

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Connect America Fund)	WC Docket No. 10-90
A National Broadband Plan for Our Future)	GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
High-Cost Universal Service Support)	WC Docket No. 05-337
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

To: The Commission

COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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April 24, 2011

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**COMMENTS OF THE TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**

The Telecommunications Industry Association submits these comments on the *Public Notice* (PN) in the above captioned proceeding.¹ TIA supports the Federal Communications Commission's (Commission) examination of specific aspects of the proposals submitted in response to the Commission's NPRM seeking to comprehensively reform and modernize the

¹ Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, *Public Notice*, DA 11-1348 (rel. Aug. 3, 2010) (PN).

Universal Service Fund (USF) and the intercarrier compensation (ICC) program by reorienting it to support universal availability of broadband Internet access.²

I. INTRODUCTION AND SUMMARY

TIA represents the global information and communications technology (“ICT”) industry through standards development, advocacy, trade shows, business opportunities, market intelligence and world-wide environmental regulatory analysis. For over 80 years, TIA has worked to expand access to information and communications technologies, including broadband, mobile wireless, cable, satellite, and unified communications networks. TIA members manufacture the equipment used for the deployment of broadband services, as well as the devices used by consumers to access these services. TIA is accredited by the American National Standards Institute (ANSI).

TIA is very supportive of the Commission’s examination of proposals submitted on USF/ICC reform. Without wholly endorsing any of the proposals submitted (but commenting on particular aspects of several), TIA again notes its support for a transition to the support of broadband, and that flexibility and technology neutrality principles in the rules adopted, as well as minimal reporting burdens on providers, will be required for the continuing success of the USF. TIA believes that the industry-consensus proposals, as well as submissions from areas in the country that have unique challenges, lend support to these principles.

² *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2010) (NPRM).

Further, TIA fully supports the allocation of dedicated and recurring funding to the support of mobile broadband. By ensuring for support of this service, TIA believes that the FCC will ensure maximum service to consumers, as well as a forward-looking USF.

Finally, TIA reiterates its support for reform of the ICC, as well as its call for the Commission to ensure that in these reform efforts, critical funding for anchor institutions is not reallocated.

II. TIA SUPPORTS ASPECTS OF PROPOSALS IN THE *PUBLIC NOTICE* THAT INCORPORATE FLEXIBILITY AND TECHNOLOGY NEUTRALITY IN UNIVERSAL SERVICE FUND REFORMS

TIA supports the Commission's efforts to cut the "Gordian Knot" of USF –ICC reform. TIA believes that its long-advocated principles of USF reform provide a useful perspective to the Commission, and that the proposals submitted demonstrate a stakeholder-wide endorsement of USF/ICC reform. TIA is not a direct party to any of the compromise plans submitted to the Commission. However, from the equipment vendor perspective, TIA below addresses a number of specific issues raised by particular proposals, without endorsing or opposing specific proposals.

TIA believes that the FCC's success in resolving these USF-ICC policy challenges is in broad interest of all telecommunications users. First, TIA reiterates that maximum flexibility in the operation of the new fund is critical to reaching its maximum potential. Second, TIA believes that the Commission should ensure that technology-neutral principles are reflected in this reform, particularly in the public interest obligations of providers. Third, the FCC should

ensure that reporting burdens on recipients are minimized in order to promote participation in the program.

A. *THE CURRENT USF-ICC FUNDING DEPENDS ON AN OBSOLETE TECHNOLOGY AND MARKETPLACE MODELS.*

As the Commission has already stated, the USF and ICC programs are broken, and a critical portion of fixing the system is to restructure the programs to support broadband deployment.³ Modernization of the use of funds to support broadband is strongly supported by TIA, and we lend support to any solutions that incorporate flexibility and technology neutrality. The success of this reform effort will demand that the Commission should stay true to these long-established principles. TIA reiterates its belief that the Commission should seek to establish flexible service and coverage requirements that will not disadvantage particular technologies or competitors, and that will maximize the effectiveness of the CAF in promoting broadband coverage.

B. *MAXIMUM FLEXIBILITY IN UNIVERSAL SERVICE FUND REFORM IS CRITICAL TO THE SUCCESS OF THE COMMISSION'S GOALS.*

TIA firmly believes that any obligations imposed on recipients should be as flexible as possible. In the PN, the Commission seeks comment in the PN on the proposal under the State

³ NPRM at ¶ 9.

Members' Plan to require build-out milestones to be met at deployment years 1, 3, and 5.⁴ This proposal from the State Members would have a company "lose all of its support if it failed to meet the minimum standard of deploying gradually increasing speeds to increasing percentages of its area over the five-year period," while a company meeting the standards would receive full funding.⁵ TIA believes that such an unreasonably rigid regime is not in the spirit of the Commission's efforts to provide broadband to all Americans, and opposes this proposal from the State Members in this area.

