



CCA 2014 Issue Advocacy:
A Framework for Sustainable Competition in the Digital Age

CCA's policy agenda for 2013 emphasized promoting competition, preserving connectivity, and protecting consumers, and CCA stressed the need for access to spectrum, devices, and networks as critical to advancing a competitive wireless marketplace. CCA aggressively worked to further these goals and improve access to these inputs last year. In 2013, CCA conducted hundreds of meetings on Capitol Hill, testified at three different Congressional hearings, participated in numerous Congressional roundtable discussions, met with the Federal Communications Commission on scores of occasions, and submitted over 150 filings with the FCC. The results of these advocacy efforts are notable: interoperability was restored to the Lower 700 MHz band; the FCC's authority to conduct competitive spectrum auctions was reaffirmed; AT&T moved off of its previously held position that auction aggregation limits in any form would violate the Spectrum Act; the House of Representatives passed important patent reform legislation; and the largest carriers agreed to a set of principles for unlocking devices. Thanks to your efforts, the influence of CCA and the collective voice of its members has grown significantly both on the Hill and before the FCC.

Towards the end of 2013, coinciding with the confirmation of new FCC Chairman Tom Wheeler, CCA released a white paper entitled *A Framework for Sustainable Competition in the Digital Age: Fostering Connectivity, Innovation and Consumer Choice*. Subsequently, the Chairman set out a list of "enduring values that consumers and business have come to expect" which he believes should serve as the cornerstones for adapting regulatory frameworks to 21st century networks. These values include competition, interconnection, universal access, public safety, and consumer protection.

2014 presents several opportunities to strengthen the foundation for restored competition in the years ahead. The rules for upcoming auctions, including the broadcast incentive auction, will provide the first opportunities for new spectrum bands to be made available since the introduction of the iPhone and the explosion of consumer demand for mobile data. The ongoing IP transition will outline the framework for the next generation of interconnection and realization of network effects throughout all telecommunications products and services. Congress is beginning the process for the most significant updates to the Communications Act since 1996. Building on the progress of 2013, and in consultation with its membership, CCA has developed a policy agenda for 2014. Many specific issues from last year's agenda remain important policy objectives for this year, though the particular focus of those issues has matured as the regulatory and legislative landscape has evolved. CCA will utilize all opportunities, including both business and policy solutions, to support competition throughout the industry.

Specifically, CCA will prioritize the following issues in 2014:

Competition

CCA is committed to restoring competition to the mobile marketplace. Unfortunately, over the last few years the wireless industry has moved closer towards duopoly. Both Verizon and AT&T have continued to aggregate spectrum on the secondary market, in spite of holding almost 80% of spectrum below 1 GHz suitable and available for mobile wireless service. In 2013 the Twin Bells dominated the industry in terms of total subscribers, total available low-band spectrum, and EBITDA/OIBDA margins. Restoring a healthy, competitive marketplace will help to protect carriers and consumers against the effects of market concentration and will support innovation throughout the industry. As Congress sets out to update the Communications Act, CCA will advocate for competitive and technological neutrality and for structural mechanisms to ensure a competitive ecosystem. Competition-enabling rules are vital to ensuring that market forces will drive innovation and consumer benefits, and fostering a continued light-touch regulatory regime will reduce the need to artificially replicate the benefits of competition in an overly concentrated market.

Spectrum

Spectrum has been described as “the lifeblood of the wireless industry” and the “invisible infrastructure” on which competitive carriers build their wireless networks. Additional spectrum must be brought to market, and competitive policies must be adopted to ensure that the two largest providers are not allowed to monopolize any such spectrum. To help address the spectrum needs of competitive carriers, CCA will focus on directing policymakers towards reallocating additional spectrum resources, adopting rules for allocation of those additional resources, and implementing policies that prevent the two largest carriers from aggregating new and existing resources to the detriment of competition and consumers.

