

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

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

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF
TELECOMMUNICATIONS OFFICERS AND ADVISORS, THE NATIONAL LEAGUE
OF CITIES, THE NATIONAL ASSOCIATION OF REGIONAL COUNCILS AND THE
NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS**

The National Association of Telecommunications Officers and Advisors (“NATOA”),¹ the National League of Cities (“NLC”),² the National Association of Regional Councils (“NARC”)³ and the National Association of Towns and Townships (“NATaT”)⁴ (together, the “National Associations”) submit these comments in response to the above-captioned Fourteenth Section 706 Broadband Deployment Report Notice of Inquiry (“NOI”), released August 9, 2018.⁵ The National Associations and our members work directly with our respective communities to ensure that they have the most advanced communications services they need to compete in a global economy and better serve the needs of their residents. The National Associations’ membership includes local governments that operate wireline and wireless broadband infrastructure for anchor

¹ NATOA’s membership includes local government officials and staff members from across the nation whose responsibility it is to develop and administer communications policy and the provision of such services for the nation’s local governments.

² The National League of Cities is the oldest and largest organization representing cities and towns across America. NLC represents 19,000 cities and towns of all sizes across the country.

³ The National Association of Regional Councils represents more than 500 councils of government, metropolitan planning organizations, and other regional planning organizations throughout the nation.

⁴ NATaT represents the interests of more than 10,000 towns and townships across the country at the federal level.

⁵ *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Fourteenth Broadband Deployment Report Notice of Inquiry, GN Docket No. 18-238, FCC 18-119 (August 9, 2018) (“NOI”).

institutions such as of government buildings, schools, libraries and first responders, and to meet public needs. These members manage networks in urban, suburban, and rural areas across America.

At the local level, we are in the unique position to understand what true, affordable broadband access might mean for our citizens and our communities. While different communities will have unique and varying needs, we can identify three common issues that require appropriate consideration in the Commission’s upcoming Section 706 Report: availability, reliability and affordability.

1. Measuring Deployment Requires Accurate Data on Availability of Broadband to All Americans, Not Just Progress by Industry

The Commission’s review of “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion” must include an accurate view of where broadband is available and where it is not. To appropriately consider whether deployment is reasonable and timely, the Commission needs access to reliable information on availability,⁶ and must not overlook those on the wrong side of the digital divide.

As many commenters have noted, the Form 477 data is deeply flawed and should not be the sole or primary basis for the 2019 Section 706 Report.⁷ Form 477 reports allow an entire census block to be deemed fully served if a provider is able to provide service to one home in that census block, which distorts the picture of where services are available. Further, providers are only required to report the speeds that they could theoretically provide rather than what consumers

⁶ As further discussed below, “availability” includes access to reliable and affordable broadband services that meets consumers’ applications and needs.

⁷ See, e.g., Comments of Common Cause and Public Knowledge, Docket No. GN 18-238 (Sept. 17, 2018) (“Common Cause Comments”) at p. 8-9; New America’s Open Technology Institute, Docket No. GN 18-238 (Sept. 17, 2018) (“Comments of Open Technology Institute”) at p. 5-15.

experience.⁸ For these and other shortcomings, the Commission needs to use better data in determining where broadband is available.

In addition, the Commission should return to the former practice of making its Section 706 determination based on whether all Americans have access to broadband. We support the Comments of Common Cause and Public Knowledge illustrating the flaws in the Commission's 2018 Section 706 Report, which adopted a progress-based standard.⁹ By focusing on progress rather than those left unserved, the Commission seems to have lowered the bar for assessing broadband deployment at a time when we should be reaching for a higher standard. This progress-based standard effectively tells those still waiting for broadband that it is reasonable for them to have been left behind.

2. Reliability Requires a Finding that Mobile Broadband Is Not A Substitute for

Fixed Broadband and Reconsideration of Speed Benchmarks

The Commission must consider the reliability of broadband services in reaching its Section 706 determination. We encourage the Commission to again find that mobile broadband is not an adequate substitute for fixed broadband. As commenters have noted, mobile broadband services are not equivalent to fixed services in terms of reliability, speeds, pricing and caps.¹⁰ In its 2018 Section 706 Report, the Commission found that the variability in these services made setting a single speed benchmark unworkable.¹¹ CTIA noted that this issue remains, and acknowledged the Commission's previous finding that "environmental factors" and "degrading effects from factors such as congestion, interference, and challenges presented by the physical velocity of the mobile

⁸ See *In the Matter of Communications Marketplace Report*, GN Docket No. 18-231, Comments of New America's Open Technology Institute, the Institute For Local Self-Reliance, the National Association of Telecommunications Officers and Advisors, the National League of Cities, and Next Century Cities at 3-4 (citations omitted).

⁹ See Common Cause Comments at p. 14-16.

¹⁰ See, e.g., *id.* at p. 10-13.

¹¹ See NOI at ¶ 9 (citing 2018 Section 706 Report).

antenna” are unique to mobile services.¹² Given these significant differences, there is no basis to conclude that mobile broadband is an adequate substitute for fixed broadband.

In addition, reliable broadband services means services that meet consumer’s needs, which undoubtedly evolve over time. The Section 706 analysis requires the Commission to take a critical look at whether the speeds adopted in the 2018 Section 706 Report are adequate to meet the needs of today’s consumers. It is imperative that the Commission’s capacity speed benchmark keeps pace with the extraordinary growth of Internet usage and encourage future growth and innovation. We urge the Commission not to maintain a static point at which to gauge the progress and growth in the broadband market from one report to another, but rather to increase those benchmarks to ensure the Section 706 Report reflects only those services that reliably meet existing needs and demands.

3. Affordability Must Be Considered In Measuring Availability Of Broadband

We echo the comments of the National Digital Inclusion Alliance and other commenters that affordability must be a key consideration in determining availability of broadband.¹³ Deployment without widespread adoption only contributes to the digital divide we continue to experience in our nation, especially in our economically challenged communities. As many commenters have demonstrated, affordability is critical to adoption.¹⁴ The Commission cannot have an accurate picture of the availability of broadband—meaning the ability of prospective customers to access and afford reliable services—if it does not collect, consider and make available accurate pricing information.

¹² See Comments of CTIA, Docket No. GN 18-238 (Sept. 17, 2018) at p. 17-18.

¹³ See Comments of National Digital Inclusion Alliance, Docket No. GN 18-238 (Sept. 17, 2018).

¹⁴ See, e.g., *id.* at p. 5-9; Common Cause Comments at p. 9; Comments of Open Technology Institute at p. 12-15.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'N. Werner', with a long horizontal flourish extending to the right.

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