that marketplace forces will work to ensure that consumers can take advantage of the quality, price-competitive and innovative services it provides.

The Commission therefore should reject both NTCA’s inaccurate attacks on the quality of satellite broadband service and its untimely effort to undermine the Commission’s well-founded decision to allow the Connect America Fund (“CAF”) to serve the country’s most remote rural customers. In order to promote a level-playing field, the satellite industry, like NTCA’s members, must be able to participate in programs like the CAF to help ensure that consumers across the United States have access to broadband. Where regulatory programs favor one technology over another, the only losers

¹ Vantage Point, *Analysis of Satellite-Based Telecommunications and Broadband Services*, (November 2013) (“Vantage Point Paper”), attachment to Letter from Michael R. Romano, NTCA, to Marlene H. Dortch, FCC, WC Docket No. 10-90 (filed Nov. 7, 2013) (“Romano Cover Letter”).

² *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC 17663 (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).

are American consumers. As the past three decades of competition in the U.S. telecommunications market have shown, the market is the best determinant of which technology best serves the public interest. But only a level playing field, with technology neutral policies, will allow this to occur.

Satellite Broadband: A True Market Competitor

As more than a million and a third of U.S. consumers can attest, today's satellite broadband services provide users with a cost-effective, reliable, high-quality service. Since the launch of the new generation of satellite broadband services by Hughes and ViaSat, there has been a significant new trend – no longer is satellite broadband simply a “last-resort” service option. Today, consumers with competitive choices, such as those in suburban areas, are making the switch from terrestrial services like DSL to satellite broadband.

There are more than 1.3 million satellite broadband customers in the United States. Hughes and ViaSat provide Ka band satellite broadband services at speeds of up to 15 Mbps, at a price as low as \$40 or \$50 a month. As a result of these expansive satellite broadband offerings, rural communities have access to high speed broadband services. Satellite broadband service can also be an important complement to the broadband services offered in urban areas today. And satellite broadband services are not just limited to data: Today, customers can take advantage of high quality home phone service (via VoIP) using their satellite broadband subscription. Customers with terrestrial options have recognized the value of satellite broadband by switching to this state of the art broadband service.³ This is a major shift from previous generations of satellite Internet service, which were considered to be a “last resort” for those with no other Internet alternatives.

The Vantage Point Paper overlooks these market developments and neglects significant research that demonstrates that satellite broadband communications are a high-quality, high-speed complement to today's terrestrial broadband networks. Perhaps most fundamentally, the Vantage Point Paper ignores broadband satellite service's biggest advantage: It is the only infrastructure that is readily available even in the most remote areas, without the exorbitant costs or long delays inherent in terrestrial build-out in such areas. Accordingly, satellite broadband is the most cost-effective for reaching many portions of the country.

Moreover, some of the characteristics of satellite broadband service that the Vantage Point Paper criticizes are, in fact, simply market differentiators. As the FCC found, while satellite broadband service operates with greater latency than terrestrial services, the satellite broadband industry, because of its use of high-capacity satellites and its implementation of mitigation scheme, results in high quality services that leaves most consumers unaware of the increased latency.⁴ Similarly, although satellite broadband providers must impose more rigorous capacity limits than terrestrial providers, the vast majority of satellite broadband customers never hit their bandwidth caps. For example, satellite

³ This includes critical 911 services.

⁴ FCC, 2013 Measuring Broadband in America: A Report on Consumer Broadband Performance, (Feb. 2013) available at <http://www.fcc.gov/measuring-broadband-america/2013/February> (Consumer Broadband Report).

broadband consumers can still surf, bank, shop, email, share photos, download movies, watch YouTube and more – all without hitting their caps. Thus, for most broadband consumers, capacity is never a problem. Neither is speed: satellite broadband today is available at speeds upwards of 15 Mbps; the same or better speed available on terrestrial DSL.

Satellite broadband also has reliability advantages that terrestrial service cannot match. While satellite broadband may at times experience brief interference from significant storm systems passing between the satellite and the customer, satellite broadband is not nearly as susceptible to storm damage as terrestrial facilities. Thus, satellite broadband customers trade brief, intermittent storm interference for far greater reliability following major storms or disasters – which can last days, or, as we saw following Superstorm Sandy, even months.

Broadband satellite service in rural areas provides reasonably comparable, if not better, performance and speeds to most DSL broadband and 3G cellular services and this has been confirmed in the FCC's Consumer Broadband Report. Satellite broadband service is also available today across the United States. Customers need not undertake the time and expense of waiting for terrestrial broadband deployment to reach their rural area: one phone call enables prompt installation of advanced satellite broadband services to customers.

All Consumers Benefit by Serving the Most Rural Customers Through the Remote Areas Fund

In its cover letter transmitting the Vantage Point Paper, NTCA suggests its submission is intended to be a collateral attack on the Commission's decision in the *USF/ICC Transformation Order* to implement the RAF as a more economical means of serving the highest-cost customers that cannot be served cost-effectively with terrestrial facilities. NTCA's attacks are incorrect: The National Broadband Plan and the *USF/ICC Transformation Order* observed that "the cost of providing service is typically much higher for terrestrial networks in the hardest-to-serve areas of the country than in less remote but still rural areas."⁵ As a result, the Commission concluded that, "in extremely high-cost areas, available universal service support is unlikely to be sufficient for the deployment of traditional terrestrial networks supporting robust voice and broadband services. The Connect America Fund can help fulfill our universal service goals in these areas by taking advantage of services such as next-generation satellite broadband service or wireless Internet service provider (WISP) service."⁶

NTCA states that it proffers the Vantage Point Paper to ensure that "full account is taken of what it may mean for consumers and the very concept of 'reasonably comparable' universal service if significant reliance is placed upon 'alternative technologies' to provide voice and broadband services in high-cost areas."⁷ Thus, NTCA's inaccurate attacks on the quality of satellite service are intended to undermine the Commission's fundamental conclusion that all American consumers should not be burdened with the cost of building terrestrial broadband facilities in areas where it is not cost-effective to do so. As such, NTCA's filing is both a bad policy proposal and an untimely and procedurally

⁵ *USF/ICC Transformation Order*, 26 FCC Rcd at 17837 ¶ 533.

⁶ *Id.* at 18092 ¶ 1224.

⁷ Romano Cover Letter at 1.

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defective collateral attack on the *USF/ICC Transformation Order*. In addition, as this filing demonstrates, NTCA's premises are simply inaccurate – satellite providers *do* in fact provide broadband service that is “reasonably comparable” to terrestrial alternatives.

Conclusion

While NTCA and its members want to continue to use a monopoly on government subsidies to perpetuate an artificial market advantage, at the expense of all American consumers who pay for USF support, satellite broadband wants to compete based on technology neutral policies that leave success to be determined by the marketplace. Let's move away from the world of scurrilous attacks on competitive services and instead create a regulatory environment that is technology neutral and allows the CAF *as a whole* to reflect the particular advantages of different broadband technologies. The marketplace shows that satellite broadband services are reasonably comparable to terrestrial broadband options. In remote areas, they are also much less burdensome on contributors to the CAF. The Commission should stand by its well-founded decision to fund alternative technologies through the RAF wherever it is more economical to do so and ignore NTCA's attempts to leverage its monopoly status to the detriment of U.S. consumers. Indeed the Commission could generate even more savings for American consumers and the overall U.S. economy by expanding the ability of satellite broadband to participate in the CAF.

Sincerely,

/s/

Lisa Volpe McCabe

cc: Julie Veach
Carol Matthey
Alexander Minard
Katie King
Theodore Burmeister