

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

In the Matter of)	
)	
Inquiry Concerning the Deployment of Advanced)	GN Docket No. 17-199
Telecommunications Capability to All Americans)	
In 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, statutorily-mandated proceeding to assess whether Americans have sufficient access to advanced telecommunications capability.¹ There is strong support in the record for both: (1) analyzing the availability of advanced fixed and mobile broadband as distinct services that serve different user needs, and (2) maintaining the Commission’s current speed standard for advanced communications capability, as proposed in the *NOI*. In addition, WISPA strongly opposes the technology-specific proposal made yet again by the Fiber Broadband Association (“FBA”) that all-fiber network deployment should be considered *sine qua non* for advanced telecommunications capability.²

¹ See *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, Thirteenth Section 706 Report Notice of Inquiry*, GN Docket No. 17-199, FCC 17-109 (rel. Aug. 8, 2017) (“*NOI*”).

² Comments of the Fiber Broadband Association on the Thirteenth Section 706 Notice of Inquiry, GN Docket No. 17-199 (filed Sept. 21, 2017) (“FBA Comments”).

Discussion

I. THE RECORD OVERWHELMINGLY SUPPORTS A DETERMINATION THAT THE AVAILABILITY OF FIXED AND MOBILE BROADBAND SERVICES MUST BE EVALUATED SEPARATELY BECAUSE THESE SERVICES SERVE DISTINCT NEEDS

In its initial Comments, WISPA stated plainly that “[i]t would be a serious mistake for the Commission to redirect the focus of its annual Section 706 inquiry to determining whether *either* fixed or mobile service is available, and finding that the presence of one or the other service in an area could permit it to conclude that consumers have sufficient access to advanced telecommunications capability to meet Section 706’s deployment goals.”³ There is overwhelming support for this position in the initial comments.⁴ In general, these commenters demonstrate that the presence of either fixed or mobile service cannot be considered sufficient to meet the requirements of Section 706 because the different characteristics of the two types of service mean that they are not direct substitutes for each other, but are instead complementary

³ Comments of the Wireless Internet Service Providers Association at 2-3, GN Docket No. 17-199 (filed Sept. 21, 2017) (“WISPA Comments”).

⁴ *See, e.g.*, Comments of Deere & Company at 2-3, GN Docket No. 17-199 (filed Sept. 21, 2017) (“the capabilities and use cases for fixed and mobile services are different, and the two are not fully substitutable for each other”); Comments of ITTA – The Voice of America’s Broadband Providers at 6-8, GN Docket No. 17-199 (filed Sept. 21, 2017) (“ITTA Comments”) (“the salient differences between the two service types are found not in their technological differences, but in the distinct capabilities that they provide consumers”); Comments of NTCA–The Rural Broadband Association at 3-11, GN Docket No. 17-199 (filed Sept. 21, 2017) (“NTCA Comments”) (“Mobile wireless broadband service, while clearly valuable to consumers of all kinds, is simply not a substitute for a robust, high-quality, fixed wireline connection that so many urban consumers take for granted”); Comments of Microsoft Corporation at 7-10, GN Docket No. 17-199 (filed Sept. 21, 2017) (“Microsoft Comments”); Comments of Mimosa Networks, Inc. at 2-8, GN Docket No. 17-199 (filed Sept. 21, 2017) (“Mimosa Networks Comments”); Comments of the Multicultural Media, Telecom and Internet Council at 3-5, GN Docket No. 17-199 (filed Sept. 7, 2017); Comments of the National Rural Electric Cooperative Association at 2-5, GN Docket No. 17-199 (filed Sept. 21, 2017); Comments of Public Knowledge *et al.* at 20-23, GN Docket No. 17-199 (filed Sept. 21, 2017).

