

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Reexamination of Roaming Obligations of ) WT Docket No. 05-265  
 )  
Commercial Mobile Radio Service Providers )

To: The Commission

**COMMENTS OF AT&T INC.**

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## SUMMARY

AT&T respectfully submits that imposition of a roaming obligation on wireless broadband Internet access services would be inconsistent with the goals and mandates of the Communications Act of 1934 and the Telecommunications Act of 1996. The inconsistency would derive from the fact that such an obligation would stifle investment in and deployment of wireless broadband Internet access services as well as undermine mobile broadband network management. Market-based roaming agreements offer none of these drawbacks, but instead permit efficient network investment and management, which is particularly important in this area, considering that bandwidth-intensive roaming usage could overwhelm a hosting carrier's network. The Commission should therefore refrain from regulating, and allow parties to reach roaming agreements privately.

In addition to the policy reasons not to impose a roaming obligation on wireless broadband Internet access services, AT&T respectfully submits that a number of statutory provisions also suggest that roaming regulation may not lawfully be applied to such services. The Commission recently classified wireless broadband Internet access service as an information service. Given this classification and the provisions of the Act disfavoring regulation of broadband information services, imposition of a roaming requirement – a clear common carrier economic regulation – is inconsistent with the proper exercise of the Commission's jurisdiction.

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**COMMENTS**

The Federal Communications Commission (“the Commission”) recently determined that commercial mobile radio service (“CMRS”) carriers are required to provide “automatic roaming service on reasonable and non-discriminatory terms and conditions” to other carriers upon “a reasonable request.”<sup>1</sup> The Commission made clear that the automatic roaming requirement extends only to “real-time, two-way switched voice or data services that are interconnected with the public switched network,” including “push-to-talk,” and SMS services.<sup>2</sup> In a Further Notice of Proposed Rulemaking, the Commission sought comment on whether an automatic roaming requirement should extend to non-interconnected

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<sup>1</sup> *In re Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers*, at ¶ 26, FCC 07-143 (2007) (“*Roaming Order*”).

<sup>2</sup> *Roaming Order* at ¶ 53-61.

features and services, “such as wireless broadband Internet access service, or other non-CMRS services offered by CMRS carriers.”<sup>3</sup>

AT&T respectfully submits that imposition of a roaming obligation on wireless broadband Internet access services would be inconsistent with the goals and mandates of the Communications Act (“the Act”) and the Telecommunications Act of 1996 (“’96 Act”). Such an obligation would stifle investment in and deployment of wireless broadband Internet access services as well as undermine mobile broadband network management. Market-based roaming agreements permit the use of other carriers’ networks without impairing network management. These mutually-beneficial agreements are particularly critical in a broadband roaming environment in which bandwidth-intensive applications could overwhelm a hosting carrier’s network.

Without the flexibility permitted by market-based roaming solutions, the increased demand for bandwidth associated with mandated mobile broadband roaming could force carriers to either incur substantial, unplanned costs in modifying their networks to accommodate the additional traffic, or sacrifice the quality of service across their entire networks. In either instance, mandatory data roaming requirements would harm consumers as carriers would divert investment from mobile broadband networks into other areas where they could be more certain of receiving a reasonable return on their investment. Such an outcome would result in less mobile broadband deployment. In addition, mobile

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<sup>3</sup> *Id.* at ¶ 77-81.

broadband roaming obligations would make carriers less likely to build out a broadband network in areas outside of their existing spectrum coverage, and in rural areas where such carriers may operate voice and less-advanced data services, but have not upgraded their networks in order to provide mobile broadband services.

All of these consequences of a potential “automatic” mobile broadband roaming requirement would undermine the congressional goal of “encourag[ing] the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”<sup>4</sup> Such a requirement would also conflict with Section 230(b)(2) of the Act, which provides that the policy of the United States includes the preservation of “the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”<sup>5</sup> In line with these statutory policy goals, the Commission should continue to allow the market of wireless broadband Internet access services to freely evolve, and consider *ex ante* regulations only in the event of market failure. The Commission should therefore refrain from imposing a roaming requirement on wireless broadband Internet access and other non-CMRS services provided by CMRS carriers.

