

In the Matter of	)	
	)	
Universal Service Reform	)	WT Docket No. 10-208
	)	
Mobility Fund	)	
	)	

December 16, 2010

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**Before the
Federal Communications Commission
Washington, DC 20554**

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To: The Commission

**COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

I. INTRODUCTION AND SUMMARY

The Telecommunications Industry Association (TIA) hereby submits comments to the Federal Communications Commission (Commission) in the above-captioned proceeding.¹ TIA shares the goal of the Federal Communications Commission (FCC or Commission), in its efforts to comprehensively reform the Universal Service Fund (USF), to create a Mobility Fund to “significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing, and to do so by supporting private investment.”²

TIA represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and

¹ *Universal Service Reform: Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking (rel. Oct. 14, 2010) (Mobility Fund NPRM).

² *Id.* at ¶ 1.

world-wide environmental regulatory analysis. For over 80 years, TIA has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite, and unified communications. TIA members manufacture the equipment used for the deployment of mobile broadband services, as well as the devices used by consumers to access these services. TIA is accredited by the American National Standards Institute (ANSI).

The allocation of recovered USF funds to provide unserved areas with mobile broadband access will serve as a critical step in bringing broadband to all areas of the United States. By creating incentives for commercial service providers to operate in unserved areas, disadvantaged populations will experience numerous benefits from an effective Mobility Fund. TIA believes that the Commission currently possesses the authority to use the USF to support advanced mobile communications, both on a one-time and a continuing basis.

TIA is in agreement with the Federal-State Joint Board on Universal Service (Joint Board) and the Commission that ubiquitous availability of mobile broadband services is critical. In its effort to draw the maximum benefit from the Mobility Fund for all Americans, the Commission should allocate the full \$300 million to this program. Moreover, the Commission should consider whether there is a need for sustainability funding past the one-time payment proposed in the NPRM for areas where carriers will struggle to develop a feasible business case for investment. In addition, a one-time payment is at odds with the statutory requirement that USF funds support evolving services. TIA also observes that areas that lack terrestrial wireless service presently, such as tribal and other thinly populated and remote areas, would likely require ongoing support.

To obtain the greatest benefit from the program, the Commission must also ensure that flexibility and technology neutrality are reflected in the Mobility Fund's rules. TIA strongly urges the Commission to adhere to its long-standing technology neutrality principles and avoid setting technical requirements gauged to particular technologies. Instead, the Commission should adopt standards that are objective and performance-driven.

Furthermore, TIA supports flexible Mobility Fund coverage requirements, speed requirements, and compliance milestones that are necessary and allow for principles of practicality and inclusiveness so as not to necessarily preclude carriers from participation in the program who would be denied funding when compliance is not reasonably achievable due to external factors. Arbitrary exclusion of such carriers who might otherwise provide service to some of the most insular unserved areas of the county will thwart the purpose of the USF. The Commission should also make all efforts possible to avoid overburdensome administrative requirements on participants that could discourage involvement in the program.

II. TIA SUPPORTS THE COMMISSION'S PROPOSAL TO CREATE A MOBILITY FUND TO IMPROVE COVERAGE OF MOBILE VOICE AND INTERNET SERVICES TO ALL AMERICANS

A. A Mobility Fund Created Through Reserves Accumulated in the Universal Service Fund Will Serve as an Important Step to Bring all Areas Mobile Service Availability.

TIA supports the proposed creation of a Mobility Fund as part of the Commission's efforts to reform and modernize the Universal Service Fund (USF) and agrees with the Joint Board³ and the Commission⁴ that mobile voice services and Internet should be supported by the USF. TIA has long supported the extension of universal service support to provide wireless broadband service to unserved areas.⁵ As stated in the National Broadband Plan, mobile broadband access is a critical need,⁶ and TIA believes that there is a clear necessity to support ubiquitous mobile broadband service to Americans throughout the country. In supporting network deployment construction costs of new infrastructure in unserved areas where mobile broadband access is deficient or not available presently, the Commission would take an important step toward increasing access to and expanding investment in mobile broadband technology.

