

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

In the Matter of)

Inquiry Concerning Deployment of)
Advance Telecommunications Capability)
to All Americans in a Reasonable and)
Timely Fashion)

GN Docket No. 17-199

OPENING COMMENTS OF AT&T SERVICES, INC.

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INTRODUCTION AND SUMMARY

Section 706 requires the Commission to report annually on “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”¹ In its last two reports, the Commission adopted overly restrictive interpretations of the nature of the Section 706 inquiry to conclude that the industry is *not* deploying advanced capabilities on a timely basis. The Commission should now correct this flawed analytical framework by adopting the more reasonable interpretation of those statutory provisions that is more consistent with Congressional intent. The Commission should then apply this corrected framework to find that deployment of advanced telecommunications services is occurring on a reasonable and timely basis. However, the Commission must simultaneously recognize the investment-chilling effect of Title II regulation, and should promptly reclassify broadband services as an information service, to remove this impediment to investment in, and deployment of, advanced telecommunications services capability.

First, the Commission should correct the last two reports’ misinterpretations of the statute. In particular, the Commission should adopt its proposal to interpret the phrase “*is being deployed to all Americans*” as an instruction to “*evaluat[e] progress*.”² The statutory inquiry is to determine whether the industry is maintaining a reasonable, ongoing process of deployment, and whether any Commission regulations are impeding that process. Congress did not intend to preclude a finding

¹ 47 U.S.C. § 1302(b).

² Thirteenth Section 706 Report Notice of Inquiry, *Inquiry Concerning Deployment of Advance Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, ¶ 30 (rel. Aug. 8, 2017) (“*Notice*”) (emphasis added).

of timely deployment unless all 320 million Americans *already* have the most advanced technologies available.³

Second, the Commission should adopt its suggestion that in lieu of a specific speed threshold for gauging wireless deployment, it would “be more practical to use deployment of various air interface technologies (*e.g.*, LTE) as a proxy” for any such benchmark. *Notice* ¶ 19. Attempting to use a speed benchmark for mobile services would raise a host of unique methodological issues about how to measure download and upload speeds in the mobile context, where speeds are affected by various factors. The Commission could avoid those methodological difficulties altogether by simply choosing LTE as the appropriate standard for advanced telecommunications capability in mobile services. LTE is the current state-of-the-art wireless technology, offering consumers average download speeds of 23.5 Mbps according to the most recent available data. In many respects, these download capabilities are more robust than the 25 Mbps/3 Mbps standard applicable to fixed services because mobile services do not require multiple users in a household to share a single connection. Indeed, if three users in a household were simultaneously using their LTE service, collectively they would be receiving far more than 25 Mbps of bandwidth. There can thus be no disputing that LTE service provides more than ample bandwidth for high definition video and other data-intensive uses. Moreover, using LTE as the Section 706 standard has the added advantage of being easily administrable as LTE deployments can be readily determined from Form 477 data.

³ *Compare Inquiry Concerning Deployment of Advance Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 30 FCC Rcd. 1375, ¶¶ 4, 79 (2015) (“2015 Report”) (finding that deployment is not occurring in a timely manner because 17 percent of Americans did not already have access to a fixed service offering 25 Mbps/3 Mbps).

With its analysis properly framed, the Commission should have no trouble concluding that both fixed and mobile advanced telecommunications capability are being deployed in a reasonable and timely fashion.⁴ As shown below, the industry has invested billions of dollars in advanced telecommunications capabilities over the past several years. LTE was just getting started in 2010 and is now nearly ubiquitous, and the availability of 25 Mbps/3 Mbps wireline speeds have increased substantially since 2010. But, as the economic and empirical analyses submitted in the net neutrality proceeding demonstrate, the *Title II Order* introduced considerable investment-suppressing uncertainty, and there is evidence that investment levels already have suffered as a result. One of the Commission's core missions under Section 706 is identifying and removing regulations that impede deployment of advanced telecommunications capabilities, and the Title II regulations fall squarely within that category. Accordingly, the Commission should reclassify broadband services as information services and return to the light touch regulation that fostered reasonable and timely deployment of advance capability for many years prior to the Commission's recent, ill-advised foray into intrusive regulation of broadband Internet services, thus removing the impediments to investment and deployment that exist today.

