

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Inquiry Concerning the Deployment of Advanced) GN Docket No. 12-228
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, as)
Amended by the Broadband Data Improvement Act)
)

**REPLY COMMENTS OF
CTIA–THE WIRELESS ASSOCIATION®**

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October 22, 2012

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To: The Commission

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I. INTRODUCTION AND SUMMARY

CTIA–The Wireless Association® (“CTIA”)¹ provides this reply to the comments on the Commission’s Ninth Broadband Progress Notice of Inquiry (“*NOI*”).² As discussed in more detail below, the record strongly supports a finding that broadband deployment is reasonable and timely. Broadband – and particularly mobile broadband – is available to the vast majority of Americans. Mobile broadband is an exceptional success story, and the Commission should consider mobile broadband in making its Section 706 determination.

¹ CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

² *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, as Amended by the Broadband Data Improvement Act*, Ninth Broadband Progress Notice of Inquiry, 27 FCC Rcd 10523 (2012) (“*NOI*”).

The Commission should retain its current broadband definition for the foreseeable future. No purpose will be served by applying an arbitrary threshold that excludes broadband offerings that consumers are purchasing in the market. There is similarly no reason to consider latency or usage-based pricing in this proceeding.

To advance broadband deployment, the Commission should decline invitations to backtrack on its recent universal service reforms for rate-of-return carriers. These policies reflect a sensible balance of priorities, and reversing course on these reforms would undermine broadband deployment.

II. THE RECORD DEMONSTRATES THAT BROADBAND DEPLOYMENT IS REASONABLE AND TIMELY

A. The Record Shows that Broadband Is Being Deployed Rapidly and Widely

The record overwhelmingly demonstrates that broadband deployment is proceeding in a reasonable and timely fashion. Numerous commenters, including CTIA,³ provided extensive data highlighting the rapid and expansive deployment of broadband, particularly mobile broadband.

The record reflects that broadband – a relatively new technology – is already available to 98% of the U.S. population, with more than 94% of Americans having access to fixed broadband⁴ and over 99% of Americans having access to mobile broadband.⁵ As CTIA pointed out, this coverage already included 93.7% of the *rural* population by 2010,⁶ and is certainly greater

³ CTIA comments at 2-13. Unless otherwise specifically noted, references herein to parties' "comments" refer to initial comments in response to the *NOI* filed on or about Sept. 20, 2012.

⁴ AT&T comments at 4; Comcast comments at 5. *See also* Verizon comments at 4-5.

⁵ CTIA comments at 4.

⁶ CTIA comments at 4.

today. At this point, only 1.3% of households are interested in subscribing to broadband but impeded by lack of availability in their area.⁷

The record also demonstrates the enormous capital investments that broadband providers are making in this country – totaling \$1.2 *trillion* since 1996, including \$66 billion in 2011 alone.⁸ Even in a down economy, broadband investment consistently has been a bright spot, providing good American jobs in addition to expanded connectivity.

The comments also include extensive data about the rapid rise in available broadband speeds.⁹ Such increased speeds are often available to consumers today at the same prices that providers previously offered slower service.¹⁰

Thus, the Commission’s conclusion that broadband deployment is not reasonable and timely is “baffling when you consider that it took nearly 100 years and the assistance of rate of return regulation and federal subsidies to achieve 98% penetration of wireline telephony” while, “with a relatively unregulated, competitive broadband market, the industry has achieved 98% availability in just over a decade.”¹¹

In its next report, the Commission should find that broadband deployment is reasonable and timely.

⁷ Verizon comments at 12.

⁸ AT&T comments at 4.

⁹ *See, e.g.*, Comcast comments at 6-7; Verizon comments at 4.

¹⁰ Comcast comments at 6.

¹¹ AT&T comments at 2-3.

