

Strengthening Our Communications Networks to Meet the Needs of Consumers

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Chairman Doyle, Republican Leader Latta, and Members of the Subcommittee, thank you for the opportunity to testify at today's legislative hearing on several bills to strengthen and expand our nation's communications networks to meet consumers' demands.

I am testifying on behalf of Competitive Carriers Association ("CCA"), the nation's leading association for competitive wireless providers. CCA represents carrier members ranging from small, rural providers serving fewer than 5,000 customers to regional and nationwide providers serving millions of customers, as well as vendors and suppliers that provide products and services throughout the wireless communications ecosystem.

Americans have become increasingly reliant on communications networks, particularly as life shifted online because of the COVID-19 pandemic. As the members of this committee are well aware, there is broad agreement that connectivity has never been more important to consumers and communities throughout the United States. Several of the bills under consideration today will help preserve and expand broadband connectivity, particularly through advanced wireless services, to meet consumer demand and set our country on a path to maintain wireless leadership in the years ahead.

Full participation in today's society, including work, health care, education, entertainment, news, social engagement, and an ever-growing list of applications depends on access to robust connectivity in all corners of the United States. The evolutionary step of upgrading wireless networks to 5G standards will strengthen communications services while enhancing efficiency. As carriers deploy 5G networks, policies that support Ultra Reliable Low Latency Communications, massive Machine Type Communications, and enhanced Mobile Broadband will ensure that all Americans are able to take advantage of the latest wireless technologies. Every industry segment of our economy will be impacted by 5G wireless services. Where fully deployed, these networks will power significant benefits and drive innovation. Conversely, a lack of or insufficient service threatens to deprive the communities that could

benefit most from enhanced connectivity. Congress can act decisively to promote policies that support network deployment.

As this Committee's bipartisan leadership recently noted, "Closing the digital divide remains a shared, bipartisan goal." I fully agree and commend the Committee's efforts to make this goal a reality, including through several of the bills under consideration today. Efforts to provide certainty and stability regarding access to spectrum, policies for infrastructure deployment, and sufficient and predictable Universal Service Fund support are key policies needed to strengthen our communications networks to meet consumer demand now and in the future.

Spectrum Access is a Critical Input

Spectrum is the lifeblood of wireless services, and carriers of all sizes need access to additional frequencies to strengthen and expand their networks. Although fiber connectivity will continue to play an important role in the deployment of wireless networks, without sufficient spectrum, there cannot be wireless connectivity. Accordingly, as 5G services continue to drive massive increases in wireless data use, access to additional spectrum will allow carriers to meet new demands and prepare for continued growth in the years ahead. To ensure that wireless providers -- including those offering competitive alternatives and those serving rural areas -- have meaningful opportunities to access spectrum, when additional spectrum is reallocated for commercial wireless use, it must be:

- made available in appropriately sized geographic license sizes, while respecting varied technological use cases and power levels;
- interoperable within spectrum bands to support an ecosystem with economies of scale; and,
- auctioned in a manner that encourages broad participation by carriers of all sizes.

Further, policymakers should support technological development that increases spectral efficiency and other rules for use, such as power levels that maximize the potential of existing bands. For

example, increasing the permissible power levels in the 3.5 GHz Citizens Broadband Radio Service (“CBRS”) band could increase the number of use cases supported by the CBRS band, including 5G macro cells, while maintaining protections for incumbent CBRS users.

From CCA’s perspective, there is no replacement for the reallocation of additional spectrum bands for exclusive use by commercial licensees. Such reallocation may come from potentially underutilized bands currently licensed to the government or commercial services. For example, the Federal Communications Commission (“FCC”) has identified the 12 GHz band as a potential candidate for more intensive flexible commercial use and is currently evaluating whether rule changes would permit coexistence in the band by various users, including satellite and terrestrial services. The FCC’s evaluation of this potential coexistence will, as always, be guided by technical analysis and a determination of potential interference based on sound engineering and science. With regard to government spectrum, a significant portion of the mid-band spectrum most important for 5G services is currently being used by the federal government. For example, the 3.45 – 3.55 GHz band is in the process of being reallocated from incumbent federal users to commercial use, with bidding beginning this week.