Finally, there are additional regulatory steps the Commission can and should take expeditiously to further accelerate and remove barriers to deployment, which are discussed in Section II, *infra*.

⁴ *Protecting and Promoting the Open Internet*, 30 FCC Rcd. 5601 (2015) ("*Title II Order*"), *aff'd*, *United States Telecom Ass'n v. FCC*, 825 F.3d 674 (D.C. Cir. 2016), *rehearing en banc denied*, 855 F.3d 381 (D.C. Cir. 2017).

I. THE COMMISSION SHOULD CORRECT ITS UNDERSTANDING OF THE NATURE OF THE STATUTORY INQUIRY FOR ADVANCED CAPABILITIES.

In its most recent Section 706 reports, the Commission has relied on untenable interpretations of its mission in a Section 706 inquiry, which it has used to justify findings that the industry is not deploying advanced telecommunications capability in a reasonable or timely manner. As the Notice recognizes, the Commission can and should correct those misinterpretations of the statute in this latest report. The Commission should then conclude that advanced telecommunications capability is being deployed in a reasonable and timely fashion.

A. The Commission Should Repudiate Its Prior Misinterpretations of the Statute.

Section 706 requires the Commission to “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion,”⁵ with advanced telecommunications capability defined 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.”⁶ The Commission’s last two reports adopted an overly restrictive standard for determining whether such capabilities were being deployed in a reasonable and timely manner. To correct that error, the Commission should adopt its proposal to interpret the phrase “*is being deployed to all Americans*” as an instruction to “*evaluat[e] progress*.” Notice ¶ 30 (emphasis added). The fact that the statute uses the present participle—“*is being deployed*,” rather than “*has been deployed*”—clearly indicates that Congress wanted the Commission simply to evaluate whether the industry is maintaining a reasonable, ongoing *process* of deployment. Contrary to the Commission’s recent Section 706 reports, the statute does not say

⁵ 47 U.S.C. § 1302(b).

⁶ 47 U.S.C. § 1302(d)(1).

that the Commission can find timely deployment only if all 320 million Americans *already* have the most advanced technologies available—a standard that could never be met.⁷

The Commission also seeks comment on whether to analyze fixed and mobile services separately. *Notice* ¶ 30. In answering this question, the Commission should be careful to distinguish the statutory standard from more practical questions of how to *implement* that standard in this report. As AT&T has explained elsewhere, a growing number of consumers are using mobile broadband services in lieu of fixed alternatives, especially now that all four of the largest wireless carriers have deployed 4G LTE networks on a nationwide basis and offer unlimited data plans.⁸ As carriers deploy 5G networks and services in the coming years, fixed and wireless services are likely to become even more fully substitutable.

There are nonetheless differences between fixed and mobile technologies that make it much more difficult to *measure* mobile services for purposes of a speed-based benchmark. Accordingly, in applying the statutory standard in this report, AT&T proposes that the Commission rely on the LTE interface as the benchmark for gauging deployment of advanced telecommunications capabilities in mobile services. LTE deployment can be quickly and reliably determined from Form 477 data, eliminating the difficult methodological disputes that would arise in trying to apply a speed-based benchmark for mobile services. And with mean download speeds of about 22 Mbps, LTE unquestionably gives consumers the bandwidth necessary to enable “the most popular forms” of Internet uses and the services that consumers “regularly” use.⁹ AT&T

⁷ Compare 2015 Report ¶¶ 4, 79 (finding that deployment is not occurring in a timely manner because 17 percent of Americans did not already have access to a fixed service offering 25 Mbps/3 Mbps).

⁸ See Reply Comments of AT&T Services Inc., *Restoring Internet Freedom*, WC Docket No. 17-108, at 24-25 (filed Aug. 30, 2017) (“AT&T Open Internet Reply Comments”).

⁹ *Verizon v. FCC*, 740 F.3d 623, 641 (D.C. Cir. 2014) (noting that Commission increased threshold to 4 Mbps to establish a “threshold more appropriate to current consumer behavior and

thus proposes a “separate” analysis only in the narrow sense that the most practical method of determining compliance with the statutory standard differs in the fixed and mobile contexts.