B. Commenters Recognize that Mobile Broadband Is an Important Element of Broadband Deployment

As Chairman Genachowski recently observed, only four years ago business journalists described the U.S. as a “wireless backwater,” yet “[w]e are now leading the world in deploying at scale the next generation of wireless broadband networks, 4G LTE.”¹²

Like Chairman Genachowski, commenters in this proceeding recognize that mobile broadband deployment has been an enormous success story and has significantly contributed to the expansion of the availability of broadband nationwide. Mobile coverage by 3G or better technologies grew from 98.1% of the U.S. population in November 2009 to 99.4% in January 2012.¹³ Deployment of super-fast LTE technology is already well beyond 75% of the U.S. population and increasing rapidly.¹⁴

The record also reflects the enormous importance that consumers place on the availability of mobile broadband. Mobile broadband connections are growing much faster than any other type of connections.¹⁵ This is true even with respect to very high-speed connections; for example, mobile connections grew from 9% to 26% of all connections at or above 3 Mbps between mid-year 2010 and mid-year 2011.¹⁶ The record also demonstrates that the majority of

¹² Julius Genachowski, Chairman, FCC, *Winning the Global Bandwidth Race: Opportunities and Challenges for Mobile Broadband*, Remarks at U. Penn. - Wharton, Philadelphia, PA at 1 (Oct. 4, 2012), available at <http://www.fcc.gov/document/chairman-genachowski-winning-global-bandwidth-race>.

¹³ CTIA comments at 4.

¹⁴ CTIA comments at 5-9; Comcast comments at 7-8; Verizon comments at 4-7.

¹⁵ CTIA comments at 13-16.

¹⁶ *Id.*

U.S. mobile subscribers today own smartphones and access the Internet principally or significantly from these mobile devices.¹⁷

In light of these factors, the Commission's efforts in this proceeding to track broadband deployment must acknowledge the rapidly growing availability of mobile broadband and its growing importance to consumers. This should be reflected in the next report.

III. THE RECORD SUPPORTS TRACKING BROADBAND OFFERINGS THAT CONSUMERS ARE USING, RATHER THAN EXCLUDING SUCCESSFUL OFFERINGS WITH ARBITRARY DEFINITIONS

Other commenters support CTIA in arguing that the Commission's Section 706 Report should report on broadband offerings that consumers are purchasing in the market, rather than setting arbitrary definitional thresholds that exclude successful market offerings.¹⁸ It is important to remember that the only consequence of adopting a higher definitional threshold for broadband is that some commercially successful broadband offerings will be excluded from broadband reporting. In other words, some broadband offerings that are meeting consumers' needs in the real world will not be counted in the Commission's report. There is no reason to believe that the purposes of Section 706 would be served by such exclusion. Thus, the Commission should not change the 4/1 definition of broadband or discontinue use of the 3/768 proxy.

Some parties observe that U.S. broadband providers have begun to offer services at speeds that exceed the 4/1 threshold, but offer no reason why the Commission should not continue to track offerings that meet the current definition.¹⁹ These commenters all argue that

¹⁷ AT&T comments at 5.

¹⁸ *See, e.g.*, Comcast comments at 15-16; NCTA at comments 6-8; Verizon at comments 22-24; *see also* AT&T comments at 6.

¹⁹ NATOA comments at 2-5; FTTH Council comments at 12-14; Writers Guild comments at 3-7.

various benefits will accrue to the public if available broadband speeds increase. CTIA does not dispute the public benefits of faster broadband connections, but the data overwhelmingly show that available broadband speeds are increasing rapidly and that those speeds that are currently available are meeting consumers needs today.²⁰ It is market forces driven by consumer demand – not reporting thresholds – that push providers to offer faster broadband connections to consumers.

At the same time, “[s]lower tiers, at lower prices, remain an important option for many consumers and should not be completely disregarded in ... assessing the reasonableness of deployment and adoption efforts.”²¹ There is no evidence that excluding commercially successful speed tiers from the Section 706 Report would serve any public policy goal.

