

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

In the Matter of

Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	) ) ) )	GN Docket No. 17-199
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**RE: THIRTEENTH SECTION 706 REPORT NOTICE OF INQUIRY**

**NEW NETWORK INSTITUTE, IRREGULATORS, & TELETRUTH  
Exparte Addition to Reply Comments**

[Link to Reply Comments](#)

Bruce Kushnick, Executive Director  
Founding Member, IRREGULATORS

September 25th, 2017

## **19 Years of FCC Section 706 Comments and Complaints**

New Networks Institute and members of Teletruth (now mostly dormant) have previously filed numerous comments, petitions, and complaints with the FCC on the Bells' fiber optic deployments (now-AT&T, Verizon and CenturyLink) and the costs to customers.

This is a partial list, starting in 1998 with the first Section 706 report; we filed over 20 times from 1998-2010 pertaining to Section 706 and broadband, and have just filed in the 13<sup>th</sup> Section 706 Report.

### **FCC's Response the Data Quality Act Complaints, December, 17, 2010**

- [https://transition.fcc.gov/omd/dataquality/requests/2010/121710\\_Resp\\_Data\\_Quality\\_Complaints.pdf](https://transition.fcc.gov/omd/dataquality/requests/2010/121710_Resp_Data_Quality_Complaints.pdf)

This is an excerpt from the FCC's response to our Data Quality Act filings in 2010. Unless you have the budget to take the FCC to court, they can and will ignore all attempts to correct their own flawed analysis.

# New Networks Institute

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## EXCERPT

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OFFICE OF  
MANAGING DIRECTOR

December 17, 2010

We have received your three Data Quality Act complaints submitted electronically on June 29, 2010; July 1, 2010; and July 6, 2010, regarding broadband data collected and used by the FCC. In order to ensure that its data is as accurate and reliable as possible,

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You may also comment on proposed collections of broadband data. The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 – 3520) requires the FCC to solicit comments through the Federal Register concerning new, revised or renewed information collections prior to approval of a collection by the Office of Management and Budget (OMB). Comments are requested as to: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

With respect all other aspects of your complaints, we find that your allegations lack any specificity concerning issues with the quality, objectivity, utility, or integrity of the broadband data collected and used by the FCC. We find that the associated FCC data are consistent with both OMB and Commission Data Quality Act Guidelines, and that the methods employed by the FCC to collect, analyze and interpret the data are reasonable and consistent with the relevant guidelines.

Regardless of Democrat or Republican, the FCC has been captured by the phone and cable companies. And regardless of the hype and “good intentions”, we present a full record of the corruption of the 706 Reports to Congress and the Public—over a 19 year period.

Simply put, the FCC rewrote the history of broadband in America – and it has made harmful public policies that, going forward, will get a great deal worse unless confronted – finally, with legal actions.

And unfortunately, this FCC is by far the most laden with conflicts of interest issues, and collusion with the companies instead of protecting the public interest. Chairman Ajit Pai is a former Verizon attorney; Commissioner Brendan Carr worked as a lawyer for Verizon, AT&T, and the trade associations, USTA and CTIA, while Commissioner O'Reilly works and defends groups that are directly funded by AT&T and Verizon. On top of this, the head of the FCC transition team has been a consultant to Verizon for decades.

While a loosely-based consortium of experts, auditors and lawyers, now called the IRREGULATORS, has emerged, and in some of the last 19 years we had hoped

that the FCC would ‘do the right thing’, we have no illusions about this FCC.

We have filed over 120 times at the FCC. This is a sample, focusing on the Section 706 proceedings.

And this is not a history lesson. From the FCC’s failure to examine the current financial cross subsidies that have been caused by the FCC’s own cost accounting rules that makes local wired phone customers defacto investors of the current and future wireless networks, to abandoning rural customers (including low income families) – who paid and continue to pay for upgrades they will never get, this collection details the myriad of ways America was harmed by the state-based utilities (now-AT&T, Verizon and CenturyLink), with the vigorous ignorance and help of the FCC.

Note: We have put up some of the documents, but left the filings intact, thus some of the links, emails, addresses, etc. are no longer correct.

**1) FCC Comments: FIRST 706 proceeding, September 1998, Docket 98-146**

“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 Telecom Act of 1996.”

- [http://www.newnetworks.com/NNI\\_FCC\\_9-98.txt](http://www.newnetworks.com/NNI_FCC_9-98.txt)

“NNI believes that the history of state-level incentive regulation plans shows that it would be unwise for the Commission to adopt any form of regulatory policy that gives the RBOCs regulatory benefits, such as relaxed regulation or lessened oversight, in exchange for the hope or promise that increased RBOC deployment of advanced network capabilities will be the result.”