services.⁵ As Mimosa Networks explains, “[c]ompared to fixed broadband, mobile broadband offers much lower throughput (data rates), lacks the same level of service reliability, imposes much lower [more restrictive] data caps (whether soft or hard caps), and costs 14-37 times more per gigabyte.”⁶ Microsoft echoes these points, reasonably observing that “the two modes of delivering services should be functionally equivalent if they are going to be considered as a substitute means for achieving advanced telecommunications capability,” and fixed and mobile broadband do not meet this criterion, as the Commission itself noted in the *NOI*.⁷

To the extent that a very few commenters argue otherwise, they fail to make even a threshold case that the availability of either fixed or mobile broadband would meet the advanced communications needs of users generally. The only aggressive advocate of this position is the Free State Foundation (“FSF”), and even FSF suggests only that fixed and mobile are “potentially substitutable services.”⁸ FSF premises its brief argument on essentially two points: (1) the broad availability of mobile connectivity, and (2) the percentage of users who elect to purchase mobile service exclusively.⁹ On this latter point, its key empirical argument is an NTIA study indicating that “29% of low-income consumers, 18% of middle-income consumers,

⁵ See, e.g., Comments of the Massachusetts Department of Telecommunications and Cable, at [2], GN Docket No. 17-199 (filed Sept. 21, 2017) (“consumers rely on both fixed and mobile broadband services, using each in distinct yet complementary ways”).

⁶ Mimosa Networks Comments at 3.

⁷ Microsoft Comments at 7, *citing NOI* at ¶10.

⁸ Comments of The Free State Foundation at 10, GN Docket No. 17-199 (filed Sept. 21, 2017). Compare Comments of USTelecom Association at 7-10, GN Docket No. 17-199 (filed Sept. 21, 2017) (“it is appropriate for the Commission to recognize relevant differences between fixed and mobile services”) and Comments of Verizon at 11, GN Docket No. 17-199 (filed Sept. 21, 2017) (“Verizon agrees with the Commission’s proposal to evaluate areas that have access to either just fixed or just mobile differently than those areas with both”).

⁹ *Id.* at 10-11.

and 15% of high-income consumers are mobile-only broadband users.”¹⁰ But this data actually undermines FSF’s position, indicating only that the substantial majority of consumers value *both* fixed and mobile services, and when they are forced by economic circumstances to rely on one or the other, they are more likely to choose mobile service.¹¹ Where cost factors are less of a concern, however, fully 85% of consumers choose to subscribe to *both* fixed and mobile services, which is compelling evidence that the services are distinct and are viewed as essential complements by the vast majority of consumers. This very high overlap in use among consumers for which the monthly budget is not a major concern demonstrates that fixed and mobile services are not substitutes, and that the Commission should consider access to both categories of broadband access in its analysis of advanced communications accessibility.

II. THE RECORD STRONGLY SUPPORTS THE COMMISSION RETAINING ITS EXISTING BENCHMARKS FOR FIXED TERRESTRIAL BROADBAND

WISPA demonstrated in its Comments that the Commission’s 25/3 Mbps speed standard for evaluating the availability of advanced telecommunications capability remains appropriate and should not be altered at this time.¹² There is strong support for this view among a diverse range of other commenting parties, including service providers, equipment providers, trade groups, and a broad spectrum of public interest organizations.¹³

¹⁰ *Id.* at 11 & n.28, *citing* Giulia McHenry, “Evolving Technologies Change the Nature of Internet Use,” *NTIA* (April 19, 2016).

¹¹ *See also* MMTC Comments at 4-5 & n.12, *citing Mobile Fact Sheet*, Pew Research Center (January 12, 2017) (“In 2016, 23% of Hispanics and 15% of African Americans, but only 9% of Whites relied solely on their mobile devices for internet services”). The data also does account for churn, data that may show that the higher cost of mobile services results in more frequent service terminations.

¹² WISPA Comments at 7-8.

¹³ *See, e.g.*, Comments of ADTRAN, Inc. at 5-7, GN Docket No. 17-199 (filed Sept. 21, 2017) (“ADTRAN Comments”); Comments of the Free State Foundation at 3, GN Docket No. 17-199 (filed Sept. 21, 2017); ITTA Comments at 2 & 3-6; NTCA Comments at 12; Comments of Telecommunications for the Deaf and Hard of Hearing, Inc. *at al.* at 12, GN Docket No. 17-199 (filed Sept. 21, 2017); USTelecom Comments at 7-10.