The record also does not support arbitrary latency standards for broadband service. As a number of commenters observe, there is no evidence that latency is an impediment to consumers’ ability to access all necessary services and applications over broadband connections.²² Even satellite technology, in its newest generation of service, appears to support real-time voice and video applications.²³

Similarly, the record does not support the proposal to establish thresholds with respect to usage-based pricing (which the NOI and some commenters imprecisely refer to as usage “caps”).²⁴ Indeed, usage-based pricing benefits consumers by allowing users to limit their

²⁰ *See supra* Section II.

²¹ NCTA comments at 7 n.24.

²² *See, e.g.*, AT&T comments at 7; Comcast comments at 17-18; NCTA comments at 9-10; Verizon comments at 21.

²³ NCTA comments at 10; ViaSat comments at 9-10.

²⁴ Public Knowledge comments at 2-11.

spending by controlling their usage.²⁵ There also is no evidence that consumers are being constrained by the availability of this pricing option.²⁶ Moreover, usage-based pricing helps broadband providers manage demands on their networks. In any event, this pricing issue has no bearing on the question of whether broadband is being deployed in a reasonable and timely fashion. Thus, it should not be part of the Commission’s Section 706 analysis.

In sum, the Commission should retain the current definition of broadband, and track broadband offerings that are available in the market. No purpose would be served by establishing arbitrary thresholds that exclude commercially successful broadband offerings.

IV. REVERSING COURSE ON MUCH-NEEDED UNIVERSAL SERVICE REFORM FOR RATE-OF-RETURN CARRIERS WOULD HARM BROADBAND DEPLOYMENT AND HARM CONSUMERS

Comments in the docket from rate-of-return carriers are incorrect in arguing that broadband deployment would be helped by rolling back the Commission’s important recent reforms.²⁷ These reforms bring much-needed discipline to the universal service support that these carriers receive and will lower costs for many broadband consumers. The FCC’s reforms reflect a balancing between the need to support deployment in rural areas and the recognition that overburdening consumers, who bear the costs of universal service, may inhibit broadband adoption.²⁸

The universal service budget is limited, and the Commission must not lose sight of other priorities, such as promoting the availability of ubiquitous mobile broadband services.

²⁵ Verizon comments at 22.

²⁶ Comcast comments at 18-20; Verizon comments at 22-24.

²⁷ See, e.g., NTCA/OPASTCO comments at 3-16.

²⁸ See, e.g., *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17711 ¶ 124 (2011) (“*USF/ICC Transformation Order*”).

Consumers are demonstrating the importance they place on the availability of mobile broadband;²⁹ undoing reforms for rate-of-return carriers could jeopardize much-needed funding to support deployment of mobile broadband in areas where it is uneconomic. Even with respect to fixed broadband, the FCC has determined that the need for support extends beyond rate-of-return areas –e.g., over 80 percent of unserved customers are located in price cap territory.³⁰ Despite these other funding needs, rate-of-return carriers will continue to receive almost half of high-cost universal service support even after the most recent reforms.³¹

The Commission’s rate-of-return support reforms were well founded, and backtracking on them would disserve its mandate to promote broadband. The Commission must move forward with long-overdue reforms of rate-of-return ILECs’ universal service support.

²⁹ *See supra* Section II.B.

³⁰ *Wireline Competition Bureau Seeks Comment on Model Design and Data Inputs for Phase II of the Connect America Fund*, Public Notice, 27 FCC Rcd 6147, 6147 ¶ 1 (WCB 2012).

³¹ *USF/ICC Transformation Order*, 27 FCC Rcd at 17711 ¶ 126.

CONCLUSION

The Commission should include mobile broadband deployment in its Section 706 inquiry, and find broadband deployment to be reasonable and timely. It should retain its current broadband definitions, and press forward with universal service reforms for rate-of-return carriers.

Respectfully submitted,

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