Building on steps to reallocate the 3.45 – 3.55 GHz band, CCA strongly supports considering adjacent spectrum in the 3.1 – 3.45 GHz band for potential reallocation for commercial wireless use. We commend Chairman Doyle and Representative Matsui for their leadership on this issue through H.R. 5378, the Spectrum Innovation Act of 2021. This legislation takes important steps for consideration of the band for 5G use, including providing resources for the federal government to take steps to maximize commercial use, extends FCC authority to auction the band and ensures that the FCC is appropriately involved in the reallocation process, requires the auction of at least 200 megahertz, and continues to develop a spectrum pipeline for additional frequencies that could be used for wireless services below 6 GHz in the years ahead. If enacted, this legislation would establish the largest spectrum auction opportunity in the near future and would support strengthening 5G services throughout our nation.

Federal spectrum users should continue to seek opportunities to use spectrum more efficiently so that additional frequencies can be reallocated for commercial use, as will be required by spectrum pipeline provisions.

In addition to developing the spectrum pipeline, maintaining confidence in the reallocation and coordination process is vital. Unfortunately, the coordination between the FCC and the National Telecommunications and Information Administration (“NTIA”), the agency responsible for Executive Branch spectrum management, needs improvement. As this Committee’s leadership noted in a bipartisan letter to NTIA earlier this year, and Representative Matsui recognized in her letter to then President-elect Biden, the NTIA/FCC coordination process is broken. This has led to disputes where individual executive branch agencies, including the National Oceanic and Atmospheric Administration, the Department of Defense, and the Department of Transportation have presented claims of potential interference outside of the NTIA process and contrary to science-based studies. Such efforts distract from important policy goals and potentially undercut bidder confidence in FCC service rules and eventually auctions.

Fixing the coordination process is essential to ensure that any disputes are addressed well before spectrum is designated for commercial use. Updating the Memorandum of Understanding (“MOU”) on spectrum coordination between the FCC and NTIA, as contemplated in H.R. 2501, the Spectrum Coordination Act introduced by Representative Bilirakis, can help improve the process for resolving disputes and increase confidence from all spectrum users. A revised MOU between NTIA and the FCC cannot be effective if federal agencies are permitted to work around NTIA or “re-litigate” issues and questions that the expert agency has already considered. A unified approach to spectrum management from the administration will go a long way towards promoting spectrum policies that benefit American consumers.

Communications Networks Require Infrastructure

In addition to acquiring adequate amounts of spectrum, wireless carriers must also deploy, maintain, and upgrade the physical infrastructure – towers, small cells, wires, radios, and other equipment – to support current and future demands for connectivity. Carriers have invested billions of their own dollars to expand and strengthen communications networks, in addition to support programs at the federal, state, and local levels. At a time when Congress is contemplating significant additional resources to boost broadband deployment and close the digital divide, it is more important than ever that the policies to review applications and permit projects are reasonable and consistent, providing carriers certainty regarding timing and costs to navigate the process and support network deployment.

Unreasonable delays or prolonged review periods, unnecessary or duplicative reviews, and arbitrary fees frustrate efforts to expand and strengthen communications networks, diverting resources away from capital and operational network investment. In urban areas, these impediments can dramatically inflate the cost of providing competitive service or upgrades to meet capacity and technology demands and expend resources that could otherwise go towards service in more sparsely populated areas. In rural areas, added costs and uncertain timelines can create a barrier to deployment altogether. Notably, under previous funding support programs, CCA members have been forced to default on awards from one federal agency to provide service in unserved and underserved areas solely because they were unable to obtain the requisite permits from other federal agencies within the required timeframe for deployment.

Congress can continue to support expanding broadband services by providing carriers with regulatory certainty and increasing oversight of federal agencies to ensure that they facilitate rather than impede deployment. Although supporting broadband availability and adoption is not the primary mission of federal agencies like the Department of the Interior or the Department of Agriculture, nearly

all missions of those and other agencies are improved through better and more reliable access to broadband, especially wireless services, including more efficient use of resources to complete primary missions.

