

Legislative Hearing on Four Communications Bills

Testimony of Tim Donovan
Senior Vice President, Legislative Affairs
Competitive Carriers Association

Before the

United States House of Representatives Committee on Energy and Commerce
Subcommittee on Communications and Technology

March 22, 2018

Chairman Blackburn, Ranking Member Doyle, and Members of the Subcommittee, thank you for the opportunity to testify about policies that will help close the digital divide for mobile connectivity between urban and rural areas.

I am testifying on behalf of Competitive Carriers Association (“CCA”), the nation’s leading association of competitive wireless providers. CCA is made up of nearly 100 carrier members ranging from small, rural providers serving fewer than 5,000 customers to regional and national providers serving millions of customers as well as vendors and suppliers that provide products and services throughout the mobile communications ecosystem.

CCA applauds this Committee’s steadfast efforts to preserve and expand mobile broadband nationwide. To provide mobile broadband, carriers must have access to finite spectrum resources, available only through license or lease from the Federal Communications Commissions (“FCC”). Operators must be able to deploy infrastructure, the towers, small cells, and fiber that make up the physical network, to keep up with exponentially increasing demands for mobile broadband data services. And finally, carriers must be able to make a business case to deploy and upgrade these services. In rural and high cost areas, carriers need funding mechanisms to provide resources where private capital alone is not sufficient to deploy and operate networks in unserved and underserved areas. Led by this Subcommittee, there are currently dozens of bills pending to meet these three critical pillars and support carriers’ abilities to meet consumers’ insatiable demands for mobile broadband. CCA supports these efforts and encourages Congress and the FCC to move swiftly to enact policies that provide streamlined access to spectrum, infrastructure deployment, and funding where necessary.

CCA supports H.R. 2903, the Rural Reasonable and Comparable Wireless Access Act of 2017, a focus of today’s hearing. CCA thanks Representatives McKinley and Welch, along with the seven bipartisan cosponsors, for their leadership on this issue. Specifically, H.R. 2903 provides important

transparency into FCC processes by having the agency “show its work” regarding its efforts to support reasonably comparable services. Late last year, the FCC announced the launch of an online dashboard to provide the public with greater insight into the agency’s work, the fruition of an idea FCC Chairman Pai proposed in 2013. The regulations promulgated as directed by H.R. 2903 can further this transparency, letting the public know whether the mandate for reasonably comparable services in urban and rural areas are “heading in the right direction” or need work, to use the parlance of the dashboard. Having a clear and updated understating of the mission is critical to design policies both from Congress and the FCC to achieve the goal of closing the digital divide.

Comparable mobile broadband services in rural areas are vital to ensure that rural Americans have the same opportunities for economic growth and jobs, healthcare, public safety, education, social engagement, and countless new innovations powered by mobile networks as those living in more densely populated areas. CCA looks forward to continued work with the Subcommittee to advance ideas enshrined in H.R. 2903 to provide all Americans with a yardstick to measure whether the congressional mandate for Universal Service is being met.

USF Policies Must Meet Congress’s Mandate

Universal service is not only a good policy objective, it is the law. Congress was clear in its mandate that the FCC enact policies to ensure 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.” To provide ubiquitous service in areas where private capital alone is not enough to make a business case, the FCC administers the Universal Service Fund (“USF”), which seeks to implement Congress’s direction that “[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.” In today’s modern economy, universal

service must include access to mobile broadband. While next-generation technologies and 5G promise to support the Internet of Things and services that were once considered science fiction, we cannot neglect Americans living in areas lacking 4G or any G service.

Importantly, H.R. 2903 provides proper oversight of USF by directing the FCC to establish reasonably comparable service standards based upon what is available to consumers in urban areas and to periodically update those standards. An established standard will help to guide the FCC on data needed to update or enact new policies while making sure programs are funded to meet these objectives.

H.R. 2903 Will Ensure Appropriate Data is Collected

We need not look far to see how H.R. 2903 will immediately support the FCC in its USF mission. The FCC recently released mobile broadband data depicting areas initially deemed eligible for Mobility Fund Phase II (“MF II”) support from the USF High Cost Fund. The technological parameters selected by the FCC were not sufficient to produce a map that reflects the true consumer experience you have as you travel throughout your districts. For example, the initial areas of eligibility map shows that Representative Welch’s home state of Vermont enjoys near-ubiquitous availability of 4G LTE service through unsubsidized providers, yet his constituents know this is not the case. Unfortunately, many members of this Subcommittee share the same frustration. These maps have failed in part because the standards do not reflect reasonably comparable services.

