

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

In the Matter of)	
)	
International Comparison and Consumer Survey)	
Requirements in the Broadband Data Improvement Act)	GN Docket No. 09-47
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Inquiry Concerning the Deployment of Advanced)	
Telecommunications Capability to All Americans in a)	
Reasonable and Timely Fashion, and Possible Steps to)	GN Docket No. 09-137
Accelerate Such Deployment Pursuant to Section 706)	
Of the Telecommunications Act of 1996, as Amended)	
By the Broadband Data Improvement Act)	

COMMENTS OF COMPTTEL - NBP PUBLIC NOTICE #11

COMPTTEL applauds the Commission’s efforts to analyze the economic aspects of broadband deployment as part of its development of a national broadband plan for our country and its member companies are ready to assist in this endeavor. As the Commission has recognized a broadband service provider must have adequate, reasonable price and efficient access to network components of broadband connectivity. In NBP Public Notice #11 (DA 09-2186) (“Notice”) the Commission seeks comments on the Impact of Middle and Second Mile Access on Broadband Availability and Deployment. COMPTTEL takes this opportunity to emphasize the importance of the unbundled loop in the network architecture for broadband services.

Wireline competitive providers, when confronted with the ILEC bottleneck, for the most part, bring broadband services to their customers via purchase of an unbundled local loop (or as ILEC special access service when not available as a UNE) that connects from the ILEC central

office all the way to the end user. Indeed, the Commission has defined the local loop as “a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises.”¹ CLEC have made substantial investment in collocating in the ILEC central offices based on this architecture.

The *Notice* divides and defines the wireline network architecture from the Internet Gateway to the end-user by the following three components: “middle mile transport”; “second mile transport”; and “last mile.” The *Notice* defines the “second mile transport” for the wireline network as the transport and transmission of data communications from the remote terminal to the point of connection with the middle mile transport (the central office). The “last mile” in the *Notice* extends from the remote terminal to the end-user. Thus, through its definitions, the *Notice* separates what the Commission has defined as local loop into two pieces (the “second mile transport” and “last mile”).

COMPTTEL cautions the Commission that the ILECs may attempt to interpret any alternate use of terminology and division of the unbundled loop as a change in unbundling policy. So, while the *Notice* does not itself suggest any change in policy, we are concerned that not using the traditional terminology for cost analysis purposes (such as feeder and distribution which combine to form the loop), as well as the implications of the Commission seeking comment on only a portion of the loop, might create controversy where none would otherwise exist. More importantly, we urge the Commission to evaluate and recognize the necessity of

¹ 47 CFR 51.319(a). This element includes all features, functions, and capabilities of such transmission facility, including the network interface device. It also includes all electronics, optronics, and intermediate devices (including repeaters and load coils) used to establish the transmission path to the end-user customer premises as well as any inside wire owned or controlled by the incumbent LEC that is part of that transmission path. *Id.*

access to the whole loop from central office to customer premise for competitive broadband service. Breaking down access to the loop is foreign to competitors who generally have not (and may not be able due to space, equipment and economic constraints) collocate at the remote terminal. Access to the “second mile” alone leaves these carriers stranded from customers.

Access to the local loop is crucial to bringing competitive affordable broadband to the vast majority of the country. Congress has directed the Commission to include in the National Broadband Plan “a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public.”² Any National Plan to increase the availability and affordability of broadband services must incorporate a commitment to promote competition in the broadband market.

Competitors’ use of the unbundled loops, as defined by the Commission, to provide broadband service to end users must be a focal part of the broadband plan. As the recent Berkman Study found, open access policies such as unbundling played a core role in the first generation transition to broadband in countries most successful in developing a ubiquitously networked society and are playing a core role in the planning for the next generation transition.³ Indeed, based on an extensive econometric analysis, the study found that unbundling in particular contributed to broadband penetration in OECD countries.⁴ Consequently, the first on the list of the “core lessons” from the study stressed the importance of unbundling:

² American Recovery and Reinvestment Act, Pub.L.No. 111-5, Section 6001(k)(2)(B).

³ “Next Generation Connectivity: A review of broadband Internet transitions and policy from around the world,” The Berkman Center for Internet & Society at Harvard University, p. 11, October 2009 (“Berkman Study”).

Open access policy, in particular unbundling, played an important role in facilitating competitive entry in many countries observed; In many cases, even where facilities-based alternatives were available, unbundling –based entrants played an important catalytic role in the competitive market; In some cases competition introduced through open access drove investment and improvement in speeds, technological progression, reduced prices, or services innovations.⁵

Consequently, in its analysis, drafting, or implementation of a broadband plan the Commission must not tear apart, and thereby disrupt, a component critical to bringing competitive broadband services in the US – the unbundled local loop.

Respectfully Submitted,

/s/

Karen Reidy

November 4, 2009

⁴ *Berkman Study* at 75.

⁵ *Id* at 76, Table 4.1.