Certain areas of the United States, due to geographic and sparse population factors, experience materially lower mobile deployment than the national average, leaving populations unserved or

³ Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, *Recommended Decision* In the Matter of High-Cost Universal Service Support, FCC07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) (2007 Joint Board Recommendation).

⁴ Mobility Fund NPRM at ¶ 12.

⁵ See Letter from Rebecca Schwartz, Telecommunications Industry Association, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337, CC Docket No. 96-45 at 1 (Nov. 26, 2008).

⁶ Federal Communications Commission, *Connecting America: The National Broadband Plan*, 146 (rel. Mar. 16, 2010) (NBP).

underserved. For example, the National Broadband Plan, based on a comparison of advertised coverage areas and census information, stated that “77% of Alaska’s population is covered by 3G networks, and a mere 71% of West Virginia’s population is covered by 3G networks.”⁷ In contrast, the National Broadband Plan found that the national coverage average is currently 98.5%.⁸ Underserved and unserved communities face considerable barriers to infrastructure deployment due to high buildout costs, inadequate funding, and return on investment concerns that undermine a business case for commercial providers. As mobile networks are upgraded elsewhere, these areas are increasingly lagging behind areas where buildout does occur. This gap is further exacerbated by the common use of existing 3G networks to upgrade to 4G technologies.⁹ As the National Broadband Plan notes, a 4G footprint is likely to mirror closely a carrier’s 3G footprint because providers normally use existing infrastructure to build upon when providing 4G coverage.¹⁰ TIA believes that by supporting critical infrastructure buildouts as proposed in the Mobility Fund NPRM, the Mobility Fund will assist in reducing these cost obstacles to expanding advanced mobile wireless services, and will encourage buildouts to unserved areas.

The proposed Mobility Fund will increase the availability of mobile networks to unserved areas, will help areas that have underdeveloped infrastructure draw closer to coverage experienced by areas with increased deployment, and will provide commercial operators with incentives to provide service to these areas by opening formerly economically unviable territory for

⁷ NBP at 146.

⁸ Mobility Fund NPRM at ¶ 30.

⁹ See, e.g., Press Release, Sprint, Sprint Announces Network Vision – A Cutting-Edge Network Evolution Plan With Partners Alcatel-Lucent, Ericsson and Samsung (Dec. 6, 2010), *available at* <http://newsroom.sprint.com/news/sprint-announces-network-vision-network-evolution-plan.htm>.

¹⁰ NBP at 146.

expansion. For many, the Mobility Fund will also improve the utility of service by enabling continuous coverage between population centers where it previously did not exist. This increased coverage will have a ripple-effect of benefits to the economy of unserved areas as well as public safety¹¹ and other critical infrastructure entities that use commercial services. TIA also agrees with the assertion in the National Broadband Plan that an increased amount of infrastructure that has the capability to be upgraded to 4G capability will promote adoption of public-private broadband networks.¹²

B. The Commission Has the Authority to Use USF Funding to Support Evolving Telecommunications Services, Including Wireless Broadband.

TIA agrees that the Commission currently has the authority to support mobility access through the USF, both on a one-time and a continuing basis. As the Commission considers a new service for USF eligibility, it must determine the extent to which the service is essential to “education, public health, or public safety;” has been subscribed to by a substantial majority of residential customers due to market choices; is being deployed in public networks by carriers; and is consistent with the public interest.¹³ Wireless broadband services amply satisfy each of these principles. Further, wireless broadband is used in practically every facet of society and continues to grow in utility, making the negative effects of exclusion of service availability to populations in the United States direr as technology progresses. As a result, TIA contends that the proposed Mobility Fund network infrastructure buildouts will meet the statutory requirement that the USF

¹¹ As noted in the Mobility Fund NPRM, the Federal-State Joint Board on Universal Service recommended that support from the Mobility Fund go to the construction of new facilities along roads and highways to support public safety. 2007 Joint Board Recommendation at ¶ 16.