In addition to the policy reasons underlying these statutory provisions not to impose a roaming obligation on wireless broadband Internet access services,

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<sup>4</sup> 47 U.S.C. § 157 nt.

<sup>5</sup> 47 U.S.C. § 230(b)(2).

AT&T respectfully submits that these provisions also suggest that roaming regulation may not lawfully be applied to such services. The Commission recently classified wireless broadband Internet access service as an information service. Given this classification and the provisions of the Act disfavoring regulation of broadband information services, imposition of a roaming requirement – a clear common carrier economic regulation – is inconsistent with the proper exercise of the Commission’s jurisdiction.

## DISCUSSION

### **I. The Commission Should Give Priority to Encouraging Wireless Carriers to Deploy and Expand Wireless Broadband Internet Access Services, Consistent with the Commission’s Goals Under Section 706 and Other Statutory Provisions**

Section 706 of the ’96 Act instructs the Commission to encourage the deployment of advanced telecommunications capabilities by removing barriers to infrastructure investment.<sup>6</sup> Section 230(b)(2) of the Act provides that the policy of the United States includes the preservation of “the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”<sup>7</sup> Imposing roaming requirements on wireless broadband Internet access or other non-interconnected services would violate these and other statutory mandates.<sup>8</sup> All of these statutory

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<sup>6</sup> Pub.L. 104-104, Title VII, § 706, codified at 47 U.S.C.A. § 157, Note.

<sup>7</sup> 47 U.S.C. § 230(b)(2).

<sup>8</sup> See also Preamble, Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996) (stating the purpose of the Act “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies”); 47 U.S.C. § 309(j)(3)(A), (D) (requiring the Commission to encourage “the development and rapid deployment of new technologies, products,

provisions are designed to foster the deployment of advanced services and technologies. A roaming requirement for mobile broadband services would have the opposite effect.

There are several reasons why regulation would have an adverse impact on the deployment of mobile broadband services. As an initial matter, a roaming requirement would impose costs on carriers that offer mobile broadband services by forcing such carriers to modify their networks to absorb non-voice roaming traffic in accordance with a regulatory regime. Such an obligation would provide a disincentive for carriers to invest in and build out their networks to support mobile broadband services, and to reach mutually-beneficial market-based roaming agreements. To the extent that carriers build out mobile broadband networks under a Commission requirement, they may limit the scope of their deployments under the expectation that their subscribers will simply be able to use other carriers' networks outside of their limited mobile broadband footprints. This could significantly limit broadband competition if carriers rely upon each other's network to provide broader coverage to subscribers. In addition, regulation is particularly unwarranted in the absence of any actual evidence of market failure.

Imposing roaming requirements on wireless broadband Internet access services would also unfairly single out wireless broadband providers for common

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and services for the benefit of the public ... without administrative or judicial delays" and the "efficient and intensive use of the electromagnetic spectrum").

carrier economic regulation while their cable, wireline, and BPL counterparts remain unfettered by such regulation. Such an outcome would drive investment away from mobile broadband services, and toward the non-regulated broadband services.

**A. Mobile Broadband Roaming Regulation Would Contradict the Deregulatory Tenor of Section 706 and Other Statutory Provisions**

Section 706 of the 1996 Act directs the Commission to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans ... by utilizing ... regulatory forbearance” and other “methods that remove barriers to infrastructure investment.”<sup>9</sup> One of the Commission’s primary responsibilities under Title III is to ensure that its actions “facilitate the widespread deployment of facilities-based communications services to all Americans, including those doing business in, residing in, or visiting rural areas.”<sup>10</sup> The Commission is also required to encourage “the development and rapid deployment of new technologies, products, and services for the benefit of the public ... without administrative or judicial delays” and the “efficient and intensive use of the electromagnetic spectrum.”<sup>11</sup>

Mindful of these statutory objectives, the Commission has repeatedly recognized that heavy-handed regulation of broadband Internet access services runs the risk of hampering investment and reducing deployment, and the

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<sup>9</sup> 47 U.S.C. § 157 nt.

<sup>10</sup> See *In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, Report and Order and Further Notice of Proposed Rulemaking* at ¶ 4, FCC 04-166 (2004).

