

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
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| Technology Transitions |) | GN Docket No. 13-5 |
| Policy Task Force |) | |
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COMMENTS OF INTERNET INNOVATION ALLIANCE

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Comments of Internet Innovation Alliance

On behalf of the Internet Innovation Alliance (IIA)¹, we appreciate the opportunity to submit Reply Comments to the Federal Communications Commission (FCC or Commission) request for input on the proposed real-world trials designed to advance the transition toward nationwide consumer access to next-generation Internet Protocol (IP)-based networks and services.² In this pleading, IIA responds to significant issues raised by commenters. Our comments focus exclusively on the TDM-to-IP transition (the IP Transition).

While the comments proffered in this proceeding were numerous and varied, parties opposed to the trials (and to the earlier AT&T Petition for limited market trials³)

¹ The Internet Innovation Alliance is a broad-based coalition of business and non-profit organizations that aims to ensure every American, regardless of race, income or geography, has access to the critical tool that is broadband Internet. The IIA seeks to promote public policies that support equal opportunity for universal broadband availability and adoption so that everyone, everywhere can seize the benefits of the Internet education to health care, employment to community building, civic engagement and more. Available at <http://www.internetinnovation.org/>.

² FCC, *Technology Transitions Policy Task Force Seeks Comment on Potential Trials*, GN Docket 13-5, Rel. May 10, 2013. (*Task Force Seeks Comment*).

³ Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, (Nov. 7, 2012). Available at <http://apps.fcc.gov/ecfs/document/view?id=7022086087>. See *id* at 6, 21 (stating that the Commission should open a new proceeding to conduct, for a number of select wire centers, trial runs for a transition from legacy to next-generation services, including the retirement of TDM facilities and

essentially raise two concerns. First, commenters opposing the trials express continuing fear that IP technology is untested, unreliable or too different in comparison to existing telephone service. Second, they express a preference for extending 20th century regulatory policies to new technologies,⁴ irrespective of whether or not the regulations make sense in a highly competitive 21st-century telecommunications marketplace in which consumers rely on various alternative technologies that are far more robust than the antiquated telephone network.

Each of these concerns may be resolved fairly in only one way: proceed with the trials to accumulate real-world data that would enable the FCC to address underlying concerns raised by commenters in this proceeding and also address any additional issues that arise as consumers embrace next generation broadband services during the course of the local IP-based network market trial.

We have addressed the Commission on these and related issues before, notably in the context of the Commission's request for comments in the Technological Transition of the Nation's Communications Infrastructure⁵ and separately in joint comments on the AT&T Petition and the related petition for a declaration that incumbent local exchange carriers are no longer dominant in their local markets.⁶

offerings and that the Commission should also seek public comment on how best to implement specific regulatory reforms within those wire centers on a trial basis). (*AT&T Petition*).

⁴ See Comments of XO Communications, *Task Force Seeks Comment*, at 4; see generally Comments of Peerless Networks, *Task Force Seeks Comment*; see generally Comments of Matrix Telecom, *Task Force Seeks Comment*; see generally Comments of TEXALTEL, *Task Force Seeks Comment*; see generally Comments of Hypercube Telecom, LLC, *Task Force Seeks Comment*. (*Market Trial Opposition*).

⁵ Comments of the Internet Innovation Alliance, (filed Jan. 25, 2013), in *Comment Sought on the Technological Transition of the Nation's Communications Infrastructure*, GN Docket 12-353, (*Comment Sought*). (*IIA Comments*).

⁶ Comments of Internet Innovation Alliance, (filed Feb. 25, 2013), in *Petition of USTelecom, Petition for Declaratory Ruling that Incumbent Local Exchange Carriers Are Non-Dominant in the Provision of Switched Access Services*, WC Docket No. 13-3 (filed Dec. 19, 2012).

The Commission now seeks comment on different (and somewhat narrower) proposed trials. Yet, the issues originally raised in the AT&T Petition are no less urgent, and thus we reaffirm our previous view that the AT&T Petition should be granted, even as the Commission proceeds with this related inquiry. Indeed, with each passing day the issues raised in all of these IP-related proceedings gain greater urgency as growing consumer reliance on IP-based technology and networks becomes more commonplace. Today, approximately one out of three American households has chosen not to subscribe to a wired phone,⁷ and there are now more Internet-connected devices than people in the United States.⁸ This changing landscape demands that all stakeholders come together to address the issues regarding the IP Transition. Moreover, those opposed to the Commission's effort to plan, in a rational manner, for the technological upgrade and modernization currently underway must bear the burden of explaining why they seek to deny American consumers the social and economic benefits provided by next generation high-speed IP broadband networks.

I. LOCAL MARKET TRIALS PROVIDE THE NEXT STEP TOWARD SPEEDING THE MODERNIZATION OF AMERICA'S LEGACY TELEPHONE NETWORKS

To accomplish the IP Transition, the FCC's Technological Advisory Council recommended that the Commission sunset the Public Switched Telephone Network (PSTN) by 2018.⁹ That goal, which we endorse, is ambitious but achievable.

⁷ Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January–June 2012*, December 2012, available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201212.pdf>. Last accessed July 31, 2013.

⁸ Molina, Brett. "Survey: U.S. Web-connected devices outnumber people," *USA Today*, January 3, 2013. Available at <http://www.usatoday.com/story/technologylive/2013/01/03/internet-connected-devices-usa/1806565/>. Last accessed July 31, 2013.

⁹ Federal Communications Commission, Technology Advisory Council, *Status of Recommendations, June 29, 2011*. Available at <http://transition.fcc.gov/oet/tac/TACJune2011mtgfullpresentation.pdf>. Last accessed July 31, 2013.

