

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Accelerating Wireless Broadband Deployment)	WT Docket No. 17-79
by Removing Barriers to Infrastructure)	
Investment)	
)	

**REPLY COMMENTS OF THE
CONSUMER TECHNOLOGY ASSOCIATION**

The Consumer Technology Association (“CTA”)¹ respectfully submits these reply comments in response to the above-captioned *Notice of Proposed Rulemaking and Notice of Inquiry*, which examines the regulatory impediments to wireless network infrastructure and deployment and explores how to remove or reduce such impediments.² The record demonstrates that reducing barriers to wireless infrastructure deployment is critical to enabling 5G and the Internet of Things (“IoT”). With innovators developing wireless products and services to transform consumers’ lives, now is an appropriate time for the Commission to identify and remove barriers to rapid, streamlined infrastructure deployment. The Commission can and should take steps to streamline state and local review of infrastructure siting and remove the

¹ The Consumer Technology Association (“CTA”)TM is the trade association representing the \$292 billion U.S. consumer technology industry, which supports more than 15 million U.S. jobs. More than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best known brands – enjoy the benefits of CTA membership including policy advocacy, market research, technical education, industry promotion, standards development and the fostering of business and strategic relationships. CTA also owns and produces CES[®] – the world’s gathering place for all who thrive on the business of consumer technologies. Profits from CES are reinvested into CTA’s industry services.

² Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, *Notice of Proposed Rulemaking and Notice of Inquiry*, 32 FCC Rcd 3330 (2017) (“*Notice*”).

agency's own regulatory underbrush with respect to the National Environmental Policy Act ("NEPA") and the National Historic Preservation Act ("NHPA").

I. THE RECORD DEMONSTRATES THAT INFRASTRUCTURE DEPLOYMENT PROCESSES THAT REFLECT CHANGING TECHNOLOGIES WILL BEST PROMOTE 5G AND THE INTERNET OF THINGS

CTA members are eagerly developing technologies to bring better, faster, and more reliable connectivity to Americans through smaller form factors, but in light of current regulatory and process barriers, these technologies are locked in labs or only being offered or developed overseas until they may be deployed for commercial and consumer use in the United States.

CTA member Samsung corrected observed:

Connecting the projected millions of IoT devices to each other will place unprecedented demands on wireless network infrastructure, and the United States is now in a global race for 5G leadership. Regulatory efforts focused on infrastructure thus must directly promote the deployment of 5G mobile broadband networks to secure America's role with respect to the IoT.³

As CTA and others have observed, better, faster, and more reliable connectivity greatly improves consumers' lives.⁴ As CTA member Starry observed, "A delay in any part of the chain

³ Comments on Samsung Electronics America, Inc., WT Docket No. 17-79, at 3 ("Samsung Comments"); Statement of Ajit Pai, *Notice* at 3385 ("The future of wireless will evolve from large, macro-cell towers to include thousands of densely-deployed small cells, operating at lower power. As networks evolve, our rules should too."); Statement of Mignon Clyburn, *Notice* at 3386 ("Part of ... preparation [for "explosive growth when it comes to the demand" for wireless services] is ensuring that we can readily deploy the necessary infrastructure to support current, and future wireless offerings.... I have yet to come across a single community that wants to be left behind or overlooked as we embark on this new frontier. With that in mind, it is noteworthy that we all support efforts to streamline infrastructure deployment."); Statement of Michael O'Rielly, *Notice* at 3388 ("The Commission can continue to release spectrum into the marketplace, but wireless services only become a reality if the infrastructure is in place to deliver them to the American consumer.").