B. The Commission Should Clarify That The Terms Advanced Telecommunications Capability And Broadband Are Not Synonymous.

In 2015, the Commission dramatically increased the speed-based benchmark for fixed services from 4 Mbps/1 Mbps to 25 Mbps/3 Mbps.¹⁰ Many parties have misinterpreted the Commission’s 25 Mbps/3 Mbps standard as defining “broadband” itself, and frequently argue that consumers do not have a “broadband” option if a 25 Mbps/3 Mbps service is not available.¹¹ However the Commission defines advanced telecommunications capability here, it should correct this overreach.

In discussing the various “voice, data, graphics, and video” applications that consumers use, the *2015 Report* acknowledged that none of these services, including high definition video, required even a 10 Mbps download speed connection.¹² But the Commission chose a 25 Mbps/3 Mbps standard based on an assumption that “each person in the household” was “us[ing] more

expectations” and that was “enough” to permit what “consumers now regularly use”); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 14 FCC Rcd. 2398, ¶¶ 19-20 (1999) (“*1999 Report*”) (choosing original 200 Kbps threshold because it was “enough to provide the *most popular* forms of broadband—to change web pages as fast as one can flip through the pages of a book and to transmit full-motion video” (emphasis added)).

¹⁰ See *2015 Report* ¶ 26.

¹¹ See, e.g., Reply Comments of Incompas, *Restoring Internet Freedom*, WC Docket No. 17-108, at 14, n.44 (filed Aug. 30, 2017); Reply Comments of the Greenlining Institute, *Restoring Internet Freedom*, WC Docket No. 17-108, at 3, n.5 (filed Aug. 30, 2017).

¹² *2015 Report* ¶¶ 29-40; see also *id.* ¶ 30 (noting that video providers such as Netflix, Apple, and DISH recommended only a 5-8 Mbps connection to receive high definition video); *id.* ¶ 39, Table 1 (conceding that a consumer can “[s]tream 1 HD video” with a 10 Mbps download connection); *id.* ¶ 47 n.211 (“[t]here is no single, objective standard for what constitutes HD, or what speed is necessary to achieve it. Some providers continue to state that as little as 5 Mbps will enable HD video, while others state that at least 8 Mbps or higher is necessary for such service.”).

than one broadband device simultaneously.”¹³ The Commission concluded that a 25 Mbps/3 Mbps connection was necessary to permit multiple users to download high definition video simultaneously while also performing other tasks on multiple devices at the same time.¹⁴

While the Commission may choose to frame its section 706 inquiry with reference to this aggressive 25 Mbps/3 Mbps standard, the Commission should continue to recognize that different standards may be appropriate in other contexts. For example, the Commission uses a different standard for purposes of the Connect America Fund (“CAF”) Phase II support mechanism, which provides funding to subsidize the cost of building new network infrastructure or performing network upgrades to provide voice and broadband service in areas where it is currently unavailable. Under the terms of that program, companies that accepted CAF Phase II support must offer broadband at speeds of at least 10 Mbps downstream and 1 Mbps upstream. Importing the 25 Mbps/3 Mbps standard into that context could have the result of thwarting, rather than promoting, the availability of broadband in rural America.

Similarly, for purposes of gauging broadband competition, the Commission should recognize that many consumers neither want nor use 25 Mbps broadband service. In fact, 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. That is not necessarily surprising as

¹³ See *id.* ¶ 47; see also *id.* (“[t]he City of Boston, for example, states that the benchmark ‘must be sufficiently robust to allow every member of a household to use multiple devices simultaneously.’”).

¹⁴ See *id.* (assuming that “each HD video stream requires a minimum of 5 to 8 Mbps, and more advanced video services [i.e., “4K video”] on the market require approximately 25 Mbps”); see also *id.* ¶ 48 (“10 Mbps downstream would not support the use of modern applications including high-quality video, *especially by multiple users* within a household” (emphasis added)).

