

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of

DEVELOPMENT OF NATIONWIDE )  
BROADBAND DATA TO EVALUATE )  
REASONABLE AND TIMELY )  
DEPLOYMENT OF ADVANCED )  
SERVICES TO ALL AMERICANS, )  
IMPROVEMENT OF WIRELESS )  
BROADBAND SUBSCRIBERSHIP DATA, )  
AND DEVELOPMENT OF DATA ON )  
ON INTERCONNECTED VOICE OVER )  
INTERNET PROTOCOL (VoIP) )  
SUBSCRIBERSHIP )

WC Docket No. 07-38

COMMENTS OF THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

To the Commission:

**I. INTRODUCTION**

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits comments in the above-captioned proceeding. ITTA members are mid-size local exchange carriers that provide a broad range of high-quality wireline and wireless voice, data, Internet, and video services to 31 million access lines in 45 states. ITTA filed comments previously in this proceeding,<sup>1</sup> and takes this opportunity to address additional issues noticed by the Commission. In brief, ITTA applauds the Commission's active interest in efforts intended to facilitate broadband deployment, but urges the Commission to ensure that the expenditure of resources results in actual deployment.

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<sup>1</sup> See Comments of the Independent Telephone & Telecommunications Alliance, WC Docket No. 07-38, (filed Jul. 17, 2008) (ITTA Comments).

## II. DISCUSSION

The Commission seeks comment on several issues related to the task of gathering information related to broadband deployment, including but not limited to actual speeds experienced by consumers (as opposed to maximum network capability) and pricing information. ITTA addresses separately each issue below.

### A. REPORTING NUMBER OF LINES AND CHANNELS

The Commission seeks comments on whether local exchange carriers (LECs) and interconnected VoIP service providers should be required to report the number of voice telephone service connections, and the percentage of these that are residential, at the 5-digit ZIP Code or Census Tract level.<sup>2</sup> ITTA submits that additional data collection is not necessary, and therefore opposes it; sufficient voice data exists in current reports. Moreover, the voice data is competitively sensitive, and is not relevant to the purpose of this docket, specifically, broadband deployment. Although it is conceivable that VoIP data could reveal information related to broadband deployment, it is not clear from the *FNPRM* that LEC voice connection data would illustrate or have a meaningful elucidative effect on broadband deployment.

### B. BROADBAND AVAILABILITY MAPPING

Broadband availability mapping was addressed by ITTA in comments filed in the instant docket on July 17, 2008.

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<sup>2</sup> *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriber Data: Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 07-38, FCC 08-89, at para. 33 (rel. Jun. 12, 2008) (*FNPRM*).

### C. DELIVERED SPEED INFORMATION GATHERING

The Commission seeks comment on how or whether it should require service providers to report “delivered speed” information for “effectively capturing meaningful information about actual speeds of Internet access services experienced by consumers.”<sup>3</sup> ITTA opposes this type of data collection. In the first instance, information related to actual delivered speed is neither tracked nor gathered on the basis the Commission would have carriers provide, *i.e.*, “experienced by consumers.” Second, the speed experienced by any consumer depends not only on the deployed infrastructure, but also on the activities of other users who are availing themselves of the shared use network at any particular point in time. This issue is at the heart of the Commission’s current investigation in network management practices,<sup>4</sup> and information emanating from that docket should inform the question of what factors affect periodic subscriber experience. In brief, the notion that such information can be identified, gathered, and organized on small per-unit basis (whether per customer or other proportionally-small basis) is not consistent with the manner in which carriers operate, and implicates costly and complicated processes that would require measurement technology at each customer end-point.

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<sup>3</sup> *FNPRM* at para. 36.

<sup>4</sup> *See, Petition of Free Press, et al., for Declaratory Ruling Regarding Internet Management Policies; Petition of Vuze, Inc., for Rulemaking to Establish Rules Governing Network Management Practices by Broadband Network Operators*, Docket No. 07-52.