⁴ See, e.g., Comments of the CTA, GN Docket No. 16-46, at 2-6 (May 24, 2017) (naming just a few ways that the consumer technology industry is making dramatic advances in health and wellness technologies); Economists Incorporated and CMA Strategy Consulting, Report, *Assessing the Impact of Removing Regulatory Barriers on Next Generation Wireless and*

of deployment increases costs at every step in the process. For startups or new market entrants with limited budgets and staff, this can spell disaster.”⁵

The record demonstrates that smaller form factors, which can be collocated and easily attached to existing infrastructure, do not cause the same kind of disturbances either when built or through the life of the technology that traditional macro-sites do.⁶ Mounting small cells is a labor-intensive project, but innovation has shrunk many designs to as small as a shoebox, meaning they can be installed on traffic lights or other already-existing pieces of infrastructure. Such collocations are very different from the large towers that typically house macrocell sites – considered “eyesores” by some despite the benefits of the wireless connectivity they bring – that may justify more extensive siting procedures and environment assessments.

Small cells work in tandem with the macrocells, adding network capacity and filling in service gaps not covered by the towers. Over time, small cells will do more than merely provide supplemental coverage – they will be the backbone of the nation’s wireless networks. Given small cells’ minimal visual impact, neither local nor federal policies should treat these new technologies the same as traditional macrocell sites.

Wireline Broadband Infrastructure Investment, at 5 (June 2017) (estimating that “broadband subscribers would benefit by an additional \$150.8 million to \$2.68 billion per year from enhanced competition resulting from the FCC’s proposed rules” in the Wireless and Wireline NPRMs/NOIs), *attached to* Comments of Corning Incorporated, WC Docket No. 17-84 (June 15, 2017); FCC Consumer and Governmental Affairs Bureau, *Individuals with Cognitive Disabilities: Barriers to and Solutions for Accessible Information and Communication Technologies*, White Paper, 26-33 (Oct. 6, 2016), https://apps.fcc.gov/edocs_public/attachmatch/DOC-341628A1.pdf (observing that technologies allow remote caregivers to monitor “user’s success at each task performed, and provide guidance where necessary,” “can remind users to brush their teeth,” and more).

⁵ Comments of Starry, Inc., WT Docket No. 17-79, at 2 (June 15, 2017).

⁶ *See, e.g.*, Samsung Comments at 3 (noting that “facilities being deployed to densify networks are typically collocations that involve little or no ground disturbance, are smaller in profile than traditional macro sites, and have less impact”).

II. COMMISSION ACTION TO STREAMLINE LOCAL SITING IS WARRANTED

One of the fundamental objectives of the Communications Act is to promote new and expanded communications services, and this includes removing regulatory barriers that slow or impede those services. Both Sections 253 and 332(c)(7) thus outlaw state and local actions that “prohibit or have the effect of prohibiting” the provision of communications services.

Accordingly, the Commission should streamline permitting and siting processes, as well as reject inappropriate and cumbersome processes designed for traditional macrocells when applied to smaller infrastructure.

Inefficient and duplicative permitting processes epitomize red tape. Likewise, overly restrictive and expensive license requirements and high fees also hinder deployment.⁷ Both the industry and localities would benefit from Commission guidance, such as best practices for siting.⁸ As part of that process, CTA applauds the Commission for establishing the Model Code for Municipalities and Model Code of States working groups within the Broadband Deployment Advisory Committee.⁹

⁷ See, e.g., Comments of Comcast Corporation, WC Docket No. 17-84, WT Docket No. 17-79, at 9-10 (June 15, 2017) (describing some of Comcast’s experiences with “ancillary, in-kind contributions [to deployment that] can raise costs and delay the provision of service”); Comments of AT&T Services Inc., WT Docket No. 17-79, at 18-21 (June 15, 2017) (providing examples of unreasonable fees that “discourage providers from investing in or expanding their networks”) (“AT&T Comments”); Comments of T-Mobile USA, Inc., WT Docket No. 17-79, WC Docket No. 17-84, at 27-29 (June 15, 2017) (providing several examples of unreasonably high fees) (“T-Mobile Comments”); Comments of Verizon, WT Docket No. 17-79, WC Docket No. 17-84, at 6-8, 13-14 (June 15, 2017) (providing several examples of unreasonably high fees) (“Verizon Comments”).