Spectrum Allocation and Auctions – Increased availability of mobile broadband wireless service is a policy goal shared by CCA, the Commission, Congress and the Obama Administration. To meet this goal, the Commission and other relevant policymakers must free up as much licensed, interoperable (and preferably low-band) spectrum for competitive carriers as possible. The Commission must also take concrete, common-sense steps to promote widespread incentive auction participation by both broadcasters and carriers and ensure that competitive carriers are given a fair chance to acquire newly reallocated spectrum. First, the Commission should adopt clear, *ex ante* rules for auction participation and spectrum aggregation prior to conducting any future auctions for spectrum, including the AWS-3 and 600 MHz incentive auctions. Additionally, in each auction the Commission should use small geographic license areas to the maximum extent feasible. The Commission should also adopt—or where appropriate, update—pro-competitive auction procedures related to blind bidding, package bidding, and bidding credits for small and very small entities.

Consolidation and Secondary Market Transactions – In 2013 Verizon and AT&T continued to acquire large swaths of spectrum, and in several instances, other wireless competitors. The record in the Commission’s mobile spectrum holdings proceeding is complete, and CCA will urge the Commission to revise its spectrum screen as soon as possible. Meanwhile, CCA will also continue to monitor transactions that widen the gap in market power between the two largest carriers and all others. Where necessary (and consistent with its previous policy positions), CCA will ask the Commission to impose conditions to promote competition and, absent such conditions, will seek denial of these transactions.

Efficient Use of Spectrum – The Commission has recognized that it possesses a “unique responsibility to ensure that spectrum is allocated in a manner that promotes actual competition and that incentives are maintained for innovation and efficiency in the mobile services marketplace.” In fact, the Commission has an affirmative obligation “to prevent stockpiling or warehousing of spectrum by licensees or permittees.” The nation’s two largest carriers have amassed an enormous amount of spectrum, especially under 1 GHz, effectively foreclosing the ability of competitive carriers to acquire access to spectrum on the secondary markets. CCA will continue to pursue policy objectives that encourage efficient use and deployment of spectrum, including strong build-out requirements and appropriate receiver standards. Additionally, CCA supports efforts to encourage spectrum licensees to make unused spectrum available for use by rural and smaller carriers in order to expand wireless coverage, such as the Rural Spectrum Accessibility Act.

Federal Spectrum – The federal government is by far the largest user of spectrum resources. CCA will encourage NTIA, the Commission and other stakeholders to review opportunities for reallocating federal spectrum resources to commercial use. In the interim, CCA will also urge the Commission to adopt rules and allocations for the upcoming AWS-3 auction that maximize the value of that spectrum. CCA also supports the Federal Spectrum Incentive Act, a bipartisan legislative effort to incentivize federal agencies to relinquish their spectrum holdings or share with other federal agencies by allowing agencies to share in the proceeds of the auction of such spectrum.

Devices

Devices are an equally important input for competitive carriers. Device selections offered by a carrier are one of the most important considerations to consumers in selecting a wireless service provider. Unfortunately, AT&T and Verizon, through their market power, have cornered the market on many “iconic” handsets, through economies of scale and exclusivity arrangements. The wireless industry’s agreement to restore interoperability in the Lower 700 MHz, along with the largest carriers’ agreement to unlock devices once certain conditions have been met, will help develop a more inclusive device ecosystem for competitive carriers, but more can be done.

Interoperability – Interoperability will continue to be a major policy focus for CCA. A lack of interoperability affects the entire wireless ecosystem, from consumers’ access to devices,

to availability of roaming and the overall viability of competitive carriers. CCA will continue to push for interoperability requirements in future spectrum bands made available for mobile broadband, including the upcoming broadcast television spectrum auction. As more spectrum resources become available for mobile broadband use, promoting interoperability will maximize revenues and ensure viable build-out opportunities for all operators.

Unlocking – The commitment by the four largest carriers to unlock consumers’ devices upon meeting certain conditions was a positive policy development in 2013, but practical developments from that agreement will need to be monitored. For example, the agreement does not apply to subscribers who do not wish to switch carriers permanently, but rather only want their device unlocked for a short period of time while traveling internationally. The FCC should also review the role of original equipment manufacturers (OEMs) in executing unlocking requests.

Manufacturer Handset Availability – Currently, two equipment manufacturers, Apple and Samsung, dominate the handset marketplace. At the end of 2013, Apple and Samsung together held a combined 68 percent of the U.S. smartphone subscriber market share, while third place Motorola only accounted for less than 10 percent. CCA will continue to urge Congress and the Commission to involve OEMs in issues such as exclusivity arrangements, purchasing minimums for iconic devices and other roadblocks competitive carriers experience in procuring devices.