In addition to H.R. 2903, CCA commends this Committee for advancing H.R. 1546, the Rural Wireless Access Act, as part of the House passed H.R. 4986, RAY BAUM’S Act, and thanks Representatives Loeb sack and Costello for their commitment to standardize any collection of mobile coverage data. This is an important step in the right direction. However, as is clear from the initial MF II

eligibility map, standardized data is not enough if the standard is not sufficiently calibrated to meet the goal of the program.

Working in concert with the Rural Wireless Access Act, H.R. 2903 will guide the FCC going forward with directions to collect data that is standardized *and* a sense of what qualifies as reasonably comparable services to produce a map depicting where advanced mobile broadband services are available. Only then can the FCC direct USF support to areas that are unserved or underserved to meet Congress's direction.

H.R. 2903 Will Help Size USF to Achieve its Objectives

Without a set standard for what services are considered reasonably comparable, it is not clear that resources allocated by the FCC are sufficient. CCA is realistic in understanding that USF cannot provide an unlimited amount of support; however, it is not possible to set a budget without knowing what the project strives to achieve. H.R. 2903 will provide a guide for funding levels necessary to achieve Universal Service. Just as Congress strives to adjust budgets and appropriations to meet current objectives, the FCC should not base funding levels for USF programs based on amounts that were previously determined to be adequate.

H.R. 2903 Will Support Access to Spectrum and Streamlined Deployment of Infrastructure

In addition to policies regarding USF, other important policy decisions rest on comparable service standards to support policies to advance services in rural America. Carriers cannot provide reasonably comparable services without access to the inputs necessary to provide that service, namely spectrum and infrastructure. Spectrum is a finite resource, and all must have access to low-, mid-, and high-band spectrum to deploy next-generation mobile broadband, whether in urban or rural areas. Accordingly, this bill complements efforts to make spectrum available for carriers to serve rural areas. For low-band use, this includes completing the 600 MHz repack process to clear broadcasters out of the

600 MHz band as safely, swiftly, and efficiently as possible. Regarding higher frequency millimeter-wave bands, H.R. 4953, the Advancing Innovation and Reinvigorating Widespread Access to Viable Electromagnetic Spectrum (“AIRWAVES”) Act, sponsored by Representatives Lance and Doyle along with another dozen bipartisan cosponsors, supports the mission of reasonably comparable service by making additional spectrum available at auction and also creating a fund from those auction proceeds to support deployment in rural areas. CCA supports these efforts.

To put this spectrum to use, all carriers must deploy physical infrastructure to serve their customers. Where rural areas are not currently receiving reasonably comparable services, policymakers must use all available options to support deployment. This includes streamlining the infrastructure process, including where application review timelines, fees, and other regulations stand to delay deployment in rural America or make the business case for deployment untenable. The FCC is scheduled to vote on an Order addressing some of these concerns today, and both Congress and the FCC must remain focused on streamlining the deployment process not only to expand services in urban areas but also in rural America, in line with the promise of reasonably comparable services.

SERRO Can Provide Helpful Guidance for Policies that Disproportionately Affect Small Carriers

Also under consideration at today’s hearing, H.R. 3787, the Small Entity Regulatory Relief Opportunity (“SERRO”) Act of 2017, sponsored by Representatives Latta and Schrader, takes an appropriate look at regulatory relief for small carriers. Small carriers serve the communities they call home, often offering services to rural locations with sparse populations. Small carriers are innovative and they provide critical mobile broadband service to many Americans in rural areas. However, no amount of ingenuity can overcome their smaller size and subscriber base, particularly when regulatory mandates carry flat implementation costs and other compliance burdens.

Small carriers already must overcome challenges larger carriers take for granted, and any appropriate regulatory relief Congress can provide will allow them to marshal resources to better serve their customers. Smaller wireless carriers do not enjoy the same economies of scale as their larger competitors and face challenges accessing the latest equipment and devices. Specifically, many competitive carriers serving rural America continue to struggle to get access to the latest devices and are often 12 to 24 months delayed as compared to the largest providers. This harms competition, and results in technology denial for certain rural Americans. While frustrating for consumers and carriers alike, lack of access to devices and other equipment can make it harder or nearly impossible to comply with regulatory mandates premised on the latest technology, including Next-Generation 9-1-1 services and Wireless Emergency Alerts. Even where rural and regional carriers have access to devices or network equipment, they may face increased costs based on lower purchasing power from smaller-sized orders. Policymakers should ensure that competitive carriers are not punished simply because they are small businesses.

Today's hearing considers important legislation to support the clear objectives of Congress, the FCC, and the Administration to close the digital divide. CCA supports H.R. 2903 and encourages Congress's continued efforts to facilitate mobile infrastructure deployment, spectrum access, and funding mechanisms. Policymakers must enact solutions that ensure rural America is not left behind without the critical mobile broadband networks being deployed in urban areas.

Thank you for your attention to these issues and for holding today's important hearing. I welcome any questions you may have.