<sup>11</sup> 47 U.S.C. § 309(j)(3)(A), (D).

Commission has therefore refrained from imposing burdensome regulations on broadband services.<sup>12</sup> In the present circumstances, this danger is particularly acute. The deployment of mobile broadband services is in its infancy in the United States. Wireless carriers have begun to roll out so-called third generation (“3G”) services, investing large sums of money in upgrading their networks to this end. AT&T offers its version of 3G services (HSDPA/WCDMA) in more than 165 cities, and 73 of the top 100 markets in the country.<sup>13</sup>

In deciding to undertake such costly network upgrades, carriers anticipated that their broadband investments would allow them to differentiate their service offerings from those of their competitors. This expectation would be severely undercut by the imposition of mandatory roaming obligations on mobile broadband services. Under such regulations, wireless carriers would have to reserve spectrum capacity for roaming users that are utilizing high-bandwidth applications such as video and sophisticated data applications according to a regulatory regime. This in turn could limit the availability of spectrum for AT&T’s own mobile broadband users, and potentially reduce the quality of service for AT&T’s subscribers. For instance, if roaming customers demand too large an amount of spectrum, AT&T’s own voice customers would experience busy signals or service denial, while the connections of AT&T’s data customers

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<sup>12</sup> See, e.g., *Cable Broadband Ruling* at ¶ 4-7; *Wireline Ruling* at ¶ 77-80; see also *Availability of Advanced Telecommunications Capability in the United States, Fourth Report to Congress* at ¶ 9, FCC 04-208 (2004) (observing that to advance the growth of broadband Internet access services the Commission will apply “minimal regulation of advanced telecommunications networks and services”).

<sup>13</sup> See *AT&T, 2006 Annual Report* at 5, available at [http://www.att.com/Investor/ATT\\_Annual/downloads.html](http://www.att.com/Investor/ATT_Annual/downloads.html).

would slow to a crawl. To avoid such undesirable consequences, carriers would be forced to modify their networks to accommodate the anticipated increased demand for spectrum that roamers would bring. The Commission has always guarded against forcing carriers to modify their networks to accommodate roaming, and forced modification in this instance could undermine mobile broadband investment and deployment.<sup>14</sup> Market-based roaming arrangements guard against these potential problems by ensuring that both parties will benefit from a roaming arrangement, and that the terms of such arrangements take network capacity into consideration.

For the Commission to impose *ex ante* regulations on an evolving market where market failure has yet to be demonstrated would be inconsistent with the statutory goals recited above. As mentioned, AT&T currently has roaming agreements with numerous other parties that cover both voice and data services. Those agreements permit the inclusion of mutually-beneficial terms that take into consideration network capacity issues that are so critical in a broadband roaming environment. Such terms ensure that AT&T is able to manage its network in a manner that ensures a high quality of service to its customers, while at the same time facilitating roaming for other carriers' customers. These market-based solutions should not be replaced by a regulatory regime that would constrain AT&T's ability to provide its customers and its roaming partners with innovative services.

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<sup>14</sup> See, e.g., *Second Report and Order and Third Notice of Proposed Rulemaking* at ¶ 29.

A mandated roaming requirement would also disrupt the commercial expectations that carriers had when they first decided to upgrade their networks to support mobile broadband services. Indeed, the carriers that have built out 3G networks to support such services may well not have done so had an automatic roaming rule been in place. Going forward, carriers considering whether to undertake similar network deployments would likewise discount the expected benefits. This effect would be particularly acute in rural areas, where the costs associated with such network modifications are already higher than more-densely populated areas.

The imposition of roaming requirements on mobile broadband services would also decrease incentives to expand mobile broadband availability in another manner. Under a mandatory roaming regime, existing carriers could have little incentive to expend their own resources in building out a network in areas outside of their existing spectrum coverage – after all, they could simply piggyback on the efforts of other carriers. In addition, carriers may not make upgrades in rural areas even within their existing spectrum footprints out of concern that such upgrades would be subject to roaming obligations. Such an outcome would undermine competition and broadband availability in clear contravention with the statutory directives with respect to broadband services.

