

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Inquiry Concerning Deployment of Advanced)	
Telecommunications Capability to All Americans in)	GN Docket No. 18-238
a Reasonable and Timely Fashion)	

To: The Commission

**REPLY COMMENTS OF
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, hereby replies to certain of the initial Comments filed in response to the Notice of Inquiry (“*NOI*”) in the above-captioned proceeding.¹ There is strong support in the record for maintaining the Commission’s current speed benchmark standard for advanced communications capability, as proposed in the *NOI*. In addition, WISPA strongly opposes the assertion by AT&T and a very few others that wireless mobile connectivity now constitutes a functional substitute for fixed broadband connectivity, as well as the technology-determined proposal made by the Fiber Broadband Association (“FBA”) that all-fiber network deployment should be considered the *sine qua non* for advanced telecommunications capability. The Commission should reject these self-interested, conclusory policy proposals as contrary to the record in this proceeding and to the public interest.

¹ See *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, Fourteenth Section 706 Report Notice of Inquiry*, GN Docket No. 18-238, FCC 18 119 (rel. Aug. 9, 2018) (“*NOI*”).

Discussion

I. THE RECORD SUPPORTS MAINTAINING THE CURRENT BENCHMARK FOR DETERMINING ADVANCED COMMUNICATIONS CAPABILITY

In its initial Comments, WISPA demonstrated that the Commission's 25/3 Mbps speed standard for evaluating the availability of advanced telecommunications capability is appropriate based on current service deployment and usage and should not be altered at this time.² There is strong support for this view among a broad range of other commenting parties, including service providers and their trade groups, as well as equipment providers and public interest organizations.³ As the Free State Foundation notes, for example, "Section 706 commands a realistic analysis of data regarding deployment of advanced capabilities [and] [s]peed benchmarks should reflect capabilities for widely demanded applications," including HD video streaming for which a 10 Mbps downstream rate is more than sufficient to provide quality service.⁴ Accordingly, there is no basis upon which the Commission could reasonably conclude that the time is ripe for any precipitous increase in the Section 706 speed benchmark beyond the current speeds.

² Comments of the Wireless Internet Service Providers Association, GN Docket No. 18-238 (filed Sept. 17, 2018) ("WISPA Comments"), at 2.

³ See, e.g., Comments of ADTRAN, GN Docket No. 18-238 (filed Sept. 17, 2018), at 5-6; Comments of the American Cable Association, GN Docket No. 18-238 (filed Sept. 17, 2018), at 7-8; Comments of the Free State Foundation, GN Docket No. 18-238 (filed Sept. 17, 2018) ("FSF Comments"), at 2-3 & 6-7; Comments of ITTA – The Voice of America's Broadband Providers, GN Docket No. 18-238 (filed Sept. 17, 2018) ("ITTA Comments"), at 3; Comments of NCTA – The Internet & Television Association, GN Docket No. 18-238 (filed Sept. 17, 2018) ("NCTA Comments"), at 3; Comments of NTCA–The Rural Broadband Association, GN Docket No. 18-238 (filed Sept. 17, 2018) ("NTCA Comments"), at 6.

⁴ FSF Comments at 3.

II. THE COMMISSION SHOULD CONTINUE TO EVALUATE FIXED AND MOBILE SERVICES AS SEPARATE CATEGORIES SERVING SEPARATE CONSUMER BROADBAND NEEDS

In its initial comments, WISPA provided significant evidence that “the Commission should not abandon its well-supported treatment of fixed and mobile broadband as separate types of services that are suited to different uses and are not substitutable for each other.”⁵ Most commenters affirm the established record that consumers use fixed and mobile services to meet distinct needs.⁶ For example, WTA notes “where rural and other areas have access to both fixed and mobile services, WTA and its members have long found, and continue to find, that such services are far more complementary than competitive with each other.”⁷ Similarly, ITTA observes that “the salient differences between the two service types are found not in their technological differences, but in the distinct capabilities that they provide consumers.”⁸ And as several commenters join WISPA in detailing, critical among the distinctions between these technologies is the impact of pricing models and data caps that constrain the utility of mobile devices for high-throughput activities such as video streaming and data transfer.⁹

To the extent that a few commenters contest this view, they do so based not on actual demonstrated substitutability of these types of services for each other for a broad variety of functions, but on generalized trends toward increased use of mobile technology in some

⁵ WISPA Comments at 5.

⁶ See, e.g., Comments of Common Cause and Public Knowledge, GN Docket 18-238 (filed Sept. 17, 2018) (“PK-Common Cause Comments”), at 10-13; Comments of INCOMPAS, GN Docket No. 18-238 (filed Sept. 17, 2018) (“INCOMPAS Comments”), at 4 & 6-7; ITTA Comments at 7-8; Comments of the National Rural Electric Cooperative Association, GN Docket No. 18-238 (filed Sept. 17, 2018) (“NRECA Comments”), at 4-6; Comments of WTA – Advocates for Rural Broadband, GN Docket No. 18-238 (filed Sept. 17, 2018), at 5.

