



April 22, 2016

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: NOTICE OF EX PARTE
WC Docket No. 16-106: *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*

Dear Ms. Dortch:

Competitive Carriers Association (“CCA”), NTCA-the Rural Broadband Association (“NTCA”) and the Rural Wireless Association, Inc. (“RWA”) (together, the “Associations”) write in support of the Motion for Extension for Time¹ filed in WC Docket No. 16-106 by the American Cable Association, Consumer Technology Association, CTIA, Internet Commerce Coalition, National Cable & Telecommunications Association, U.S Telecom Association, and Wireless Internet Service Providers Association (collectively “Petitioners”) requesting an extension of the comment and reply comment windows for the *Notice of Proposed Rulemaking* (“NPRM”) released on April 1, 2016.² The requested extensions would greatly enhance stakeholders’ ability to meaningfully contribute to the record in this important rulemaking.

CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. NTCA represents nearly 900 independent, community-based telecommunications companies that are leading innovation in rural and small-town America. NTCA advocates on behalf of its members in the legislative and regulatory arenas, and it provides training and development; publications and industry events; and an array of employee benefit programs. RWA is dedicated to promoting wireless opportunities for rural telecommunications companies who serve rural consumers and those consumers traveling to rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. Each of RWA’s carrier member companies serves fewer than 100,000 subscribers. Many of the

¹ Motion for Extension of Time, The American Cable Association, Consumer Technology Association, CTIA, Internet Commerce Coalition, National Cable & Telecommunications Association, U.S Telecom Association, and Wireless Internet Service Providers Association, WC Docket No. 16-106 (filed Apr. 20, 2016).

² *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Notice of Proposed Rulemaking, WC Docket No. 16-106, FCC 16-39 (Apr. 1, 2016) (“NPRM”).

Associations' carrier members, including nationwide, regional and rural providers, will be subject to new privacy and data security regulations created during this proceeding.

An extension of time would significantly assist the Associations in fully addressing the manifold aspects of the *NPRM* that will impact our members, in particular small broadband Internet access service (BIAS) providers. The Associations appreciate the Commission's attention to the impact on smaller carriers throughout the *NPRM*.³ As the Commission is aware, some aspects of the *NPRM* will impact larger carriers to a greater extent than smaller carriers, and vice-versa; the Associations would very much appreciate an extension of time to allow the best, most comprehensive exploration of all possible ramifications of the *NPRM*, especially since many proposed rules are unprecedented in the context of ISPs.⁴ Further, many of the Commission's questions relate to defining technical terms, or prompt a detailed policy recommendation, including contours of a "small BIAS provider" exemption.⁵ A "small BIAS provider" exemption is a critical issue for the Associations and their members, and the Associations and their members would greatly benefit from more time to adequately address the *NPRM*.

In their Motion, Petitioners note the Commission's history of extending comment and reply comment deadlines where doing so would further the establishment of a robust record.⁶ The Associations agree with Petitioners that the information gathering and reporting effort denoted by the *NPRM* requires more time to give commensurate attention to the diverse needs of our members, and warrants a similar extension of time. Given that the Commission has put forth an *NPRM* that, by one notable estimate, posits over 500 questions to the telecommunications community,⁷ it is incumbent upon the Commission to provide an extension that encourages the most meaningful, robust responses to help shape privacy and data security rules in this proceeding.

³ See, e.g., *NPRM* at ¶¶ 2, 34, 35, 40, 55, 59, 77, 80, 89, 92, 95, 101, 108, 131, 151, 164, 177, 194, 202, 212, 219, 232, 241, 247, 257, 275.

⁴ *NPRM* at ¶¶ 154-161 (handling of aggregated and/or de-identified or re-identifiable data); 191-200 (customer authentication requirements); *id.* at 161-162 (proposing rules to contractually bind third parties lawfully receiving aggregated data from attempting to re-identify the data, and rules requiring ISPs monitor those third parties), *id.* at ¶ 212 (proposing ISPs obtain contractual commitments from third parties to safeguard lawfully disclosed PII).

⁵ *Id.* at ¶ 151 (the Commission asks for expansive comment on the best contours of a "small BIAS provider" exemption for customer approval requirements, without adopting any tentative conclusions.)

⁶ See, e.g., *Appropriate Method for Determining the Protected Contours for Grandfathered 3650-3700 MHz Band Licensees*, Public Notice, 30 FCC Rcd 14049, 14050 ¶ 3 (2015) (extending the comment and reply deadlines to allow for "a complete and thorough record on the issues"); *Close Captioning of Internet Protocol-Delivered Video Programming*, Order, 28 FCC Rcd 12338, 12339 ¶ 2 (2013) (extending both comment and reply periods to "development of a more complete record"); *Expanding Consumers' Video Navigation Choices et al.*, Order, MB Docket No 16-42, CS Docket No. 97-80, DA 16-289, at 2 ¶ 3 (Mar. 17, 2016); *Special Access for Price Cap Local Exchange Carriers et al.*, 30 FCC Rcd 12298, 12300 ¶ 7 (2015); *Appropriate Method for Determining the Protected Contours for Grandfathered 3650-3700 MHz Band Licensees*, Public Notice, 30 FCC Rcd 14049, 14050 ¶ 3 (2015).

⁷ Statement of Hon. Commissioner Jessica Rosenworcel, March 2016 Open Commission Meeting Statement, Re: *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106., Mar. 31, 2016, http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0401/FCC-16-39A4.pdf

Petitioners accurately observe that the following months are replete with rulemaking activities that strain the resources of the entire industry, but particularly small carriers.⁸ Accordingly, an extension of time would allow the Associations and our members to meaningfully participate in all of these proceedings, particularly this complex privacy proceeding.

While the Associations generally support the Commission's policy objectives regarding increasing consumer choice and safeguarding consumer data, the actual rules contemplated in the NPRM undoubtedly imply myriad, substantial compliance costs uniquely burdensome to competitive carriers. The Associations would greatly benefit from more time to draft comments that adequately describe and evaluate how this rulemaking will impact competitive carriers and how our members' concerns might be addressed. Granting Petitioners' Motion will support a more thorough, ultimately valuable body of evidence in this proceeding for the benefit of carriers and consumers alike.

Respectfully submitted,

/s/ Caressa D. Bennet

Caressa D. Bennet
General Counsel
Rural Wireless Association, Inc.

/s/ Jill Canfield

Jill Canfield
Vice President of Legal & Industry
Assistant General Counsel

/s/ Rebecca Murphy Thompson

Rebecca Murphy Thompson
EVP & General Counsel
Competitive Carriers Association

cc (via email): Ms. Lisa Hone
Ms. Jennifer Tatel
Ms. Stephanie Weiner

⁸ For example, CCA and/or its members expects to participate in the following regulatory events in the near term: ongoing Auction 1000 advocacy; the Broadband Data Services proceeding (FNPRM to be voted on at the April Open Meeting); tower safety Stand Down Event (May 2-6, 2016); and NTIA's "The Benefits, Challenges, and Potential Roles for the Government in Fostering the Advancement of the Internet of Things" Inquiry (Comments due May 23, 2016), to name a few. In addition, recently the volume of comments filed in two open proceedings was so robust – and in fact generated over 56,000 recent filings in the Electronic Comment Filing System – that the surge of filings temporarily disabled notification systems tracking these dockets. *See* "Public Filing Volumes and the DCO's Track-a-Docket FCC Email Alerts," The DC Office, Email Alert, Apr. 21, 2016.