CCA thanks the many members and leadership of this Committee for their steadfast commitment to connecting all Americans with broadband services, including through proposing potential solutions to address barriers to broadband and wireless deployment. I particularly commend recent efforts to streamline the deployment of broadband facilities on federal property, including:

- The September 30, 2021 letter from Chairman Pallone, Ranking Member McMorris Rodgers, Subcommittee Chairman Doyle, and Subcommittee Ranking Member Latta to the GAO seeking a review of interagency coordination to streamline deployment, including through continued implementation of provisions in 2018's RAY BAUM's Act, as well as a progress report on these efforts.
- H.R. 1049, the Expediting Federal Broadband Deployment Reviews Act, introduced by Representative Duncan along with Representatives Curtis and Foxx, to establish an interagency strike force that would increase prioritization and cooperation between federal agencies to support timely review and ongoing oversight of requests for communications use authorizations on federal lands.
- H.R. 1058, the Wireless Resiliency and Flexible Investment Act, introduced by Representative Kinzinger, to ensure that the application review process does not create barriers to enhancing reliability and resiliency of communications services.
- H.R. 1046, the Federal Broadband Deployment in Unserved Areas Act, introduced by Representative Curtis, to ensure that coverage data can help prioritize deployments in unserved areas of federal lands.

- H.R. 1042, the Protecting Critical Infrastructure Act, introduced by Representative Bucshon, to provide enhanced penalties for those who seek to willfully destroy communications facilities and disrupt communications services provided.

Congress should continue to support streamlining the permitting process and removing unnecessary or redundant barriers to deployment. CCA strongly believes that meaningful broadband infrastructure siting reform need not pit carriers against states and municipalities. Because so many CCA carrier members are based in the communities where they provide coverage – often literally connecting their neighbors – CCA members work closely with leaders and officials in their communities to help achieve the goals of expanded broadband service. Significant resources have and will continue to be dedicated to expanding broadband connections in unserved and underserved communities, on top of ongoing efforts to remove and replace communications networks deemed to have unsecure equipment or services and broader industry efforts to deploy 5G. Not surprisingly, the number and scope of applications to deploy services, including new macro towers, collocations, small cells, and fiber, will continue to increase, straining state and local offices tasked with review and processing for these projects.

To make sure that an influx of applications does not become a choke point delaying the deployment of broadband infrastructure, additional resources should be provided appropriately to facilitate expansion and strengthening of services, especially 5G wireless services.

H.R. 5058, the Broadband Incentives for Communities Act, introduced by Representative Fletcher proposes a win-win-win for carriers, reviewing agencies, and ultimately consumers, by providing resources through grants for reviewing entities to build capacity to review applications, including employee training and hiring, as well as for the purchase of the technology, software, and equipment needed to facilitate processing applications, including in remote work environments. Combined with

steps to demonstrate a readiness for broadband infrastructure deployment, increased resources to swiftly process applications can create positive returns for local areas, with increased broadband services powering significant economic growth. In addition to prompt consideration of H.R. 5058, Congress also should more directly clarify that states and localities can use their allocations of the \$350 billion Coronavirus State and Local Recovery Funds created by the American Rescue Plan Act for these purposes. And while additional application processing and personnel resources are needed for states and localities, I also urge policymakers to support efforts to increase training and workforce opportunities in the wireless industry as well.

The Universal Service Fund Must Remain Sufficient, Predictable, and Guided by Data

Recognizing the network effects and benefits to all Americans from universal service, Congress has plainly mandated that the FCC administer the Universal Service Fund (“USF”) so that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services ... that are reasonably comparable to those services provided in urban areas.” Congress has further required that “[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.” To fulfill that charge, the FCC has overseen programs to preserve and expand service, initially to provide voice connectivity and today to support broadband. And in line with consumer expectations, reasonably comparable service today must include the latest mobile wireless services. As the FCC recognized unanimously, “ubiquitous availability of mobile services [is] a universal service goal.”

Indeed, the tangible benefits of universal service have been clearly demonstrated over the course of the COVID-19 pandemic, with so many critical aspects of our lives shifting online. Universal Service Fund support will continue to provide critically needed resources going forward, not only to

preserve and expand broadband connectivity in rural and high cost areas, but also to provide support for low income, rural health care, and programs for schools and libraries.