¹² NBP at 146.

¹³ 47 U.S.C. § 254(c)(1)(A-D).

support an “evolving level of telecommunications services...taking into account the advances in telecommunications and information services.”¹⁴ Additionally, TIA does not believe that the Commission needs to revise any existing regulations or requires any additional statutory authority to implement the proposals put forth in the Mobility Fund NPRM.

Furthermore, TIA notes that, if the Commission extends the Mobility Fund past a one-time payment model, it would also be consistent with statutory requirements of 47 U.S.C. § 254(c). As the Commission stated in the Mobility Fund NPRM, the Joint Board recommended allowing some of the Mobility Fund to make payments to support continuing operations in areas where the amount of usage results in a business case that cannot exist, despite substantial support of construction costs.¹⁵ Support of this nature from the Mobility Fund could result in the development of solid business cases in new markets, resulting in increased mobile voice service to underserved or unserved populations and furthering the public interest. TIA believes that the Commission, should it choose to pursue such a route with the Mobility Fund, would continue to execute its obligations under the USF statute.

¹⁴ 47 U.S.C. § 254(c).

¹⁵ 2007 Joint Board Recommendation at ¶¶ 18, 38.

III. THE COMMISSION SHOULD FULLY SUPPORT THE MOBILITY FUND TO MAXIMIZE ITS EFFECTIVENESS, AND SHOULD CONSIDER THE FUND’S CONTINUING EXISTENCE

A. The Fund Should be Allocated the Maximum \$300 Million proposed in the Notice of Proposed Rulemaking

In recommending the creation of a Mobility Fund, the Joint Board has characterized “universal availability of mobile services” as a “national priority.”¹⁶ The Commission proposes to allocate between \$100 million to \$300 million to achieve this goal through the Mobility Fund.¹⁷ TIA strongly encourages the Commission to allocate the full \$300 million to the program’s budget from the reclaimed Verizon Wireless and Sprint Nextel funds. As a key mechanism for wireless providers to obtain universal service funding, the Mobility Fund will serve as a critical means of improving the availability of mobile voice and wireless broadband service to unserved populations. Full funding is especially critical given the geographic and technical challenges to deployment in rural areas most likely to be underserved or unserved. Given the importance and magnitude of this effort, a full allocation of the \$300 million will most likely ensure that the Fund meets its potential and maximizes its value to the areas and populations that lag behind in accessibility to mobile voice.

¹⁶ *Id.* at ¶ 16.

¹⁷ Mobility Fund NPRM at ¶ 13.

B. The Commission Should Consider Extending the Mobility Fund After the Allocation of Initial Funding

TIA commends the Commission's recognition that certain populations do not have adequate access to wireless services and submits that the Mobility Fund has the potential to reach these populations currently and in the future. However, consistent with the Joint Board's recommendation that the Mobility Fund support continuing operations in areas where usage is so slight that a business case cannot exist despite substantial support of construction costs,¹⁸ and given the importance of the Mobility Fund's intentions, the Commission should examine whether providing a one-time payment will be adequate to accomplish the Commission's universal service goals. The proposed Mobility Fund – as part of other comprehensive USF reform efforts¹⁹ that will reduce unnecessary USF support in regions with adequate competition and reform the intercarrier compensation system – should allow the Commission to make substantial progress toward the goal of “support for deployment of 3G infrastructure in order to bring all states to a minimum level of mobile service availability, without increasing the size of the USF.”²⁰ However, if the initial Mobility Fund expenditures are executed successfully and this goal has not been met, the Commission should consider creating a mechanism that will provide the much-needed funding past a one-time payment when appropriate.

While a one-time payment will aid deployment and upgrades of much-needed infrastructure, it could result in difficulties in the future supporting mobile services in the event that an infrastructure buildout to an unserved area is funded, but, due to sparse or scattered populations,

¹⁸ 2007 Joint Board Recommendation at ¶¶ 18, 38.