There are also a number of difficult technical issues that would make the imposition of a roaming obligation on wireless broadband Internet access services unwise and contrary to statutory mandates designed to facilitate broadband

deployment. For instance, as Verizon noted earlier in this proceeding, the authentication practices of both carriers participating in a roaming arrangement must be mutually supported before roaming is possible.<sup>15</sup> There are also interoperability issues regarding methods for assigning IP addresses.<sup>16</sup>

**B. Non-interconnected Service Roaming Regulation Would Impose Disparate Burdens on Wireless Broadband Providers, Which Would Drive Investment Away from Such Providers**

The imposition of roaming requirements on mobile broadband services would put wireless broadband providers on an unequal footing with their cable, wireline, and BPL counterparts, which the Commission has properly excluded from common carrier economic obligations. Indeed, the *Wireline Broadband Ruling*, conducted in the wake of the Supreme Court's *Brand X* decision, was initiated precisely to restore regulatory parity between wireline and cable broadband providers.<sup>17</sup> And, in the *Wireline Broadband Ruling*, the Commission expressly recognized the congressional policy of subjecting broadband to consistent regulation "without regard to any transmission media or technology" used to deliver it.<sup>18</sup> In the *Wireless Broadband Ruling*, the Commission cited its previous determinations in reemphasizing that broadband should enjoy a "minimal regulatory environment."<sup>19</sup> Singling out wireless broadband services for common carrier economic regulation now would run directly counter to the Commission's

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<sup>15</sup> See *Reply Comments of Verizon* at 24.

<sup>16</sup> *Id.*

<sup>17</sup> See *Wireline Broadband Ruling* at ¶ 2.

<sup>18</sup> *Id.* at ¶ 79 n.240 (quoting 47 U.S.C. § 157 nt.).

<sup>19</sup> *Wireless Broadband Ruling* at ¶ 2.

previous policy of uniform treatment across broadband platforms, and of fostering a “minimal regulatory environment” that does not include common carrier economic regulations. Investment would naturally migrate to the services subject to less regulation, and away from mobile broadband services, which is exactly what the Commission’s uniform treatment of such services is intended to prevent.

**II. The Commission’s Broadband-Related Statutory Mandates Preclude the Application of Roaming Requirements to Wireless Broadband Internet Access Services**

The foregoing demonstrates why imposition of a roaming requirement on wireless broadband Internet access services would be inconsistent with the policy provisions of both the Communications Act and the Telecommunications Act. In addition, however, AT&T respectfully submits that these provisions, in conjunction with the case law interpreting the Act, preclude the imposition of roaming requirements on mobile broadband Internet access services.

**A. Wireless Broadband Internet Access Service Is an Information Service**

In March of this year, the Commission classified wireless broadband Internet access service as “an information service under the Communications Act.”<sup>20</sup> In reaching this conclusion, the Commission determined that the “transmission component of wireless broadband Internet access service is properly classified as ‘telecommunications’ and not a ‘telecommunications service.’” The Commission found that “the offering of this telecommunications

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<sup>20</sup> See *In re Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, FCC 07-30 (2007) (“*Wireless Broadband Ruling*”)

transmission component as part of a functionally integrated, finished Internet access service offering is not a ‘telecommunications service’ under section 3 of the Act.”<sup>21</sup> Rather, the Commission focused on the customer’s interaction with wireless broadband service, observing that “an end user subscribing to wireless broadband Internet access service expects to receive (and pay for) a finished, functionally integrated service that provides access to the Internet, rather than receive (and pay for) two distinct services – Internet access service and a distinct transmission service.”<sup>22</sup>

The Commission’s reasoning was sound, and its conclusion entirely correct. As the Commission itself emphasized, such reasoning has already been used to classify broadband service delivered in the cable modem, wireline, and BPL contexts as an information service.<sup>23</sup> And the Court of Appeals for the Third Circuit recently upheld the Commission’s reasoning in its entirety in rejecting a challenge to the *Wireline Broadband Ruling*.<sup>24</sup>

Classification of wireless broadband Internet access service as an information service thus only extended to one form of broadband the same regulatory treatment that now applies to all other forms. Indeed, as mentioned

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<sup>21</sup> *Id.* at ¶ 29.

