Before the

Federal Communications Commission

Washington, DC 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment	)	
Of Advanced Telecommunications	)	
Capability to All Americans in a	)	
Reasonable and Timely Fashion And,	)	CC Docket No. 98-146
Possible Steps to Accelerate Such	)	
Deployment Pursuant to Section 706	)	
of the Telecommunications Act of 1996	)	

THIRD NOTICE OF INQUIRY

REPLY COMMENTS OF

KEEP AMERICA CONNECTED

October 9, 2001

I. Introduction

The undersigned organizations welcome the opportunity to respond to the Federal Communication Commission's (FCC) Third Notice of Inquiry on the deployment of advanced telecommunications services and the FCC's implementation of Section 706 of the Telecommunication Act of 1996. These comments represent a diverse range of interests and a variety of organizations that recognize the economic, social and political benefits that advanced telecommunications capabilities can bring to all Americans.

The transformation and evolution of the New Economy since the Commission's previous Notice of Inquiry on the deployment of advanced telecommunications has been dramatic. Investment in new technologies, including telecommunications and other sectors, has fallen and consumer confidence has plummeted. We stand on the edge of a recession, with unemployment on the rise. Now, more than ever, we should look to innovative new technologies that can act as an economic stimulus and provide far reaching benefits across the economy. Broadband is one such technology. It is the platform upon which so many economically vital applications of the

future are needed to run. Successful deployment of broadband is the key to the Internet's success, and the Internet is one key to our nation's economic success.

From improving the quality and availability of healthcare and education to enabling independent living for seniors and people with disabilities, broadband technology also creates opportunity for social benefit. Closing the Digital Divide that separates those with access to high-speed Internet connectivity and those without also empowers more Americans from all demographic backgrounds to compete in the New Economy and participate in the political process.

Section 706 of the Telecommunications Act of 1996 requires that the Commission act to ensure that broadband technology is deployed in a reasonable and timely fashion. Doing so requires recognition that the present regulatory environment is acting as a disincentive to investment in broadband technology development and deployment, as communities that stand to benefit the most are not perceived as attractive business markets for broadband services. It also requires acknowledgment that the Internet backbone continues to bypass much of the country. No matter how wired those within a community may be, connectivity it is still dependent upon the infrastructure that connects the community to the rest of the country.

Section 706 is a good tool with which to help fix the problems of broadband deployment. But the FCC has been reluctant to use its authority. With the economy hanging in the balance, we are now urging the Commission to stop watching and take action. Accordingly, the undersigned agree with the comments of Intel Corporation submitted to this Inquiry that call for comprehensive rulemaking, "to review the regulations that apply to all broadband providers in order to encourage the risky and expensive investment in broadband facilities…" We also support Intel's call for the Commission to deregulate all new last mile broadband investment as an effective method for accelerating deployment. These actions are critical elements of a much-needed national broadband policy. This policy would ensure that broadband technology is deployed in an expeditious fashion thereby benefiting all Americans.

II. Statements of Interest

Keep America Connected (KAC) is an organization comprised of groups whose demonstrated goals involve promoting a variety of telecommunications issues. The primary goal of KAC is that regardless of income, race, disability, age, ethnicity or geographical location, affordable access to the use of telecommunications infrastructure and services should be

available. This goal is best achieved through the rapid development of a fully competitive telecommunications marketplace that ensures that consumers across the nation will have access to more services at lower prices.

National Indian Education Association (NIEA) supports traditional Native cultures and values, to enable Native learners to become contributing members of their communities, to promote Native control of educational institutions, and to improve educational opportunities and resources for American Indians, Alaska Natives, and Native Hawaiian's throughout the United States. NIEA has promoted the interests of Native Americans in telecommunications to Congress, before the FCC and in the courts.

United Homeowners Association (UHA) is a national, nonprofit, membership based organization that represents the interests of homeowners in Washington, DC. UHA has an active communications advocacy program on behalf of its members. UHA has promoted the interests of homeowners in telecommunications to Congress, before the FCC and in the Courts.