**2) FCC Comments — FIRST 706 proceeding, September 1998, Docket No. 98-147, FCC 98-188**

Advanced Telecommunications Notice Of Proposed Rulemaking,

- [http://www.newnetworks.com/NRPM\\_98-147\\_NNI.txt](http://www.newnetworks.com/NRPM_98-147_NNI.txt)

“The FCC Should Not Grant The Bells Any New Financial Incentives And Should Investigate The Bells Failure To Deliver On Promised Advanced Networks Despite Previous Incentives. — Our record is clear. The FCC’s is broken.”

**3) White Paper — FIRST 706 proceeding**, March 17, 1999, Docket No. 98-147, FCC 98-188,

Baby Bell Expose Refutes FCC Advanced Network Report and Calls for an Investigation of "Info-Scandal".

- <http://irregulators.org/wp-content/uploads/2017/09/fccrefute-1999-1.pdf>

“As we will demonstrate, the FCC’s Report is a white-washing, attempting to show that the Telecom Act worked and has delivered on its promises to give Americans new services. Unfortunately, the Report is filled with numerous serious flaws.”

“However, there is an abundance of evidence the FCC has ignored or not considered —literally hundreds of documents that detail the failure of the Bells to deliver broadband to the public in a ‘timely and reasonable’ manner.”

**4) Petition to the FCC to Investigate The Bell’s Failed Broadband Deployment, FIRST 706 proceeding** , December 9th, 1999, CC Docket No. 98-147, FCC 98-188,

**PETITION REQUESTING A REVISION OF THE FCC’S 706 ADVANCED NETWORK REPORT FINDINGS, AND A REQUEST FOR AN INVESTIGATION INTO THE BELL OPERATING COMPANIES’ ADVANCED NETWORK DEPLOYMENT FAILURES**

- <http://irregulators.org/niipetition1999broadband/>

**5) FCC Comments** —September 24, 2001 CC Docket 98-146

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.

- <http://irregulators.org/wp-content/uploads/2017/09/NNI706comments2001.pdf>

**Questions Asked:**

- Is America really going to have the inferior ADSL product over the 100 year-old-copper wire as its broadband future?

- Did the American public pay in excess of \$58 billion dollars for a fiber-optic network they will never receive? And are they still paying for it in the form of excessive phonerates? (Doesn't include tax write-offs.)
- Why hasn't the FCC investigated the issues of the Bells' failed broadband deployment?
- Why hasn't the FCC investigated and enforced the laws to protect competitors?

## 6) NTIA Comments— December 19h, 2001

Notice, Request for Comments on Deployment of Broadband Networks and Advanced Telecommunications Docket No. 011109273-1273-01] RIN 0660-XX13

- <http://irregulators.org/wp-content/uploads/2017/09/FINALNTIAfiling.pdf>

“New Networks Institute believes that allowing the Bells into any new services or giving them any new incentives is tantamount to rewarding the Bell monopolies for fraudulent behavior. History clearly shows that the new incentives will in no way bring advanced networks sooner or cheaper....If the NTIA is really concerned about the future of American telecommunications, it must take a clear, fresh look at the data — and not use data supplied by the Bell companies, through it myriad of Bell funded reports, lobbying groups, and other spin doctors.”

## 7) Complaint Section706 – February 19th, 2003

How Much Money Did the Bell Companies Collect from Customers for Broadband Networks They Will Never Receive?

- <http://irregulators.org/fcccomplaintsection7062003/>

Teletruth Files Complaint Against the FCC: The FCC's Broadband Analyses are Seriously Flawed and Calls for a "Broadband True-Up", Not a 'Customer Takings'.

This Complaint outlines the fact that the FCC data on broadband is completely lacking all information about the state deployments.

What's even more amazing is that:

- The FCC has failed to include any of the commitments made on the state level in their broadband (advanced network, Section 706) reports or any other analysis.
- The FCC has failed to analyze any of issues related to the customer funding of fiber-optic networks that were never delivered.

- The FCC has failed to examine the funding of DSL deployment and implementation by customers through higher phone rates.
- Some states, including Oregon and Louisiana are allowing the phone companies to charge customers for the development of these services as part of their local phone charges ---Even though DSL is defined as a non-regulated Interstate Information service.
- The FCC has failed to incorporate any of the state fiber-optic funding issues in regards to increased charges added to Competitor-based prices (TELRIC).--- Some states now have "100% fiber-optic" upgrades as part of their current prices, even though the networks were never fully upgraded.