#### **D. BROADBAND PRICE INFORMATION**

The Commission seeks information on broadband pricing, including comment on requiring providers to report lowest and highest price offerings, prices of standalone services, bundles, ARPUs, among other data.<sup>5</sup> This proposal, however, is inconsistent with the Commission's classification of broadband as an information service outside the purview of price regulation. The Commission's efforts are better directed toward crafting programs intended to promote broadband deployment; the information gathering effort contemplated by the Commission does not advance that goal. Moreover, various prices of stand-alone or bundled services may well reflect local trends and demands that are not applicable to a National model. To the extent the Commission identifies a need for gathering price information, the Commission's desire to obtain pricing information for information services would be better fulfilled by engaging independent non-governmental research in order to ensure that the Commission does not unintentionally manipulate the market through its price information gathering efforts.

#### **E. PRESERVING CONFIDENTIALITY**

The Commission seeks comment on how it should preserve the confidentiality of information collected on Form 477 and other sources when data may be shared with agencies such as the Department of Agriculture's Rural Utilities Service or with public-private partnerships.<sup>6</sup> The Commission asks whether sharing the data in a less granular or aggregated form than the level at which it is collected would be sufficient. ITTA

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<sup>5</sup> *FNPRM* at para. 37.

<sup>6</sup> *FNPRM* at para. 39.

submits that the most efficient and effective manner in which confidentiality should be addressed is to adhere to standards consistent with and as, at the least, comprehensive as those governing Freedom of Information Act (FOIA) requests. Alternatively, as described in ITTA's initial comments in this proceeding, confidentiality could be governed by contract,<sup>7</sup> and access should be restricted to Commission staff and other government or private-sector staff who have signed non-disclosure agreements.

In any prospective mapping effort, whether undertaken by the Commission, states, private entities, or any combination of the foregoing thereof, Form 477 data should be used only to establish a mapping as to where broadband exists with no further detail about the broadband functionality provided. This will enhance protection of competitively sensitive information that is obtained from providers. Additionally, all underlying data should be destroyed upon completion of the "map;" inasmuch as the goal of the process is to create a portrayal of broadband availability, there should be no need to retain sensitive data after the aggregate result has been completed. To the extent subsequent provider-specific inquiries arise, those can be addressed on a case-by-case basis, limited to the narrow focus of each particular provider-specific inquiry. Finally, the outcome of any mapping effort should be only a portrayal of broadband availability on a geographic basis, rather than any outcome that approaches inappropriately *de facto* regulation of high-speed Internet service.

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<sup>7</sup> ITTA Comments at 5, 6.

## F. BROADBAND CUSTOMER SURVEYS

The Commission seeks comment on whether the Commission should conduct and publish periodic surveys of broadband customers in order to obtain information about the price, technology, and speed of their connections, and to obtain information about the applications and services that they use over the connections.<sup>8</sup> While the Commission seeks comment on the appropriate methodology for conducting such surveys, ITTA preempts that question by opposing any customer survey type undertaken by the Commission. Quite simply, this is a deviation from the intended uses of the Commission's resources. To the extent the Commission seeks to establish programs intended to speed the deployment of a certain speed of broadband, it should promulgate appropriate rules and then rely upon basic *post hoc* reporting obligations or industry evaluations to determine success of programs. The Commission should not assume the mantle of a consumer survey organization to tally the thoughts and impressions of consumers. Indeed, in a non-regulated marketplace, it is the provider that would be best positioned and most interested in obtaining this type of information in its local markets. Further, any data received would be merely anecdotal, and neither material nor verifiable in a manner that would further or facilitate the larger policy questions surrounding broadband deployment. As mentioned in prior comments, the Commission must consider the most effective and meaningful use of scarce resources.

## III. CONCLUSION

ITTA member companies are committed to the further deployment of broadband throughout their respective service areas and across the Nation. As stated in prior

comments, ITTA supports reasonable procedures to determine whether the Commission's programs that are intended to promote broadband deployment are functioning as intended. These processes, however, must ultimately result in broadband deployment that would be greater than if resources dedicated to such processes were dedicated to actual deployment. Furthermore, any action must be (a) consistent with the general mandate of the Commission and the information service nature of broadband, (b) minimize duplicative or unnecessary data collections, and (c) ensure that proprietary provider information is protected.

Respectfully submitted,

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<sup>8</sup> *FNPRM* at para. 40.