III. Is advanced telecommunications capability being deployed to all Americans?

Recent reports highlight the fact that Americans' access to personal computers and the Internet has grown significantly over the past few years. For example, according to a Pew Internet study released in February 2001, 56 percent of American adults had Internet access at the end of 2000. While this was an increase from 47 percent in June of last year*, nearly half of the population remains disconnected*. Furthermore, the study does not differentiate between growth of narrowband Internet access and growth of broadband Internet access, the latter being far *slower*.[1]

The Pew report also highlights the nature of the divide. Only 38 percent of Americans in households earning less than $30,000 a year have Internet access, while 82 percent of those with income of $75,000 or more are online. While 43 percent of Americans living in rural areas are connected to the Internet, 54 percent live in our cities' suburbs. Among minorities, 43 percent of African Americans and 47 percent of Hispanics are online. This jumps to 57 percent for the white population. Out of those aged 65 or older (our fastest growing age group), 15 percent have access, while among those between the ages of 18 and 29, 75 percent are connected. These

[1] Pew Internet Project: Internet Tracking Report, http://www.pewinternet.org/ February 18, 2001

divisions among Americans are greatly amplified when considering the deployment of *advanced* telecommunications services.

Without adequate market incentives and perceived profitability in these underserved areas, broadband providers have yet to expand the necessary backbone infrastructure to meet much of this country's needs. It is not simply a matter of finding customers willing to pay for high-speed services. The majority of small businesses, arguably those who need broadband more than their larger competitors to survive, remain disconnected. These companies comprise one-third of the nation's economy, but due largely to their remote locations, only 10 to 20 percent have broadband access.[2] They are willing to pay for the service, but it is simply not available to many. At the same time, many small businesses cannot afford the private networks that larger companies purchase to meet their bandwidth needs.

Control of the Internet backbone remains concentrated in the hands of a few companies who continue to underinvest in new capacity. These companies continue to target the high-volume, corporate, urban customers and those who can afford direct backbone connections for their private use. Without sufficient local Internet interconnection points, rural businesses and residents must have their Internet traffic rerouted through distant, slower lines. Without new competition, many backbone providers will remain reluctant to expand their infrastructure to regions beyond the largest and most lucrative metropolitan areas.

IV. Is overall deployment reasonable and timely?

"Five years after the Telecom Act was supposed to unleash a host of new communications services, the digital revolution is still stuck in low gear."[3] So reads a recent BusinessWeek article that also notes that only 6 percent of households with Internet access surf the Web with a Digital Subscriber Line (DSL) or cable modem broadband connection. Grand expectations of broadband acceleration from just a few years ago are not being met. According to recent Yankee Group research, up to 10 million homes were expected to have DSL lines installed by this year. Instead, there are only 2 million subscribers. Facing fewer regulatory restrictions cable broadband companies have managed to connect about 6 million customers and control most of the market. As cited in the comments of the Intel Corporation, current regulation is undermining the deployment goals of Section 706.

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[2] "Small Businesses Lose Out On Broadband," Network World, July 30, 2001.
[3] "Broadband: What Happened?", BusinesWeek Online, June 11, 2001.

The lack of timely deployment has had economic repercussions far beyond the immediate loss of potential customers. Without an audience, the development of promising new high-speed services, media and other applications including those in telemedicine and distance learning has slowed and many companies that were doing this work have closed their doors. While those who connect at high-speed are twice as likely to buy goods online, E-commerce has suffered from the declining growth of broadband subscribers.[4] The potential growth of online advertising has also been restricted, as a result.