As ITTA notes, “[r]etaining the 25/3 Mbps benchmark will better align Commission policies and practices. 25/3 Mbps is the “baseline” performance tier for the Connect America Phase II (CAF II) auction, and it also constitutes a significant component of the speed deployment commitment for rate-of-return carriers electing model-based support.”¹⁴ And as AT&T observes, “the vast majority of AT&T households who actually subscribe to a 25 Mbps or greater service only rarely use that much bandwidth for their everyday activities. According to AT&T’s recent weekly data, fewer than 12 percent of its customers with a fixed 24 Mbps download connection achieved a peak utilization in any 15-minute window of even 50 percent.”¹⁵ There is therefore no basis upon which the Commission could reasonably conclude that the time is ripe for a further increase in the Section 706 broadband speed benchmark.

Many parties also agree with WISPA that no purpose would be served by attempting to adopt a longer-term, aspirational speed standard for advanced services.¹⁶ As ITTA states, “in an environment of finite funding for broadband deployment, the Commission’s primary policy underlying its efforts to promote broadband deployment should be to maximize the coverage breadth of a good broadband service.”¹⁷ Accordingly, the Commission should reject establishing a broadband speed benchmark that acts as a goal for, rather than a measure of, advanced service capability.

¹⁴ ITTA Comments at 3.

¹⁵ Opening Comments of AT&T Services, Inc. at 7, GN Docket No. 17-199 (filed Sept. 21, 2017).

¹⁶ See WISPA Comments at 8.

¹⁷ ITTA Comments at 3.

III. THE COMMISSION SHOULD NOT CONSIDER THE DEPLOYMENT OF ALL-FIBER NETWORKS TO BE A BENCHMARK FOR ADVANCED TELECOMMUNICATIONS CAPABILITY

Reiterating comments that it has made in response to several previous notices of inquiry under Section 706, FBA (previously known as the Fiber-To-The-Home Council (“FTTH Council”)) asserts that “the Commission should take its direction from the market and assess the availability of advanced telecommunications capability on the presence of ‘all-fiber’ networks.”¹⁸ FBA’s thesis is that because advanced telecommunications solutions often involve a fiber component, the Commission should therefore assume that fiber capacity is an essential element for the delivery of advanced services. It urges that the Commission “accept the market reality that all-fiber networks will be relied upon by virtually all providers to support advanced telecommunications capability” and that the Commission should therefore turn its focus to “exercising its Section 706 authority to address barriers to and gaps in all-fiber deployments.”¹⁹

WISPA continues to strongly oppose the adoption of any “all-fiber deployment” benchmark as a new and unnecessary proxy for advanced telecommunication capability. As a legal matter, such an approach would plainly be contrary to the governing statute, 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*.”²⁰ Accordingly, regardless of what new embellishments FBA may fashion to dress up its annually-recurring plea for technology favoritism, none could justify the

¹⁸ FBA Comments at 4. *See also* FTTH Council Comments, GN Docket No. 16-245, at 3 (filed Sep. 6, 2016); FTTH Council Comments, GN Docket No. 15-191, at 3 (filed Sept. 15, 2015) and FTTH Council Comments, GN Docket No. 14-126 at 2 (filed Sept. 4, 2014).

¹⁹ FBA Comments at 6.

²⁰ Telecommunications Act of 1996, Section 706(c)(1), codified at 47 U.S.C. § 1302(d)(1) (emphases added).

Commission ignoring express statutory language and adopting a technology-specific benchmark to the exclusion of other technologies, both present and future, that enable users to transmit and receive high-quality Internet content.