TIA is supportive of deployment milestones that realistically balance program goals with flexibility and inclusiveness, but 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 characteristics, technology availability, or access to existing infrastructure, some carriers might be unable to fully meet requirements despite best efforts. Buildout milestones will best serve the Commission's deployment goals only if the Commission incorporates maximum flexibility into any regulations adopted. Any buildout requirements must allow for tailored solutions that accommodate the uniquely difficult deployment challenges presented in various portions of the country. The Commission should also establish a flexible waiver process for buildout requirements that accounts for unique circumstances in a technology-agnostic and competitively neutral manner.

In the PN, the Commission proposes that an Alaska-unique universal service fund policy be adopted, and further requests input on similar approaches for Hawaii and Tribal Areas in the

⁴ Comments by the State Members of the Federal-State Joint Board on Universal Service, WC Docket No. 10-90 et al. (filed May 2, 2011) at 62-63 (State Members' Plan).

⁵ PN at FN 16.

United States.⁶ Such a policy, not limited to Alaska, is consistent with TIA's long-held policies that the Commission should be mindful that variations in terrain, existing infrastructure, and technical conditions could render some providers unable to meet rigid standards, and that all service obligations and coverage requirements should therefore incorporate significant flexibility to ensure that no portion of the country remains unfunded and therefore unserved.⁷

In its filing supporting this proposal, GCI notes that Alaska faces unique hardships in the deployment of infrastructure.⁸ Without endorsing specific proposals from GCI, TIA believes that this is an excellent example which strengthens the case for the adoption of maximum flexibility into support requirements and service obligations. Certainly, such allowances should be made for Tribal Areas, which the Commission has long noted as having less access to telecommunications services than any other portion of the population due to a large number of connectivity issues.⁹ Exceptions will also certainly be required for areas other than Alaska, Hawaii, and U.S. Territories, and TIA reiterates its belief that in certain high-cost areas, a carrier may be able to provide service to a large number of residents yet not be able to satisfy a one-size-fits-all coverage threshold without significant additional expenditures.¹⁰ The Commission should seek to accommodate the wide variety of conditions and limitations unique to various regions throughout the country, and ensure that all obligations and coverage requirements incorporate significant flexibility, so that no portion of the country is left unserved.

⁶ PN at 9.

⁷ See TIA USF Comments at 9-11; See also TIA Mobility Fund Comments at 9-10.

⁸ See Letter from Christopher Nierman, GCI, to Marlene H. Dortch, FCC, CC Docket No. 01-9, 96-45, 99-200, 96-98, 99-68; WC Docket Nos. 05-337, 07-135, 10-90, 03-109, 06-122, 04-36; GN Docket No. 09-51 (filed Aug. 1, 2011) at 1-2.

⁹ See NBP at 152.

¹⁰ Comments of TIA, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109 (filed Apr. 18, 2011) (TIA USF Comments) at 9.

C. THE COMMISSION SHOULD ENSURE THAT TECHNOLOGY NEUTRALITY IS MAINTAINED IN ITS REFORM EFFORTS.

In the PN, the Commission seeks comment on the ABC Plan's proposal to "use one technology to determine the modeled costs of 4 Mbps download/768 kbps upload service, while permitting support recipients to use any technology capable of meeting those requirements."¹¹ In creating support for mobile voice and broadband, TIA strongly urges the Commission to adhere to its long-standing technology neutrality principles and avoid setting technical requirements gauged to particular technologies. TIA believes that the Commission should adopt standards that are objective and performance-driven.¹²

Noting that the ABC Plan's proposal states that the "broadband service obligation is technology-neutral: providers can use any wireline or wireless technology that meets the specified bandwidth and service requirements,"¹³ TIA endorses the technology-neutral aspect of the proposal. However, TIA believes that the widely-recognized principle that speed is only one measure of broadband performance¹⁴ should be reflected in new support mechanisms. Other network performance measures that can significantly impact the capabilities of broadband service, including throughput, latency, jitter, traffic loading, packet loss, and diurnal patterns. Furthermore, broadband measurements can be misleading because broadband speed, as

¹¹ PN at 3.

¹² See TIA NPRM Comments at 12-13.

¹³ ABC Plan at 3.

¹⁴ *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2010) at ¶ 105.

experienced by the end user, is affected by a multitude of factors, including application type, congestion or misconfiguration of the end user's home network, congestion in the Internet service provider's (ISP) network, and congestion in other networks not under the control of the ISP. Judging the worthiness of a broadband network on only one dimension inherently biases the system in favor of technologies that excel along that dimension, but may be comparatively weak along other measures of performance. This may have the effect of eliminating certain technologies from support eligibility based on speed alone, is counter to the Commission's commitment to remain technologically neutral, and will disserve consumers.