<sup>22</sup> *Id.* at ¶ 31. See also *National Cable & Telecommunications Ass’n v. Brand X Internet Service*, 545 U.S. 967, 1000 (2005) (upholding the Commission’s treatment of broadband Internet access service via cable as an information service).

<sup>23</sup> *Wireless Broadband Ruling* at ¶ 4-7 (citing *In re Inquiry Concerning High-Speed Access to the Internet Over Cable And Other Facilities* at ¶ 35-41, FCC 02-77 (2002) (“*Cable Broadband Ruling*”); *In re Appropriate Framework for Broadband Access to the Internet over Wireline Facilities* at ¶ 77-81, FCC 05-150 (2005) (“*Wireline Broadband Ruling*”); *In re United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service* at ¶ 9-11, FCC 06-165 (2006) (“*BPL Broadband Ruling*”).

<sup>24</sup> See *Time Warner Telecom, Inc. v. FCC*, No. 05-4749 (3d Cir. Oct. 16, 2007).

above, the Commission has repeatedly stressed such a need for regulatory parity.<sup>25</sup> The Commission's determination that wireless broadband Internet access service is an information service is sound, and certainly should not be revisited in this proceeding.

**B. Information Services Should Not Be Subject to Roaming Regulation Under Title I or Title III**

For the purposes of the present proceeding, one important consequence follows from the regulatory classification of wireless broadband Internet access service as an information service. Information services fall outside the core common carrier jurisdictional provisions of Title II. While the Commission does have ancillary jurisdiction under Title I to regulate information services, such regulation is inappropriate when, as here, particular provisions in the Act make clear that the kind of regulation at issue is disfavored.

In the FNPRM, the Commission suggested that roaming regulations might be proper under either its "Title I ancillary jurisdiction or [] the Title III regulation of radio services."<sup>26</sup> Title I provides that "the Commission may perform any and all acts, makes such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions."<sup>27</sup> Title III similarly provides that the Commission may "[m]ake such rules and regulations

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<sup>25</sup> See *Wireline Broadband Ruling* at ¶ 79 n.240 (quoting 47 U.S.C. § 157 nt.).

<sup>26</sup> *Roaming Order* at ¶ 81.

<sup>27</sup> 47 U.S.C. § 154(i).

and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act ....”<sup>28</sup>

To be sure, the Commission has the ability to exercise ancillary jurisdiction under Title I, when the “communications” at issue “are by wire or radio” and the Commission finds that regulation is “necessary in the execution of its functions.”<sup>29</sup> But when the Commission has attempted to use its Title I authority in a manner that stretches beyond the boundaries of its jurisdiction or conflicts with the substantive provisions of the Act, the courts have stepped in to invalidate the Commission’s actions.<sup>30</sup>

In *FCC v. Midwest Video Corp.*, 440 U.S. 689 (1979), for instance, the Commission relied on its Title I authority to impose common carrier requirements on cable providers. Despite the Commission’s broad mandate under Title I – to “perform any and all acts, makes such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions” – the Court found that the regulations at issue were impermissible. Section 3(h) of the Act “specifically provide[d] that a person engaged in radio

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<sup>28</sup> *Id.* § 303(r).

<sup>29</sup> See, e.g., *Report and Order and Further Notice of Inquiry, Implementation of Section 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*, 16 FCC Rcd 6417, 6455-62 ¶¶ 93-108 (1999).

<sup>30</sup> See *FCC v. Midwest Video*, 440 U.S. 689 (1979) (invalidating Commission attempt to impose on cable companies under Title I the type of common carrier regulations the Act would prohibit if the regulated parties had been broadcasters); *American Library Association v. FCC*, 406 F.3d 689 (D.C. Cir. 2005) (holding that the Commission acted beyond the reach of its ancillary jurisdiction by attempting to impose regulatory obligations on certain consumer electronics products). The reasoning of the courts in these opinions would also appear to cover jurisdiction claimed under the general provisions of Title III.