Interconnection

Apart from initial spectrum on which to offer service, and devices to sell to their subscribers to use in conjunction with their services, competitive carriers need access to physical infrastructure to complete and connect their networks. Base stations, roaming agreements, interconnection arrangements, special access services and a host of other components are necessary to connect wireless networks. The transition away from TDM-based services to IP-based networks will be a major focus of the FCC in the coming year. CCA will advocate for rules that promote consumer choice and protect various interconnection rights both during and after this market shift.

Technology Transitions – The Commission has proposed a set of trials to monitor ongoing technology transitions, including the switch from time division multiplexing (TDM) to Internet protocol, and consumers’ increasing choice of wireless over wireline services. CCA will advocate for trial opportunities that promote deployment of next generation services, regardless of underlying technology, and for a strong Section 251/252 framework to ensure just and reasonable prices and nondiscriminatory treatment for IP-based interconnection.

Facilities – CCA’s carrier members continue to face challenges to siting the infrastructure necessary to deploy wireless networks. The FCC has recognized that wireless providers’ ability to meet America’s demand for wireless broadband services will depend on “the extent to which they can deploy new or improved wireless facilities or cell sites.” CCA supported

the FCC's "shot-clock" rules for state and local determinations of siting applications, and will track the FCC's wireless infrastructure proceeding to ensure that it takes additional steps to facilitate competitive carriers' deployment of wireless infrastructure.

Data Roaming – CCA will continue to advocate for a regulatory framework to further promote more productive and commercially reasonable roaming agreements. In addition to our regulatory advocacy, CCA is also pursuing a business solution to fair and reasonable roaming arrangements with the launch of a 4G LTE roaming hub. CCA will also seek nondiscriminatory access to networks in new environments, such as connected vehicles and aboard in-flight aircraft.

Special Access – AT&T and Verizon control an estimated 80 percent of the special access market, and often refuse to offer these services at competitive pricing or on reasonable terms and conditions. The Commission has recognized these concerns. Special access services should be made available at competitive prices and on reasonable terms and conditions, whether offered over DS1s and DS3s or packet-based facilities (such as Ethernet). CCA will continue to track the FCC's special access proceeding to ensure the special access market is competitive.

Universal Access

The Universal Service Fund helps promote competition and protect consumers by making necessary funding available for providers to deploy and offer services in high cost areas and to low income consumers, as well as to anchor institutions such as schools, libraries and healthcare facilities. However, this fund must reflect the overwhelming adoption of mobile services by consumers (both for voice and broadband) and the cost-effectiveness of wireless solutions. CCA will work with relevant stakeholders to make sure it does.

Universal Service Distribution – The Commission's *USF/ICC Transformation Order* disregards consumer preference and provides excessive funding to wireline carriers, while insufficiently supporting wireless carriers. CCA will work to promote consumers' wireless choices and competition, particularly in high cost service areas.

Lifeline – CCA will monitor changes made by the *Lifeline Reform Order* to ensure that the policy objectives of the Order do not inappropriately restrict access to qualified subscribers or unduly burden carriers. Congressional focus and oversight has increased, particularly on wireless participation in the Lifeline program. CCA will protect qualified consumers' option to select mobile services, including access to funds for mobile broadband services.

Mobility Fund/Increase of Wireless Support – CCA will continue to encourage the FCC to increase the amount of support allocated for wireless carriers by urging restoration of more competitively and technologically neutral policies to improve the efficiency of the CAF mechanism, the Mobility Fund and to maximize consumer welfare. The Mobility Fund auction proved that wireless carriers can and will utilize available support efficiently to

deploy broadband. In addition to its proposed rural broadband experiments, the Commission could further maximize broadband support in rural areas by implementing a wireless cost model for Phase II of the Mobility Fund.

Universal Service Contribution Methodology – As the FCC continues to weigh USF contribution reform measures, CCA will keep advocating for updates that enjoy broad support within the industry, such as broadening the contribution base to include all enterprise services that include a telecommunications component and all one-way VoIP services. CCA will also encourage the Commission to create an industry advisory committee to make recommendations regarding long-term contribution reforms, and will work to ensure that any such committee is represented by a wide cross-section of the industry.