Due to the efforts of SamKnows, the Commission should be conscious of these issues in adoption of public interest obligations. SamKnows' recently-released report analyzing data from the Nation's first consumer wireline broadband report reflects a number of metrics that TIA supports for inclusion in broadband measurement, including broadband throughput, latency, the use of transient performance enhancements, and peak times of the day.¹⁵

D. THE COMMISSION SHOULD ENSURE THAT ANY REPORTING REQUIREMENTS ADOPTED ARE MINIMALLY BURDENSOME.

In the PN, the Commission requests comment on what information carriers should be required to submit to the Universal Service Administrative Company (USAC).¹⁶ As TIA noted in its comment on the NPRM associated with this item, the Commission should seek to reduce burdensome reporting requirements.¹⁷ The Commission has already acknowledged that

¹⁵ FCC, *Measuring Broadband America* (rel. Aug. 2, 2011) at 12-13, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-308828A1.pdf.

¹⁶ PN at 8.

¹⁷ TIA NPRM Comments at 3, 9-13; *See also* Comments of Centurylink, WC Docket No. 11-1026 *et al.* (filed Apr. 18, 2011) at 48.

reporting requirements can place “potentially significant burdens” on filers.¹⁸ TIA believes that in order to promote broad participation, the Commission should seek to minimize such barriers by revising Form 477 reporting requirements to reduce the associated burdens, and should additionally ensure that any added reporting requirements “for supported providers regarding pricing and usage allowances to facilitate its ability to ensure that consumers in rural areas are receiving reasonably comparable services at reasonably comparable rates”¹⁹ are not duplicitous with data already submitted under Form 477.

III. TIA SUPPORTS THE DEDICATION OF FUNDING FOR RECURRING MOBILE SUPPORT

The Commission seeks comment on multiple proposals that urge the Commission to dedicate recurring funding for mobile voice and broadband service in areas that are economic to serve.²⁰ The Commission additionally inquires how funding reserved for fixed services and mobile services should be set, and revised over time.²¹

TIA believes that funds which 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. As TIA has previously submitted, sustained funding past the one-time payment proposed in the NPRM for areas where carriers will struggle

¹⁸ *Modernizing the FCC Form 477 Data Program, et al.*, WC Docket No. 11-1026 *et al.*, Notice of Proposed Rulemaking, 26 FCC Rcd 1508 ¶ 37 (rel. Mar. 7, 2011).

¹⁹ PN at 4-5.

²⁰ PN at 2.

²¹ *Id.*

to develop a feasible business case for investment is certainly needed.²² Therefore, from a vendor perspective, TIA supports the ABC Framework that would create two new universal service programs – a Connect America Fund (CAF) and an Advanced Mobility/Satellite Fund (AMF) – to support the provision of broadband service in high-cost areas.²³

IV. TIA SUPPORTS COMPREHENSIVE INTERCARRIER COMPENSATION REFORM UNDER A FEDERAL REGIME THAT REFLECTS ADVANCES IN TECHNOLOGY AND ENCOURAGES BROADBAND DEPLOYMENT

TIA and its members fully support the Commission's efforts to improve the existing ICC regime to reflect the operational changes in technology, consumer conduct, and competition. Today's communications networks are IP-based, and the distinction between local and long-distance is less important to today's consumers. Without endorsing any particular ICC reform proposal, TIA reiterates that to remove the market distortions and arbitrage that plague today's ICC regime, the FCC should comprehensively reform the system as soon as possible. Such reform should encourage innovative communications services and applications in a technology- and competitively-neutral fashion. A federally-managed, geographically neutral intercarrier compensation system would foster more rapid deployment of broadband networks and unleash the benefits of evolving technologies.

²² TIA Mobility Fund Comments at 8-10.

²³ ABC Plan at Appendix A.

V. THE COMMISSION SHOULD ENSURE THAT IT MAINTAINS CRITICAL SUPPORT FOR ANCHOR INSTITUTIONS

Though not specifically addressed in the PN, TIA reiterates its support for continued E-Rate and Rural Health Care programs.²⁴ Both have funded broadband infrastructure supporting important anchor institutions such as libraries, schools, and hospitals. Going forward, there may be some potential for sharing of this infrastructure in a manner that would further the Commission's USF goals. However, it is critical that funding for E-Rate and the Rural Health Care programs remain dedicated to these important programs. Such funds should not be diverted to CAF.

²⁴ TIA NPRM Comments at 13-14.