¹⁹ See Connect America Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, *Notice of Inquiry and Notice of Proposed Rulemaking*, 25 FCC Rcd 6657 (2010); See also NBP at 135,

²⁰ Mobility Fund NPRM at ¶ 10.

the business case for service in the area remains unsustainable. These areas could include tribal areas, which the Commission has noted as having less access to telecommunications services than any other portion of the population due to a large number of connectivity issues.²¹ Furthermore, the need for a recurring funding structure is highlighted by the Commission's own data analysis, which demonstrates that wireless networks appear to incur a higher proportion of ongoing costs than do DSL or FTTP networks.²² TIA submits that failure to provide further funding past a one-time payment could also detrimentally undercut the fundamental evolving deployment concept of universal service.²³ Commissioner Baker notes this concern in her statement on the Mobility Fund NPRM:

“I have a concern as to whether a one-time support mechanism will prove sustainable to provide mobile broadband services in unserved areas, or whether this effort will lead to a future further drain on resources to maintain the expanded infrastructure.”²⁴

If the Mobility Fund is extended past a one-time payment model, continued funding to areas that require support past the initial infrastructure buildout – areas that, due to an inadequate ongoing service revenue stream, need this funding most desperately – could provide a level of mobile voice availability that would allow the program to reach its utmost potential. In this way, the Mobility Fund could serve as a continuing mechanism to ensure 3G and 4G mobile technologies continue to be delivered to all Americans.

²¹ See NBP at 152.

²² While not completely aligned in terms of cost factors, the Commission's data analysis indicates that wireless networks incur a higher proportion of ongoing costs compared to total network expenditures overall (67%) than DSL (46%) and FTTP (52%). See *The Broadband Availability Gap, OBI Technical Paper Series*, Federal Communications Commission, Exhibits 4-AB, 4-AK, and 4-AV (April 2010) available at <http://download.broadband.gov/plan/the-broadband-availability-gap-obi-technical-paper-no-1.pdf>.

²³ 47 U.S.C. § 254(c).

²⁴ Statement of Commissioner Meredith Attwell Baker, *Universal Service Reform: Mobility Fund*, WT Docket No. 10-208, p. 1.

IV. THE COMMISSION SHOULD INCORPORATE FLEXIBILITY AND TECHNOLOGY NEUTRALITY PRINCIPLES INTO PERFORMANCE REQUIREMENTS

In the Mobility Fund NPRM, the Commission proposes several performance requirements for potential recipients of Mobility Fund support, including census block coverage area ratios, speed requirements, deployment schedules, and compliance showings.²⁵ TIA agrees that, in order to maximize the public interest benefits of the Mobility Fund, the Commission should set specific, technology-neutral goals for carriers to meet to reach the maximum number of unserved Americans with the best service possible. However, TIA asks the Commission to be mindful of variations in regions and existing infrastructure that could impact the ability of some Mobility Fund recipients to meet rigid standards despite serving a very large number of unserved citizens and the public interest in a given census block. Thus, in order to reach the greatest number of residents in unserved areas with the best possible service, the Commission should allow fund recipients to attempt to meet stated goals, while taking into consideration technical, topographical, and structural limitations of wireless service availability that may make strict compliance uneconomical in some circumstances.

²⁵ Mobility Fund NPRM at ¶¶ 34-44.

A. The Commission Should Incorporate Flexibility into Adopted Coverage and Speed Requirements

TIA agrees with the Commission that covering as much of an unserved area as technically possible when utilizing Mobility Fund funding should be the priority for carriers, and that a goal of 95-100% coverage is reasonable in most circumstances.²⁶ Further, carriers must deploy, to the greatest extent possible, high speed services to unserved areas. However, the Commission should recognize that, in some census blocks, a carrier may be able to provide valuable service to the vast majority of unserved residents, and yet not meet a coverage threshold of 95% without significant additional expenditures. Additionally, carriers may not be able to provide 3G or better service speeds to all residents of a given census block while providing such data rates to most covered in the same block.