broadcasting shall not, insofar as such a person is so engaged, be deemed a common carrier.”<sup>31</sup> Although the Court pointed out that section 3(h) by its terms covered only radio broadcasting, not cable, it nonetheless found that the provision evidenced Congress’s general disapproval for the kind of common carrier regulations at issue.<sup>32</sup> The Court thus concluded that the Commission had no ancillary jurisdiction to impose common carrier requirements on cable providers.<sup>33</sup>

The grounds in *Midwest Video* for finding the Commission’s jurisdiction to be absent apply with equal force here. Just as section 3(h) in *Midwest Video* evidenced a congressional disapproval for the regulations at issue in that case, so do several provisions of the Act evidence a similar aversion for the roaming regulations contemplated here. Indeed, as noted, a multitude of provisions in the Act indicate a policy against regulation of broadband and Internet services generally. Section 706 of the ’96 Act instructs the Commission to encourage the deployment of advanced telecommunications capabilities by removing barriers to infrastructure investment.<sup>34</sup> Section 230(b)(2) of the Act provides that the policy of the United States includes the preservation of “the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” The preamble to the ’96 Act makes clear the Act’s purpose “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American

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<sup>31</sup> *Id.* at 704. Now codified at 47 USC § 153(10).

<sup>32</sup> *Id.* at 706-08.

<sup>33</sup> *Id.* at 709.

<sup>34</sup> Pub.L. 104-104, Title VII, § 706, codified at 47 U.S.C.A. § 157, Note.

telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”<sup>35</sup> And a number of provisions in Title III contain similar injunctions.<sup>36</sup>

Whether the basis for Commission jurisdiction is the general authority of Title I or Title III, the deregulatory provisions of the Act discussed above, read in conjunction with *Midwest Video*, suggest that the Commission would abuse its authority if it attempted to impose the kind of economic regulation that a roaming requirement represents, particularly in the absence of any clear and present market failure.<sup>37</sup> Indeed, as the Commission explained in the *Free World Dialup Order*, exercising Title I jurisdiction to impose “economic regulation” on the Internet-based information service at issue there “would not only run counter to our decades old goals and objectives to enable information services to function in a freely competitive, unregulated environment, but would directly contravene Congress’s express directives in sections 706 and 230 of the Act that services such as FWD not be subject to such regulation.”<sup>38</sup>

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<sup>35</sup> Preamble, Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996).

<sup>36</sup> See 47 U.S.C. § 309(j)(3)(A), (D) (requiring the Commission to encourage “the development and rapid deployment of new technologies, products, and services for the benefit of the public ... without administrative or judicial delays” and the “efficient and intensive use of the electromagnetic spectrum”).

<sup>37</sup> A regulation imposing roaming requirements is thus distinct from regulations promulgated under what have been deemed the “public policy” provisions of Title II. See *In re Petition of AT&T for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Broadband Services* at ¶ 71-73, FCC 07-180 (2007). The Commission’s authority under these statutory provisions would be unaffected by the conclusion that the Commission’s Title I ancillary jurisdiction does not support the imposition of a mandatory roaming obligation on providers of wireless broadband Internet access service.

<sup>38</sup> *In re Petition for Declaratory Ruling That Pulver.com's Free World Dialup Is Neither Telecommunications nor a Telecommunications Service, Memorandum Opinion and Order* at ¶ 19 n.69, FCC 04-27 (2004).

## CONCLUSION

The Commission's proper classification of wireless broadband Internet access service as an information service should not be revisited, nor should the deregulatory manner in which the Commission treats all broadband services. These Commission actions are consistent with the agency's statutory mandates, and promote the widespread availability of broadband services.

The imposition of a mandatory roaming requirement on mobile broadband services would conflict with Section 706 of the '96 Act and portions of the Communications Act intended to encourage investment in and the deployment of advanced services and technologies. In addition, imposing a roaming obligation on nascent broadband services would undermine the deployment of such services, which is contrary to the stated goals of the Commission and the Congress.

Broadband deployment in the United States has increased as the Commission has permitted investment and innovation to occur in a minimally regulated environment. The Commission's decision to permit broadband services to exist in such an environment should apply equally to mobile broadband services, a nascent market in which private parties are reaching roaming agreements in the absence of government regulation. As a result, the Commission should refrain from imposing any roaming obligation on mobile broadband services.

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