Netflix’s “Internet Connection Speeds Recommendations” page tells customers that video “[t]itles will play in HD as long as you have a connection speed of 5.0 megabits per second or faster.”¹⁵ A recent Technology Policy Institute report similarly noted that the “vast majority of online activities,” including HD video, “appear to be accessible with 5.0 Mbps or less,” but “beyond 5 Mbps, the value [a] subscriber obtains from further increases will depend on factors like how many connected devices operate at a single time and the types of connections she requires.”¹⁶

The *Notice* correctly recognizes that “advanced telecommunications capability” is a “statutory term with a definition that is more narrow than the term ‘broadband.’” *Notice* ¶ 1 n.1. Thus, the statutory definition “makes clear, [that] while all services providing advanced telecommunications capability are ‘broadband,’ not all broadband services provide advanced telecommunications capability.” *Id.* Given that a number of parties have misconstrued the Commission’s Section 706 reports as defining “broadband,” the Commission should explicitly reiterate that the benchmark for advanced telecommunications capability is not to be treated as the threshold for “broadband,” particularly if the Commission retains the 25 Mbps/3 Mbps standard as the benchmark.

C. The Commission Should Use LTE as the Benchmark for Mobile Services.

The Commission should also include mobile services in its Section 706 inquiry. As the Commission notes, Americans today use both fixed and mobile advanced telecommunications capability to originate and receive high-quality voice, data, graphics, and video

¹⁵ Netflix, *Internet Connection Speed Recommendations*, <https://help.netflix.com/en/node/306> (last visited Sept. 20, 2017).

¹⁶ Yu-Hsin Liu, Jeffrey Prince, and Scott Wallsten, *Distinguishing Bandwidth and Latency in Households’ Willingness-to-Pay for Broadband Internet Speed*, at 3-4 (Aug. 2017); *see also id.* (“[a] consumer who values watching video—and most do—would therefore value the bandwidth increase from a connection too slow for smoothly streaming video to one that allows a good SD video stream, and probably continue to value an increase to 5 Mbps so she can watch HD video”).

telecommunications. Indeed, an increasing number of Americans use *only* mobile capabilities: the Commission recently noted that “[a]s of January 2017, Pew reported that just over one in ten American adults are ‘smartphone-only’ Internet users—they own a smartphone, but do not have traditional home broadband service.”¹⁷ Mobile usage, already high, continues to explode: “according to CTIA, reported wireless data volumes totaled 13.7 trillion MB in 2016, an increase of approximately 42 percent from 9.6 trillion MB in 2015, and an increase of approximately 238 percent from the 4.1 trillion MB reported in 2014.”¹⁸ Most of that usage is video: in 2016, mobile video traffic accounted for 60 percent of global mobile data traffic.¹⁹ Adding mobile capabilities to the inquiry thus flows directly from the statute, which defines “advanced telecommunications capability” to include capabilities to provide the listed services “without regard to any transmission media or technology.”²⁰

In choosing the mobile benchmark, moreover, the Commission’s suggestion that it would “be more practical to use deployment of various air interface technologies (*e.g.*, LTE) as a proxy for speed benchmarks” is correct. *Notice* ¶ 19. Mobile speeds vary to a greater extent than fixed broadband speeds, and mobile service speeds are thus more difficult to measure for purposes of a

¹⁷ Draft Twentieth Report, *Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless*, WT Docket No. 17-69, ¶ 20 (2017) (“Draft FCC 2017 Mobile Wireless Report”). *See also id.* (“[a]ccording to preliminary data from the Centers for Disease Control and Prevention (CDC), from December 2013 to December 2016, the percentage of U.S. households that were identified as wireless-only increased from approximately 41 percent to approximately 51 percent, making 2016 the first year in which a majority of U.S. households were wireless-only households.”).

¹⁸ *Id.* ¶ 5.

¹⁹ Cisco, *Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2016-2021 White Paper* (March 28, 2017), <https://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/mobile-white-paper-c11-520862.html>.

²⁰ *Notice* ¶ 5 (“[i]f we were to only include one of these technologies in our *Inquiry* we would effectively be excluding a large portion of the technologies used ‘to originate and receive high-quality voice, data, graphics, and video telecommunications’”).

benchmark. The Commission could easily eliminate all the methodological difficulties a speed benchmark would create simply by using LTE as a proxy instead, and it should do so.