Similar consideration should be given to possibly allow slight departures from the “test drive” test proof of deployment standards proposed by the Commission. In the Mobility Fund NPRM, the Commission proposes that carriers submit, within two months of a site providing service or two years of the date support is first provided, test results showing the actual availability of the following data rates: “outdoor minimum of 200 kbps uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH. These data rates should be achieved with 90 percent coverage area probability at a sector loading of 70 percent. The transmissions would be required to support mobile voice and data.”²⁷ These standards would be applicable on all

²⁶ See *Id.* at ¶ 34 (inquiring as to the merit of requiring a coverage level of 95% to 100%).

²⁷ *Id.* at ¶ 40.

“Interstate, US, and State routes in the area, as well as any other roads that the applicable State Agency regulating the provision of telecommunications services deems essential to service.”²⁸

A wireless network’s reach and speed can be limited by manmade and natural factors. Structural impediments such as thick walls, metal structures and high-rise buildings interfere with Radio Frequency (RF) propagation. Further, trees, hills, mountains, and valleys may be significant barriers to reaching some in unserved populations. Mitigating these coverage difficulties often require significant equipment and deployment costs. Moreover, some very small populations in an unserved census block and some roads covered by the drive data testing requirements may be so remote so as to make service prohibitively expensive. Additionally, data rates may be impacted when attempting to leverage existing infrastructure that may require substantial upgrades to provide 3G or better service speeds. In such instances, it would be against the public interest to deny Mobility Fund resources – and therefore wireless broadband access to many Americans – despite a carrier’s ability to deliver 3G or better service to the vast majority of a census block. Thus, the Commission should avoid adhering to rigid requirements that would result in a loss of funding, and therefore the population of that unserved area missing out on the Mobility Fund’s benefit due to unavoidable circumstances. The Commission should consider limited waivers where a service provider can demonstrate unique circumstances and substantial compliance.

²⁸ *Id.*

B. The Commission Should Ensure that it Adheres to Technology Neutrality Principles in its Data Rate and Service Quality Requirements.

While TIA supports resources of the Mobility Fund being directed to the provision of 3G or better data rates and service quality where possible in unserved areas, the Commission should continue its “long-held policy of technology neutrality”²⁹ and specify target data rates and service quality standards, rather than identify specific technologies. The Commission’s reference to HSPA and EV-DO technology as baselines for eligibility for the Mobility Fund³⁰ does not fully take into account the full range of technology interfaces which can attain 3G or better speeds and service quality. Despite noting in the NPRM that the Commission will not “require that supported parties use any particular technology to provide service,”³¹ by specifically citing to HSPA and EV-DO to determine baseline criteria in the NPRM, the Commission may show preference to or preclude the use of other technologies that could be better suited in certain circumstances or regions.

C. The Commission Should Incorporate Flexibility into its Application of Deployment Schedule and Compliance Requirements

As with coverage and data rate targeted goals, TIA is supportive of deployment milestones that realistically balance program goals with flexibility and inclusiveness. To that end, TIA supports the Commission’s proposed goal of 50% coverage within one year in most circumstances.³² However, TIA urges the Commission to allow flexibility in this standard upon a showing that it is not reasonably possible to fully meet this requirement. In some cases, due to geographic

²⁹ *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, Third Further Notice of Proposed Rulemaking, FCC 08-230, ¶ 252 (rel. Sept. 25, 2008).

³⁰ See Mobility Fund NPRM at ¶ 37.

³¹ *Id.* at ¶ 41.

³² *Id.* at ¶ 39.

characteristics, technology availability, or access to existing infrastructure, some carriers might be unable to fully meet requirements despite best efforts. In these instances, the Commission should allow for maximum flexibility in order to avoid denying funding to an unserved area.

V. CONCLUSION

For the foregoing reasons, TIA urges the Commission to adopt policies consistent with the recommendations above.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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