⁷ WTA Comments at 1.

⁸ ITTA Comments at 8.

⁹ INCOMPAS Comments at 7; NRECA Comments at 4-6; PK-Common Cause Comments at 11; WISPA Comments at 4-5.

instances for higher bandwidth activities.¹⁰ But the fact that a user may rely on a mobile device as a convenience to watch streaming video when no fixed alternative is available does not mean that the user views these services as functionally equivalent. Mobile video, for example, remains a second-best alternative when high capacity fixed connections, both wireless and wireline, are unavailable for viewing live sporting events or full-length video or for doing intensive online research for school or for work. The distinctions between fixed and mobile connectivity are fundamentally related to the service characteristics and utility experienced by end users, not on the technology used to deliver service. Accordingly, there is no basis for the Commission to conclude that the availability of mobile service in an area is sufficient by itself to provide adequate access to advanced telecommunications; consumers continue to rely on both fixed and mobile broadband access to address significantly different needs.

III. THE COMMISSION SHOULD NOT CONSIDER THE DEPLOYMENT OF ALL-FIBER NETWORKS TO BE AN ESSENTIAL ELEMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITY.

Continuing its fruitless campaign, the Fiber Broadband Association once again renews its annual autumnal plea for the Commission to extend unwarranted favoritism to its chosen technological approach to delivering broadband. It flatly states that “all-fiber networks are essential to providing a superior experience for broadband and other advanced telecommunications services.”¹¹ Nowhere, however, does the FBA provide any meaningful data to support this sweeping assertion. Its sole evidence of the allegedly indispensable role of fiber for delivery of high quality service is market research from its own consultant indicating greater

¹⁰ Comments of AT&T, GN Docket No. 18-238 (filed Sept. 17, 2018), at 6; Letter to Commission from the Internet Innovation Alliance, GN Docket No. 18-238 (filed Sept. 17, 2018), at 2; Comments of R Street Institute, GN Docket No. 18-238 (filed Sept. 17, 2018), at 3-4.

¹¹ Comments of the Fiber Broadband Association on the Fourteenth Section 706 Notice of Inquiry, GN Docket No. 18-238 (filed Sept. 17, 2018) (“FBA Comments”), at 1-2.

customer satisfaction from users of fiber networks versus those using some other types of wired fixed services such as DSL and cable modem.¹² This would be an extraordinarily thin basis to shift regulatory policy to favor fiber providers even if the Commission had merely a “*desire* to employ a technology-neutral approach,” as FBA characterizes it.¹³ In fact, however, the suggested favoritism for fiber would be contrary to the Commission’s statutory mandate under Section 706, which defines the term “advanced telecommunications capability ... *without regard to any transmission media or technology*, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications *using any technology*.”¹⁴

WISPA also notes that providers of fixed wireless services were the winning bidders in the recent reverse auction for more than half of the \$1.488 in Connect America Fund Phase II support awarded and more than 40 percent of the 700,000 locations designated for support.¹⁵ The vast majority of winning bidders will be offering broadband speeds of at least 25/3 Mbps, confirming the ability of other technologies such as fixed wireless to be deployed efficiently and cost-effectively.

Accordingly, the Commission should maintain its emphasis on the service experience enjoyed by end users, not on the means of service delivery, and once again reject FBA’s self-interested appeal to enshrine specific technology choices as the essence of advanced telecommunications. Moreover, the Commission should continue its policies promoting

¹² FBA Comments at 4 & n.8.

¹³ *Id.* at 4 (emphasis added).

¹⁴ Telecommunications Act of 1996, Section 706(c)(1), codified at 47 U.S.C. § 1302(d)(1) (emphasis added).

¹⁵ *FCC News Release*, “Connect America Fund Auction to Expand Broadband to Over 700,000 Rural Homes and Businesses, Auction Allocates \$1.488 Billion To Close the Digital Divide” (rel. Aug. 28, 2018).

spectrum-based broadband services,¹⁶ which can be especially appropriate for providing broadband service to hard-to-reach areas, including rural communities, where it may not ever be cost-effective to deploy widespread fiber connectivity.

Conclusion

In undertaking its Section 706 obligations, the Commission should retain its existing criteria for defining “advanced telecommunications capability.” The Commission should reject the alternative proposals to consider mobile services as a functional substitute for fixed broadband, or to use the deployment of all-fiber networks as a standard for measuring advanced telecommunications capability.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

By: /s/ Claude Aiken
President & CEO

Stephen E. Coran
David S. Keir
Lerman Senter PLLC
2001 L Street, NW, Suite 400
Washington, DC 20036
(202) 416-6744
Counsel to the Wireless Internet Service Providers Association

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¹⁶ See, e.g., *Promoting Investment in the 3550-3700 MHz Band*, 32 FCC Rcd 8071 (2017); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, FCC 18-111 (rel. Aug. 3, 2018).