Some have argued that the current state of broadband take-up is following a *reasonable* path of development and deployment on par with the natural pace of any new technology. But the Internet is *not* like any new technology. The Internet bubble has burst, dramatically accelerating the decline of our economy that now teeters on recession. Yet, at the same time, this technology holds the potential to bring tremendous economic relief. According to Brookings Institute economist Robert Crandall and engineer consultant Charles Jackson, widespread use of high-speed Internet service could contribute as much as half a trillion dollars to the economy.[5] "The impact of broadband by any measure --- in terms of GDP, jobs, US productivity and efficiency --- will be profound," according to Jackson. "We're looking at a transformative technology; one that doesn't create change at the margins of an economic system, but at its core."[6]

V. If deployment is not reasonable and timely, what actions will accelerate deployment?

Given that broadband deployment has been neither timely nor reasonable, the FCC, under Section 706, must take action to accelerate this process and bring the benefits of advanced telecommunication services to all Americans. Keep America Connected agrees with the Intel Corporation's belief that the Commission should begin a comprehensive Section 706 rulemaking to review current regulations.

The Commission needs to more closely align its regulatory policy with the technical realities of the Internet today. As those who helped draft it have repeatedly stated, the Telecommunications Act of 1996 was designed to regulate circuit-switched voice networks, not

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[4] Jupiter Communications, as quoted in BusinessWeek Online, June 11, 2001.
[5] Robert Crandall and Charles Jackson, "The $500 Billion Opportunity: The Potential Economic Benefit of Widespread Diffusion of Broadband Access," Criterion Economics, L.L.C, July 2001.
[6] Charles Jackson, as quoted in *The Industry Standard,* July 16, 2001.

the packet-switched data networks of the Internet. InterLATA restrictions on the deployment of these data networks do not make sense when applied to an Internet that does not share these boundaries and can be local and global simultaneously.

As long as these interLATA restrictions keep new entrants out of the backbone market, the lack of competition will continue to discourage or limit new investment in backbone capacity. Similarly, the regulation that requires incumbent local exchange carriers (ILECs) to sell advanced data services at mandated discounts to their competitors acts as a disincentive to investment by both the ILECs and their CLEC competitors, who would rather buy cheap than build new. Accordingly, we ask that the Commission exercise regulatory forbearance for local telephone companies by: 1) allowing them to set market prices for advanced data services, 2) not requiring them to sell at mandated discounts to competitors for resale, and most importantly 3) permitting them to deliver data over interLATA boundaries.

The restrictions on interLATA traffic and pricing are not shared by the cable industry, which presently dominates the broadband market. This highlights the need for the FCC to modify existing regulations to better reflect a more technology-neutral approach to development. A more level playing field will create greater competition, innovation and benefit for consumers through increased access through multiple technologies.

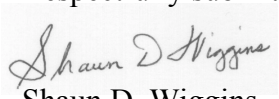
While taking the above steps to stimulate broadband providers, the FCC should also look for opportunities to identify and educate consumers about potentially beneficial broadband applications. Consumers need to be able to see and understand the value of such applications—the life enhancing advancements they can bring. Consumer "pull" will also be enhanced by the aggregation of demand in community institutions that are by themselves not attractive (profitable) markets for industry. By supporting such efforts, the Commission can help bridge the gap between these communities and industry to satisfy the demands of both.

The actions that we suggest the Commission take to spur the deployment of advanced telecommunication services must be part of a larger national broadband policy. This policy should encourage solutions at all levels and branches of government. This policy should recognize that for all of its development and enormous economic impact, the Internet is still in its infancy, and all efforts should be made to treat it accordingly.

VI. Conclusion

Broadband technology can stimulate the economy and provide benefit to all Americans. With proper investment supported by deregulation, it can provide the immediate stimulus to help strengthen the economy in this time of need and enhance the quality of life for so many. The Commission can no longer delay taking action. Under Section 706, the FCC should begin a comprehensive rulemaking process to review the regulations that apply to all broadband providers. It should also propose deregulation of last mile investment to encourage the acceleration of broadband deployment. Given room to grow, unburdened by over-regulation, the promise of this revolutionary technology will be realized.

Respectfully submitted,



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