



September 7, 2010

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: *Seventh Broadband Deployment Notice of Inquiry*

GN Docket No. 10-159

Dear Ms. Dortch:

TIA appreciates the opportunity to provide input with respect to the Commission's annual duty to report the status of deployment of advanced telecommunications to all Americans under section 706.<sup>1</sup> Accumulating comprehensive data is essential to determining whether broadband is being deployed to all Americans and to identifying gaps in deployment and adoption. As the Commission and other federal agencies improve their collection processes, TIA expects that Americans will benefit from increased broadband deployment and adoption as all stakeholders gain access to information regarding broadband availability.<sup>2</sup> While the Section 706 Reports play an important role in this process, the abrupt reversal in the conclusion drawn by the most recent report – that advanced communications are *not* being deployed to all Americans in a reasonable and timely fashion – fails to, due to unconventional metrics employed, accurately reflect the current state of broadband deployment.

The conclusion in the Sixth Report is contrary to the preceding five reports, all of which found that advanced communications are being deployed to all Americans in a reasonable and timely fashion. The minimum speed threshold used in the Sixth Report is a striking departure from past 706 reports and may account for the Report's inconsistency with a

---

<sup>1</sup> *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, Amended by the Broadband Data Improvement Act*, GN Docket No. 10-159, Notice of Inquiry, FCC 10-148 (rel. August 6, 2010).

<sup>2</sup> NTIA must create "a comprehensive nationwide inventory map of existing broadband service capability and availability" that is accessible to the public on an NTIA website in a form that is both interactive and searchable. 47 U.S.C. §1304(1).

decade of Commission findings.<sup>3</sup> By increasing the minimum speed, the Commission appropriately acknowledged the evolution that has occurred in broadband marketplace due to advanced network capabilities and applications, as well as increased consumer expectations.<sup>4</sup> The Commission already took this step when modifying its data collection in Form 477 by creating speed tiers for broadband, with 768 kbps as the lowest speed. By using a relatively arbitrary speed instead of the new, heightened speed tiers, the Commission does not account for broadband Internet access offered at lower speeds lower than 4 Mbps/1Mbps, although still recognized as broadband.

In the past, the Commission has used the publicly available criteria from Form 477 as the baseline measurements for its Section 706 Reports.<sup>5</sup> As noted above, the Commission disregarded the updated Form 477 and instead selected a speed of 4 Mbps downstream and 1 Mbps upstream. This speed is not reflected in Form 477 and was chosen without public notice and comment. As noted by Commissioner Baker, the speed originated in the context of recommendations for universal service reform in the National Broadband Plan.<sup>6</sup> It is troublesome that the Commission would use a speed meant to be a *future* goal for universal service as the benchmark to determine whether advanced communications are *currently* being deployed to all Americans. As the Commission considers how to evaluate broadband in the next report, TIA urges the Commission to use the five speed tiers to provide a more expansive and realist picture of broadband deployment in America.

As the Commission executes its Section 706 mandate, in spite of the most recent report, it should be aware that there has been extensive broadband buildout over the last decade, and TIA expects that growth to continue. As the Commission's own data recognizes, the vast majority of Americans enjoy substantial competition for the provision of broadband Internet access, with 82 percent of American housing units served by two or more fixed broadband providers and 89 percent of the American population served by two or more 3G wireless broadband providers.<sup>7</sup> TIA's Market Review & Forecast predicts that the United States telecommunications industry will experience spending growth in 2010,

---

<sup>3</sup> The FCC has raised the minimum speed threshold from services in excess of 200 kbps in both directions to actual download speed of at least 4 Mbps and actual upload speed of at least 1 Mbps. *See 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, Amended by the Broadband Data Improvement Act*, GN Docket Nos. 09-137, 09-51, Report, FCC 10-129, ¶¶4, 5 (rel. July 20, 2010) (“*Sixth Broadband Deployment Report*”).

<sup>4</sup> *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 Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip*, WC Docket No. 07-38, Notice of Proposed Rulemaking, FCC 07-17 (rel. April 16, 2007).

<sup>5</sup> The FCC first implemented this requirement in 2000 for the purpose of gathering information regarding the development of local telephone service competition and the deployment of broadband services. *See Local Competition and Broadband Reporting*, CC Docket No. 99-30, Report and Order, 15 FCC Rcd 7717, 7718-19, ¶¶ 1-2 (2000). *See also* 47 C.F.R. §§ 1.7001, 1.7002.

<sup>6</sup> *Sixth Broadband Deployment Report*, Statement of Commissioner Meredith Atwell-Baker, Dissenting.

<sup>7</sup> Federal Communications Commission, *Connecting America: The National Broadband Plan* (Mar. 16, 2010) (“*National Broadband Plan*”) at 37, 40.

which will continue through through 2013.<sup>8</sup> We expect that spending in support of wireline, cable and broadband networks will increase to an estimated \$71 billion 2013.<sup>9</sup>

The Commission has consistently recognized the critical importance of broadband services to the nation's present and future prosperity, and TIA urges the Commission to continue to adopt policies that promote the development of these services.<sup>10</sup> The broadband deployment goals established in Section 706 are not static and Commission polices should evolve with changes in broadband technology advancement and consumer expectations. While the Commission should, of course, seek to improve broadband deployment and availability, it should refrain from regulations that might have the unintended effect of hindering this goal or inhibiting the expected growth in the broadband industry.

TIA shares the Commission's interest in ensuring that broadband is available to all Americans. As the Commission works toward this goal, TIA urges the Commission to utilize metrics that have been disclosed and represented in Commission reporting requirements so that a fair evaluation of the state of broadband deployment is ensured.

Respectfully submitted,

**TELECOMMUNICATIONS                      INDUSTRY  
ASSOCIATION**

By:   /s/ Danielle Coffey  

Danielle Coffey  
Vice President, Government Affairs

Rebecca Schwartz  
Director, Regulatory and Government  
Affairs

Brian Scarpelli  
Manager, Government Affairs

**TELECOMMUNICATIONS INDUSTRY  
ASSOCIATION**  
10 G Street N.E.  
Suite 550  
Washington, D.C. 20002  
(202) 346-3240

---

<sup>8</sup> TIA's 2010 ICT Market Review and Forecast, pp. 1-1 and 1-21, Tables 1-1.6 & 1-1.8

<sup>9</sup> *Id.* At p. 1-17.

<sup>10</sup> See National Broadband Plan.