

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

Mobility Fund Phase II Challenge Process	)	WC Docket No. 10-90
Procedures and Technical Implementation	)	WT Docket No. 10-208
	)	

**REPLY COMMENTS OF  
NTCA–THE RURAL BROADBAND ASSOCIATION**

**I. INTRODUCTION AND SUMMARY**

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these reply comments in response to the Federal Communications Commission’s (the “Commission’s”) October 18, 2017 Public Notice seeking comment on the Mobility Fund Phase II (“MF II”) challenge process and procedures and technical implementation.<sup>2</sup>

In its initial comments, NTCA expressed concern that some of the proposals would prove unnecessarily burdensome for the small providers who must participate in this process to identify areas eligible for support. The majority of commenters in this proceeding are similarly concerned.<sup>3</sup> For example, CCA urged the Commission “to be mindful of the complicated nature

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<sup>1</sup> NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All of NTCA’s service provider members are full service rural local exchange carriers and broadband providers, and many utilize fixed and/or mobile wireless platforms in the delivery of such services.

<sup>2</sup> *Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation*, Public Notice, WC Docket No. 10-90, WT Docket No. 10-208 (rel. Oct. 18, 2017) (“Public Notice”).

<sup>3</sup> *See, e.g.*, Comments of Rural Wireless Association, Inc (“RWA”), Competitive Carriers Association (“CCA”), Mosaik Solutions (“Mosaik”).

of the proposed challenge process and the burden that it places on challengers, especially for smaller providers,”<sup>4</sup> and RWA requested that the Commission “adopt MFII challenge process requirements that avoid imposing egregious costs on rural wireless carriers with already-limited resources.”<sup>5</sup>

One Commission proposal of specific concern in this regard is the handsets identified for testing purposes. In its MF II Challenge Process Order,<sup>6</sup> the Commission specified that service providers purporting to offer qualified 4G LTE coverage in a given area will be required to identify at least three readily available handset models appropriate for testing those providers’ coverage.<sup>7</sup> Challengers electing to use application-based tests and software-based tests are required to use the handsets specified by each service provider to verify coverage in the challenged area.<sup>8</sup> NTCA agrees with commenters that the Commission should provide further guidance on the type of devices that each network provider must identify as appropriate for testing.<sup>9</sup> The FCC can help maximize the accuracy of the 4G LTE coverage data derived from the MFII eligibility challenge process, and avoid confusion that only exacerbates uncertainty and creates new burdens, by better defining what qualifies as a “readily available handset model” under its testing procedures.

Such guidance from the Commission should include a clear requirement to support both iOS and Android operating systems among the three devices to be used, as suggested by RWA

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<sup>4</sup> Comments of CCA, p. 1.

<sup>5</sup> Comments of RWA, p. 10.

<sup>6</sup> *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) (“MF II Challenge Process Order”)

<sup>7</sup> *Id.* at 6302, 6308, ¶¶ 39, 50.

<sup>8</sup> *Id.* at 6308, ¶ 50.

<sup>9</sup> *See*, Comments of RWA at 8, Mosiak at 2.

and Mosaik. Limiting challengers to devices with iOS operating systems will limit the information that may be collected and reduce additional benefits a challenger may receive from performing drive or application based tests. Further, iOS devices are significantly more expensive than Android devices and obtaining them for testing purposes would place an additional financial burden on challengers.

The FCC can further reduce barriers to testing challenges and create a testing environment that more accurately reflects users' experiences by setting an upper limit on the per-device cost of a readily available handset model, regardless of operating system. Many consumers for many different reasons choose to obtain and use lower-cost LTE-capable devices. The recently released iPhone X retails for \$999 for a 64 GB model, or \$1,149 for a 256 GB model – prices unaffordable to many consumers who will depend upon access to the coverage claimed. NTCA therefore agrees that the Commission should promote a robust, fully fledged challenge process by adopting parameters for device costs. Mosaik offers the example that the Commission could require a challenged carrier to make at least one device available from the bottom third, middle third and upper third of its device portfolio based on retail price.<sup>10</sup> In short, assuming the goal of the challenge process is to more accurately reflect the consumers' experience in the field, the FCC should specify that devices in a range of price points should be identified for the devices to be used in testing coverage.