Public Safety

A series of recent storms and natural disasters, together with the transition from traditional “plain old telephone service” (POTS) to mobile and IP-based forms of communication, has placed additional emphasis on the need for wireless consumers to be able to reach first responders and public safety networks at the same level of reliable service quality as was available in the past. To help meet this objective (and others), CCA will continue to work to develop sound public safety policy.

FirstNet – A nationwide, interoperable broadband network is critical for public safety officials and first responders to do what they do best—protect Americans. Interoperability ensures that public safety agencies can roam onto commercial broadband networks (and vice versa) and promotes redundancy, improved service quality and reduced equipment costs. The Spectrum Act permits the FCC to adopt rules to improve the ability of public safety networks to roam onto commercial networks and to gain priority access to commercial networks in an emergency, if certain requirements are met. CCA will work with FirstNet to leverage existing commercial network infrastructure for the benefit of all Americans.

NG911 – Federal policy makers must ensure that Next Generation 9-1-1 (NG911) emergency systems are not debilitating or cost-prohibitive to providing emergency services in rural and regional areas. CCA will continue to advocate for common-sense NG911 regulations within the bounds of current industry standards and technical capabilities, such as proper implementation deadlines for rural and regional carriers (which take into account the disproportionate impact these rules have on their smaller subscriber bases), regionalized PSAP deployments, meaningful cost-recovery mechanisms and strong liability protections for carriers implementing NG911 services, and availability of these services when subscribers roam.

Network Resiliency – The Commission has proposed requiring CMRS providers to report, on a daily basis both during and after emergencies, the percentage of cell sites providing CMRS. CCA has urged the Commission to take steps to lessen the burdens on smaller carriers of providing these reports. CCA will continue to work with the Commission to

strike the right balance between providing consumers the services and information they need both during and after catastrophic events, while not overburdening carriers or hampering their ability to restore services during such catastrophes.

Consumer Protection

Lastly, several policy issues remain that need to be monitored to help ensure that consumers (from single families up to large corporate subscribers) are protected from potential harm.

Open Internet – CCA supports the ability of consumers to access a fair and Open Internet and the FCC’s continued efforts to protect and promote the social and economic growth spurred by the Internet and its users. To that end, CCA supports certain modest Open Internet protections that acknowledge the differences between fixed and mobile broadband Internet access providers. Moreover, the transparency disclosures adopted in the 2010 Open Internet Order require broadband Internet providers to furnish end users with sufficient information, and the Commission should not adopt additional requirements.

Patent Assertion Entities (Patent Trolls) – The litigation tactics of patent assertion entities (PAEs, or “patent trolls”) have increased dramatically in 2013. Patent trolls hamper innovation and investment, and increasingly have begun targeting end-users. CCA will continue to coordinate with its members to respond to frivolous demands by patent trolls, and will also work with Congress, the Federal Trade Commission, state attorneys’ general and other stakeholders to provide broader relief to the harms caused by patent trolls.

Accessibility – CCA members recognize the importance of wireless communications to all Americans, including visual and hearing impaired Americans. Congress and the FCC continue to work towards ensuring that those with disabilities are able to take advantage of all technological advances. CCA is committed to helping devise simple and clear rules under the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), the Commission’s Hearing Aid Compatibility (HAC) standards, and other rules that improve consumer experiences for persons with disabilities.

Cybersecurity – With wireless networks playing an important role in the telecommunications infrastructure throughout the country, CCA will work to ensure that appropriate safeguards are in place to protect from cyber-attacks. New rules and regulations should be crafted with the support of all wireless carriers, but cannot impose excessive burdens on carriers that may impede the expansion of mobile broadband access.

Privacy – As various policymakers review privacy considerations in the mobile space, CCA will work to support an appropriate balance that instills consumer confidence without stifling innovation or unduly burdening carriers with additional regulations. This includes efforts focused on information collection, use, distribution, and disclosure.

Data Caps – Recognizing that there is limited spectrum available for competitive carriers to offer mobile broadband, efforts to regulate data caps must not burden competitive carriers but should allow for innovative, competitive service offerings. Any new requirements imposed on competitive carriers must be commercially feasible and not stifle competition.

CCA continues to be the voice of competitive carriers during this dynamic and important time in the wireless industry. We look forward to working with our membership to develop policy and business solutions to restore competition to the marketplace today and in the future.