Just as significantly, on a fundamental factual level, FBA simply fails to make its case on its own terms. Its discussion is limited to anecdotal evidence that fiber optic cable is currently widely used by many stakeholders to implement terrestrial communications systems.²¹ It argues that fiber therefore should be considered an essential element in providing advanced communications, and that the Commission should accordingly promote it as the singular means of achieving deployment of advanced telecommunications service. This syllogism is little different from a mid-twentieth century argument that, owing to the fact that the vast majority of vehicles in the U.S. marketplace then incorporated an internal-combustion engine, that gasoline-powered engines must thus be considered an essential part of any vehicle and the standard by which advanced transportation technology should be measured.²² One cannot simply assume that a currently prevalent technology is indispensable and that it will inevitably drive future innovation and deployment. History is full of examples that disprove such a superficial notion.

The Commission, of course, has recognized the need to explore and promote multiple approaches to universal deployment of high-speed broadband and other advanced services, as it continues to promote forward-looking policies that encourage spectrum-based broadband

²¹ See FBA Comments at 5-6 & Appendix.

²² Compare Peter Holley, “GM Plans for an ‘All-Electric Future’; Automaker to phase out production of gas- and diesel-powered vehicles,” Washington Post, at A18 (October 3, 2017)(“After nearly a century of building vehicles powered by fossil fuels, General Motors — one of the world’s largest automakers — announced Monday that the end of GM producing internal combustion engines is fast approaching.”), available at https://www.washingtonpost.com/news/innovations/wp/2017/10/02/death-of-diesel-begins-as-gm-announces-plans-for-all-electric-future/?utm_term=.a0b4e1c1fac1.

services.²³ Fixed wireless networks, which have technical characteristics quite distinct from mobile networks, can be especially appropriate for providing broadband service to rural areas, where it may never be cost-effective to provide fiber to every home, farm and business. A recent report from The Carmel Group indicates that fixed wireless networks can be deployed at about one-seventh the cost of fiber,²⁴ a cost differential that means fixed wireless is often the only viable option for broadband deployment in many sparsely populated areas.²⁵ As Deere observes, “Wireless service – both fixed and mobile – will be the superior technology choice to achieve cost-effective coverage for many rural areas including farm-intensive areas with significant tracts of cropland.”²⁶ Commission policies should continue to encourage broadband deployment to rural and other underserved areas using the broad menu of technology options that are available. As WISPA observed in its Reply Comments to the FTTH Council regarding the 2016 Section 706 NOI, the Commission should take “a balanced approach rather than seeking to put broadband consumers on an ‘all fiber’ diet.”²⁷

Conclusion

In undertaking its Section 706 obligations, the Commission should evaluate the availability of both fixed and mobile broadband services as necessary to provide advanced

²³ See, e.g., *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, 31 FCC Rcd 5011 (2016) (adopting Order on Reconsideration and Second Report and Order with respect to additional spectrum made available for shared wireless broadband use).

²⁴ See The Carmel Group, *Ready for Takeoff: Broadband Wireless Access Providers Prepare to Soar with Fixed Wireless*, at 12 (2017).

²⁵ See Jennifer Levitz and Valerie Bauerlein, *Rural America is Stranded in the Dial-Up Age*, Wall St. J., June 16, 2017, at A1 (“Rural America can’t seem to afford broadband: Too few customers are spread over too great a distance. The gold standard is fiber-optic service, but rural Internet providers say they can’t invest in door-to-door connections with such a limited number of subscribers”). The article estimates that it costs \$30,000 per mile to install optical fiber.

²⁶ Deere Comments at 3.

²⁷ WISPA Reply Comments at 5, GN Docket No. 16-245 (filed Sept. 6, 2016).

communications capability to the majority of consumers, and it should retain its existing criteria for defining “advanced telecommunications capability.” In addition, the Commission should reject the alternative proposal to use the deployment of all-fiber networks as a benchmark for advanced telecommunications capability.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

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By: */s/ Chuck Hogg*, Chairman of the Board
/s/ Mark Radabaugh, FCC Committee Chair
/s/ Fred Goldstein, Technical Consultant

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