Another area of substantial concern on the record is the potential for throttling of data during the challenge period. The Commission suggests that challenged providers could refute (or effectively “counter-challenge”) challenger speed test data by asserting that the data speeds

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<sup>10</sup> Comments of Mosaik, p. 4.

were throttled on the device used during the testing period. As NTCA asserted in its initial comments, this practice would undermine, if not eviscerate, the validity of the challenge process – it risks becoming the exception that swallows the rule. If data is capable of being throttled during speed testing, there is no way for any challenger to know whether the data it is collecting and submitting is valid and represents the limitations of the network in question. As CCA explains, “the proposal unnecessarily creates a loophole for challenged parties to argue that the challenger’s collected data is wrong without providing the challenger an opportunity to respond.”<sup>11</sup> Not only would this lead to unnecessary challenges, but there is no identified procedure or standards for a challenger to refute a challenged party’s claim that its network performs better than the challenger’s experience and data.

Verizon requests that the Commission should requires challengers either to (1) conduct all testing using service plans that do not include specific speed reduction terms; or (2) conduct all testing with devices that are not subject to the plan’s specific speed reduction terms.<sup>12</sup> Rather than placing the burden on would-be challengers, however, a more appropriate solution, as suggested by RWA, is to require that the challenger and challenged party work together to ensure that no throttling of data occurs during the challenge period.<sup>13</sup> In particular, the Commission should require that handsets identified as appropriate for testing not be subject to any network management practices that could or would undermine the value of the data they are used to collect.

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<sup>11</sup> Comments of CCA, p. 4.

<sup>12</sup> Comments of Verizon, p. 5.

<sup>13</sup> Comments of RWA, p. 7.

In initial comments, both ATN International, Inc. and RWA point out that the Commission's measurement proposal would create prohibitive burdens for challenge process participation, especially smaller carriers. The Commission proposes that the challenge process would be based on measurements using a grid of one kilometer squares, and that each measurement will be represented by a circle with a radius of only one-quarter of one kilometer.<sup>14</sup> As commenters argue, if adopted, this would require challengers to obtain an excessive number of measurements in order to mount successful challenges, making participation in the challenge process cost- and time-prohibitive, particularly for small carriers.

ATN International, Inc. explains the problem:

Because the area of a circle with a radius of one-quarter kilometer is less than 20 percent of a square kilometer, challengers would be required to obtain at least four measurements per square kilometer grid cell in order to reach the 75 percent coverage threshold for a successful challenge. Obtaining four measurements per kilometer would not have been particularly difficult if the Commission had adopted road miles as the coverage unit in MF-II, but the Commission instead adopted as its coverage unit square miles of land area – irrespective of whether those square miles are served by roads or accessible to the public. As a result, under the Public Notice's proposal, challenge process participants are likely to have to take measurements using much more costly and time-consuming procedures such as sending personnel on foot into areas that are nowhere near a public road. Having to perform at least four such tests for every square kilometer challenged would create an insurmountable burden for many potential challengers – particularly smaller carriers with more limited resources.<sup>15</sup>

In lieu of such an unworkable procedure that threatens to foist massive and disproportionate burdens on smaller providers in particular, the Commission should consider and

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<sup>14</sup> Public Notice at ¶ 4.

<sup>15</sup> Comments of ATN International, Inc., p. 3.

adopt solutions such as those suggested by ATN International, Inc. and RWA to provide more reasonable measurement processes.<sup>16</sup>

NTCA appreciates the Commission's desire to move quickly to an auction, but a vigorous challenge process is an essential component that will help ensure that final coverage maps are accurate and that support is appropriately targeted to where needed. At the same time, because the challenge process will be complicated, expensive and burdensome, reasonable steps must be taken to ensure small businesses can participate meaningfully and effectively in this process. Wherever possible, the Commission should reduce the burdens on challengers so that speed testing can occur in all the areas where appropriate.

Respectfully submitted,



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<sup>16</sup> See. Comments of ATN International, Inc. at 3-4, RWA at 4.