First, basic LTE deployments provide the capability to “originate and receive high-quality voice, data, graphics, and video telecommunications” within the meaning of Section 706. Indeed, the Commission just noted that the mean LTE download speed was 23.5 Mbps in the first half of 2017, while the median LTE download speed was 15.5 Mbps.²¹ Insofar as multiple users in a household need not *share* that bandwidth, an LTE benchmark likely assumes more total useable bandwidth than 25 Mbps per household.

LTE deployment also would be easy to measure, because it can be determined from the same source as fixed broadband speed: Form 477 data. The Form 477 data requires providers to input a Technology Code for the transmission technology deployed for mobile wireless services. Both providers and the Commission are familiar with the form, making it easy to implement as a measure of advanced telecommunications capability deployment. There is a simple logic to the use of LTE as well. Carriers conceive their deployments in terms of interface technologies established by the standards-setting bodies, and thus it makes sense to define advanced mobile capabilities in terms of those interfaces, rather than specific speeds or capabilities that those interfaces may support.

A speed-based benchmark, by contrast, would create needlessly complex methodological issues as to how to measure those speeds. There are many variables that affect speed in a mobile network that do not exist in the wireline context and that would make measurement of speeds needlessly difficult. As the Commission has explained, there are “greater degrading effects from factors such as congestion, interference, and challenges presented by physical velocity of a mobile

²¹ Draft FCC 2017 Mobile Wireless Report at 66, Chart III.E.1.

antenna.”²² Attempting to measure speeds would require the Commission to resolve endless methodological issues that have no clear answer, such as how many samples should be taken, how often, in what geographic areas, and many other similar issues.

In addition, mobile speeds for all geographic areas are not currently available from Commission data sources, and thus a speed-based benchmark would require the Commission to select an outside source to determine if a speed benchmark is being met. The source for the wireline speed benchmark is the transparent and easily available Form 477 data, but that cannot be used to measure mobile broadband speed. Although there are sources of varying reliability, using the interface as the benchmark would allow advanced telecommunications capability to be determined through the same methodology as it is for wireline.

D. The *Title II Order* Impedes the Deployment Of Advanced Telecommunications Capability In A Reasonable And Timely Fashion.

Under the appropriate standard, the Commission should conclude that advanced telecommunications capability is being deployed in a reasonable and timely manner. The industry has invested billions of dollars in advanced telecommunications capabilities over the past several years, and enormous progress has been made in the deployment of advanced services over both wireline and mobile platforms. Indeed, the portion of housing units covered by 25 Mbps download

²² *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, Twelfth Broadband Progress Notice of Inquiry, GN Docket No. 16-245, ¶ 43 (rel. Aug. 4, 2016).

speeds has increased from 49% to more than 90% since 2010.²³ Similarly, LTE was just beginning to be deployed in 2010 and is now essentially ubiquitous (99.7%).²⁴

As the record in the net neutrality proceeding shows, however, deployment would have been even greater but for the drag on investment caused by the Commission's *Title II Order*. As AT&T and others explained in the net neutrality proceeding, the *Title II Order*'s common-carrier-style regulation—which is inherently and debilitatingly vague as applied to broadband Internet access—is both unnecessary to protect consumers and is affirmatively harmful because it chills investment in broadband deployment.²⁵ There is a growing body of empirical research that confirms that this unnecessary regulation has indeed depressed broadband investment in recent years. As various economists have explained, a proper analysis of the available evidence shows a reduction in relevant capital spending during the period immediately following adoption of the *Title II Order*.²⁶ To be sure, correlation does not equal causation, and it may be impossible to isolate all confounding variables, but this empirical research tends to support what economic

²³ See Patrick Brogan, *U.S. Broadband Availability Mid-2016*, USTelecom, Chart 7 (Aug. 25, 2017), <https://www.ustelecom.org/sites/default/files/US%20Broadband%20Availability%20Mid-2016%20formatted.pdf>.

²⁴ See Draft FCC 2017 Mobile Wireless Report, Chart II.A.2.

²⁵ See Declaration of Mark A. Israel, Allan L. Shampine & Thomas A. Stemwedel, ¶¶ 85-109, attached to Comments of AT&T Services Inc., *Restoring Internet Freedom*, WC Docket No. 17-108 (filed Jul. 17, 2017) (“Econ. Decl.”); see also *id.* ¶ 96 (regulatory uncertainty depresses investment because it “raises the rate of return (or ‘hurdle rate’) a firm will require to undertake the investment.”).