⁸ Comments of Nokia, WT Docket No. 17-79, at 9-10 (June 15, 2017) (encouraging the Commission to bring together “multiple stakeholders to develop, and provide to localities, guidelines on standards and procedures to better serve their citizens through increased connectivity”) (“Nokia Comments”).

⁹ See *FCC Announces the Membership of Two Broadband Deployment Advisory Committee Working Groups: Model Code for Municipalities and Model Code for States*, Public Notice, 32 FCC Rcd 3836 (WCB 2017).

The record also supports Commission action to create a regulatory backstop to prevent localities from continuing to impose unreasonable requirements and to speed the deployment of critically-needed new infrastructure.¹⁰ Specifically, many commenters demonstrate that shorter periods of time for local siting reviews are appropriate,¹¹ and the Commission should adopt shorter shot clocks for collocations and small cells. For example, adopting a 60-day shot clock for all collocations (including small cells) and an accelerated 90-day shot clock for all other wireless facilities would be important steps towards creating a regulatory backstop. CTA also supports the Commission’s proposal to adopt a deemed-granted remedy for facility siting applications that are not acted on within the shot clocks. As commenters demonstrate, that remedy is necessary to ensure the shot clocks are effective in achieving their objective of streamlining local siting reviews.¹²

III. REMOVING REGULATORY UNDERBRUSH WITHIN THE COMMISSION’S RULES WILL ALSO SPEED DEPLOYMENT

Commission rules that may inhibit modern infrastructure deployments of technologies like small cells are worthy of reexamination. Timeframes for Commission action on Environmental Assessments (“EAs”) filed pursuant to NEPA and disputes related to environmental processing will bring additional clarity and certainty to the Commission’s infrastructure processes – and the Commission should adopt such timelines. Duplicative EAs are also unnecessary. Accordingly, the Commission should (as several commenters ask) eliminate

¹⁰ Nokia Comments at 10-14 (urging the Commission to “act as a backstop where relief can be sought in the event localities’ siting practices fall outside the Best Practices tools developed through a Commission-led process”).

¹¹ *See, e.g.*, Samsung Comments at 4-5; Comments of Sprint Corporation, WT Docket No. 17-79, WC Docket No. 17-84 at 46 (June 15, 2017) (“Sprint Comments”); T-Mobile Comments at 18-21; Verizon Comments at 41-44.

¹² AT&T Comments at 26-27; Samsung Comments at 6-7; Sprint Comments 46-47; T-Mobile Comments at 13-18; Verizon Comments at 37-40.

the requirement to file EAs for small cells and for all facilities proposed to be located in a floodplain that will be built above the base flood elevation or that have already been reviewed by other federal agencies and determined to have no environmental effect.¹³

Further, adopting the proposals in the *Notice* with respect to Section 106 of the NHPA will help speed deployment as well as increase predictability. Specifically, CTA agrees with other commenters supporting broad, categorical exclusions for types of facilities which do not affect historic properties, including (i) small cell facilities, (ii) replacement poles, (iii) new poles in the rights-of-way (“ROWS”) (including transportation ROWs), (iv) nearby ground equipment, and (v) collocations located between 50 and 250 feet from historic districts.¹⁴

¹³ AT&T Comments at 35; T-Mobile Comments at 58-59; Verizon Comments at 63-64.

¹⁴ AT&T Comments at 30-32; Sprint Comments at 32-33; T-Mobile Comments at 61-63; Samsung Comments at 9; Verizon Comments at 54-57.

IV. CONCLUSION

Streamlined infrastructure policies that support public and private work to develop and deploy infrastructure hold promise as a part of the solution to meeting the ever-increasing consumer demand for high-speed wireless connectivity. CTA looks forward to working with the FCC and localities to take advantage of the opportunities presented by all types of wireless infrastructure.

Respectfully submitted,

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July 17, 2017