CCA commends this Committee's bipartisan work to enact the Broadband Deployment Accuracy and Technological Availability Act, or the Broadband DATA Act, and work is well underway at the FCC to collect reliable data. We appreciate Congress's clear directions for the FCC to update and maintain broadband coverage data. The resulting FCC maps should be the standard used across federal agencies and programs, and to the extent other agencies initiate mapping efforts they should pull directly from data reported to the FCC under the parameters established by the Broadband DATA Act. That effort is critical to determine what resources are needed to accomplish universal service goals and where support funding should be appropriately targeted. Because several USF programs award funding for multiple years, the opportunity to correct decisions based on flawed data may not arise until after communities have been left behind. There are no shortcuts – as demonstrated in CCA's study of preliminary winning bids in the Rural Digital Opportunity Fund Phase I auction, moving forward without complete and reliable coverage data inevitably will misdirect resources. And since network deployment and operations are multi-year investments and projects, multiple year periods of support allow for more efficient and economical decisions that provide good stewardship of USF resources, ultimately contributed by rate payers. There are many reasons why it is so important to get this right, including to provide reliable data for other purposes, such as demonstrating the effectiveness of internet connectivity to improve maternal health outcomes, as proposed in H.R. 1218, the Data Mapping to Save Moms' Lives Act introduced by Representatives Butterfield, Bilirakis, and Blunt Rochester.

In light of a determination based on guidance from the Office of Management and Budget in 2004, Congress should continue to exempt USF from requirements of the Antideficiency Act ("ADA") so that support over multiple years remains predictable as required by law. This exemption has enjoyed bipartisan, bicameral support, including previous efforts to enact a permanent exemption.

While temporary ADA exemptions often have been enacted through appropriations bills, the Committee on Energy and Commerce included an ADA exemption for USF in RAY BAUM'S Act, that passed the House of Representatives in 2018 by voice vote before being enacted as part of the Consolidated Appropriations Act of 2018. Other recent considerations of the exemption by the Energy and Commerce Committee include four-year extensions found in the Federal Communications Commission Process Reform Act of 2017, the Federal Communications Commission Process Reform Act of 2015, and a five-year extension in the Federal Communications Commission Process Reform Act of 2014. As explained in the report accompanying the 2015 version of this bill, "CBO does not expect that the USF would collect or spend more as a result of the exemption; rather, we estimate that the timing of the spending would change." In absence of a permanent exemption, providing a multiple year ADA waiver for USF will provide greater certainty that funding will not be disrupted, such as the three-year exemption found in H.R. 5400, the Preventing Disruptions to Universal Service Funds Act introduced by Representatives Hayes and Veasey.

Congress should continue to exercise oversight over USF to ensure that the universal service mandates are being met. Particularly as various funding programs have been enacted over the past year or are currently being contemplated that could overlap with the goals of specific USF mechanisms, policymakers should consider whether other mechanisms to support universal service goals are being adequately met with the current USF budget and avoid duplication. For example, while several broadband programs have targeted the expansion of fixed broadband connectivity, the current framework for a 5G Fund to support ubiquitous mobility is based on a level of funding that is not based on up-to-date data. This shortcoming was addressed by then-Commissioner Rosenworcel who suggested at the time that the FCC was adopting its budget for the 5G fund auction "without grounding it any real-world data." Similarly, Commissioner Starks noted the "paper-thin justification for the [5G] Fund's \$9 billion budget." Armed with updated coverage data, CCA encourages the Congress and the FCC to revisit

whether current budget allocations will get the job done or if additional funding sources will be required to meet the need for ubiquitous 5G connectivity. Additionally, policymakers should consider ways to make sure that the contributions sources that provide resources for the USF are equitable and sustainable.

Strengthening our communications networks to ensure that all consumers have access to the latest fixed and mobile broadband services has emerged as a critically important goal though the COVID-19 pandemic and should remain a top priority for Congress. CCA appreciates the careful consideration of the bills under consideration today and others to advance this critically important goal. CCA looks forward to continuing to work with Congress, the Administration, the FCC, NTIA, and other federal agencies to close the digital divide and prepare our communications networks to meet consumer and enterprise demands in the years ahead to advance the post COVID-19 recovery. Thank you for your leadership on these issues. I welcome any questions you may have.