"The FCC has totally ignored any of the state broadband plans or the issue of customer-funding of these new networks. However, in the next few days the FCC may rule that competitors will be blocked from using customer-funded networks. If the FCC goes through with this, it will be "customer takings", because the FCC will be giving a private company, the local Bell monopoly, sole rights to networks being funded through excess rates, where the Customer has been a defacto investor." adds Kushnick.

## **8) Petition to FCC over ISP and Customer Broadband Issues, May 2003**

- <http://irregulators.org/petitionisp/>

This Petition, filed with the Texas ISP Association, outlines multiple problems created by the Bell companies currently facing the Internet Service Providers in supplying broadband. This includes DSL predatory pricing, and sub-standard customer services, among other issues.

## **9-14) FCC Comments/Reply Comments over Broadband, 2002**

Teletruth filed: The FCC's Triennial Review is in violation of the Regulatory Flexibility Act

- <http://irregulators.org/wp-content/uploads/2017/09/TeleTruthRFACOMMENTS2002.pdf>

Teletruth filed: The FCC's Triennial Review is in violation of the Regulatory Flexibility Act's mandate to include small businesses in the decision making process. The Triennial Review helps to put Internet Providers out of business.

## **15) Proposed Congressional Bill — "The Broadband Bill of Rights", -2001**

- <http://irregulators.org/broadbandbillofrights/>

In 2001, Teletruth worked with Congressmen Nadler to create a broadband bill to protect the rights of customers and small businesses who receive sub-standard customer services.

## **16) Reply Comments & Data Quality Act Complaint, FOURTH 706 REPORT, GN Docket No. 04-54, May 24<sup>th</sup>, 2004**

- <http://ow.ly/DiDZ30fooiH>

“Teletruth petitions the Federal Communications Commission (FCC) to redo sections of every broadband report presented to the public since 1998 in relationship to Section 706 of the Telecom Act, and to correct flaws in both the data and the analysis of broadband deployment in the United States.

“This challenge under Federal Data Quality Act is based on TeleTruth’s conclusions that seriously flawed, unduly selective and biased statistical analysis has been presented to Congress, regulators, and the public. It has distorted ALL public policies in the United States toward broadband deployment, as well as harmed the entire financial health of the economy.

“In short, Teletruth believes that the FCC’s data and analysis fails the Federal Data Quality Act’s basic tenets of quality, transparency, utility, reliability, objectivity, integrity, reproducibility, among other problems.

“As we will demonstrate, the data and conclusions in the FCC’s Advanced Network Broadband reports starting in 1998 have continuously failed to include the state obligations made by the Bell companies to deploy fiber-based broadband services in exchange for massive financial incentives, tax write-offs and other perks. The FCC has continuously ignored and did not include thousands of documents, including the majority of state Alternate Regulation plans (including all data, testimony, orders, opinions, related media coverage, etc.) that were dedicated to broadband or the billions of dollars per state where customers have already been charged for fiber-optic networks that were never delivered. In fact, to suit its own political needs, the FCC even dummed down the definition of broadband to show that deployment was continuing at a “reasonable and timely” pace when it does not have the authority to support that claim.

“To make matters worse, the FCC’s broadband report has completely eliminated the role of the Internet Service Provider, ISP, in the story of broadband and has done nothing to focus on how the Bell companies have harmed the ISPs ability to offer DSL. To add insult to injury, the FCC has not sought to examine its own regulatory harm imposed on the

# New Networks Institute

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obligation in Section 706 to “promote competition in the local telecommunications market.”

“Teletruth’s record on this data-failing of the FCC has been well documented with multiple filings, comments, complaints and petitions --- all ignored by the FCC, even though we presented sound primary data from numerous sources”

## **17-20) National Broadband Plan, NOI GN Docket 09-51, 2009-2010**

New Networks Institute & Teletruth filed multiple times in the **National Broadband Plan**

GN 09-51	Bruce Kushnick, New Networks Institute View (7) View (408)	6/8/2009	COMMENT
GN 09-51	Bruce Kushnick, New Networks Institute Brief Comment (2)	10/5/2009	COMMENT
<a href="#">GN 09-51</a>	Teletruth View (10)	1/13/2010	COMMENT
GN 09-51	Bruce Kushnick View (17)	6/21/2010	COMMENT

### **Conclusion:**

We decided this was worth repeating, though we have a collection of letters that supply the same sentiment.

## **FCC’s Response the Data Quality Act Complaints, December, 17, 2010**

- [https://transition.fcc.gov/omd/dataquality/requests/2010/121710\\_Resp\\_Data\\_Quality\\_Complaints.pdf](https://transition.fcc.gov/omd/dataquality/requests/2010/121710_Resp_Data_Quality_Complaints.pdf)



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**A History of the 706 Broadband Inquiries**

<http://www.cybertelecom.org/broadband/706.htm>