²⁶ *Id.* ¶¶ 104-09; George S. Ford, *Net Neutrality, Reclassification and Investment: A Counterfactual Analysis*, Phoenix Center for Advanced Legal & Economic Public Policy Studies, Perspectives 17-02, at 2 (Apr. 25, 2017), <http://www.phoenix-center.org/perspectives/Perspective17-02Final.pdf>.

theory predicts: unpredictable regulation chills investment in dynamic industries such as this one.²⁷

Identifying and taking action to remove regulations that impede deployment of advanced telecommunications services is a core Commission responsibility under Section 706. Thus, even though there continues to be substantial deployment of advanced telecommunications services, the regulatory drag of unnecessary Title II regulations acts as a roadblock to deployment. The Commission should therefore reclassify broadband Internet access services as information services and repeal all unnecessary net neutrality rules and standards, such as the “Internet conduct standard.”²⁸ To the extent the Commission determines that some open Internet protections are warranted, the Commission can rely on alternative sources of authority, including Section 706, which the D.C. Circuit has upheld, to adopt a more targeted no blocking/no throttling framework. *See Verizon*, 740 F.3d at 636-49; *see also In re FCC 11-161*, 753 F.3d 1015, 1054 (10th Cir. 2014) (upholding section 706 as basis for USF broadband subsidies). In this way, the Commission can and should return to the light touch regulation that was successful in encouraging reasonable and timely deployment of advanced telecommunications capability for many years prior to the Commission’s recent, ill-advised forays into heavy-handed regulation of broadband services.

II. THE COMMISSION CAN TAKE SEVERAL ADDITIONAL STEPS TO ENCOURAGE FASTER DEPLOYMENT OF ADVANCED TELECOMMUNICATIONS CAPABILITY.

There are other steps as well that the Commission should take to further accelerate investment in next-generation broadband networks. AT&T has discussed many of these proposals in detail in other proceedings, and briefly describes some of them here.

²⁷ *See Econ. Decl.* ¶¶ 104-09.

²⁸ *See Comments of AT&T Services Inc., Restoring Internet Freedom*, WC Docket No. 17-108, at 53-55 (filed July 17, 2017); AT&T Open Internet Reply Comments at 45-56.

For example, in the Commission’s *Wireline Broadband Deployment* proceeding, AT&T has proposed a number of additional steps that would accelerate fixed wireline deployment, including (1) targeted reforms to the pole attachment process that eliminate unnecessary delays while accounting for the legitimate concerns of pole owners and existing attachers; (2) elimination of network disclosure rules that unnecessarily impede infrastructure modifications and streamline and enhance the remaining network disclosure rules to provide needed flexibility to carriers; (3) changes in its § 214(a) discontinuance regulations to make it easier for carriers to stop maintaining outdated facilities and services, encourage free entry and exit from competitive service markets, and cease using § 214(a) as a catch-all to scrutinize the technical details of every transition from legacy to next-generation services; and (4) preemption of state and local requirements that unnecessarily impede deployment of broadband infrastructure under 47 U.S.C. § 253.²⁹

The Commission should also take action to ensure that wireless carriers do not experience unreasonable obstacles in obtaining permitting of the placement of fiber on towers. Deployment of next-generation wireless services depends on the “densification” of the cell network, which will require deployment of fiber deeper into the network, and timely permitting will be essential to that process and will affect the pace of deployment.

Finally, the Commission should consider making Connect America Fund obligations more amenable to capacity-constrained options such as fixed wireless, mobile wireless, or even unlicensed spectrum. The current rules are designed with only the fixed-wired and fiber service models in mind. Accordingly, even though the Commission maintains that the rules are technology neutral, in reality they are not.

²⁹ See Comments of AT&T Services Inc., *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84 (filed June 15, 2017).

CONCLUSION

For the foregoing reasons, the Commission should find that advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, and it should recognize the investment-chilling effect of Title II regulation and promptly reclassify broadband Internet access service as an information service.

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