The Commission has highlighted the tremendous benefits, efficiencies, and increased reliability and redundancy that IP-based networks offer in comparison to legacy TDM-based telephone networks. Indeed, the Commission defined the IP Transition as *the* infrastructure challenge of the 21st century [.]¹⁰ The question we now face, therefore, is not *whether* the transition to IP will occur, but when and how it will be completed. More precisely, can policymakers implement the transition in a manner that is both minimally disruptive to consumers, while also providing the regulatory framework and flexibility necessary to rapidly advance IP-based network deployment throughout the nation?

We believe it can be done, and trials such as those the Commission now proposes, and as AT&T earlier proposed, are the most appropriate way to proceed. Other commenters¹¹ (and the Commission itself¹²) noted the obvious analogy to the successful digital television trials in Wilmington, NC, for the DTV transition. The Wilmington market trial demonstrated the Commission's long history of using trials and pilot programs to help answer questions regarding technical concerns and to gather data and develop appropriate policy recommendations.¹³ Here, if anything, the stakes are far higher and the need for trials correspondingly greater.

Marketplace and economic realities further underscore the benefits of the IP Transition and the need for trials. What we have called the "Cambrian Explosion" of

¹⁰ FCC, *Connecting America: The National Broadband Plan*, at 3 (2010), available at <http://www.broadband.gov/plan/executive-summary/>. (emphasis added) ("*National Broadband Plan*").

¹¹ *AT&T Petition*, *supra* at 6.

¹² News Release, *Vast Majority of Wilmington, NC, Residents Were Aware of the Early Digital Television Transitioning Their Viewing Area*, Federal Communications Commission (September 10, 2008). Available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-285330A1.pdf. (Last accessed August 2, 2013). See also www.dtv.gov (last accessed August 2, 2013).

¹³ *Task Force Seeks Comment*, *supra*, at 1.

new services and possibilities¹⁴ is the direct result of rapid wired and wireless broadband deployment resulting from FCC regulatory forbearance policies and American ingenuity. The nation has seen first-hand the economic benefits resulting from the accelerated deployment of IP technologies. As we noted in previous comments, the shift from 2G to 3G wireless services alone added nearly 1.6 million jobs to the American economy between April 2007 and June 2011.¹⁵ Initiating market trials for IP network deployment would continue innovation and enhance economic growth resulting from the deployment of next generation technologies.

Opponents of trials cannot seriously question the potential of next-generation networks and the IP Transition for economic growth, nor do they seriously try. The Commission's principal focus, therefore, should be on how next-generation high-speed broadband networks should replace antiquated telephone networks and how market trials can contribute to the development of a new regulatory model that promotes broadband growth, increases subscribership and maintains fundamental and essential consumer protections.

II. REAL-WORLD MARKET TRIALS OFFER THE BEST MEANS FOR ASSESSING THE COSTS & BENEFITS OF ACCELERATING THE IP TRANSITION AND SHOULD NOT BE USED TO HELP ADVANCE CERTAIN OUTMODED BUSINESS MODELS

Common ground exists on the fact that the IP transition presents a fundamental rethinking of our existing framework and raises inherently complex questions. The trials are the best – indeed, the *only* – way for stakeholders to work together to address these

¹⁴ *HIA Comments, supra* at 2.

¹⁵ Robert J. Shapiro and Kevin Hassett, *The Employment Effects of Advances in Internet and Wireless Technology: Evaluating the Transitions from 2G to 3G and from 3G to 4G*, at 1 (2012) available at http://ndn.org/sites/default/files/blog_files/The%20Employment%20Effects%20of%20Advances%20In%20Internet%20and%20Wireless%20Technology_1.pdf.

issues in a deliberative process based on data gathered through the trials while avoiding or mitigating any consumer harms. For our part, we agree that all Americans should have the opportunity to benefit from the IP Transition and that access to voice communications service will remain an indispensable part of the nation's communications network capabilities.

Parties opposing the market trials contend that trials could be skewed to favor the interests of certain marketplace participants, notably those whose business model relies on reselling TDM-based services.¹⁶ Other commenters question the capabilities of new networks and whether they can provide the services and functionality currently offered by today's telephone network – such as access to emergency services, medical alert and alarm monitoring capabilities.¹⁷

Common sense, decades of telecommunications policy, and the recently successful DTV trials indicate that the bulk of concerns raised by commenters are best addressed, and indeed can *only* be addressed, by holding trials that would provide real-world evidence the FCC can use to formulate forward-looking, pro-investment, and pro-consumer policies for next generation high-speed broadband network deployment.

Local market trials are the norm in the industry. As we noted earlier this year, “[t]hey enable market participants to test and better understand consumer acceptance and reactions, leading to more robust future offerings. And the knowledge gained from TDM-to-IP trials will enable the Commission in future years to proceed with confidence in a nationwide sunset of the TDM network in favor of an all-IP national network.”¹⁸

¹⁶ *Market Trial Opposition, supra.*

¹⁷ See generally Comments of Public Knowledge, *Task Force Seeks Comment*, at 2-3; see Comments of CWA, *Task Force Seeks Comment*, at 7; Comments of AARP, *Task Force Seeks Comment*, at 24-25.

¹⁸ *IIA Comments, supra* at 5.

Fear of theoretical and unproven harm to certain competitor business models dependent on never-changing regulatory mandates is simply not a compelling reason for inaction. The trials represent a unique window of opportunity to gather information to ensure that the IP Transition will occur with minimal disruption to consumers. Trials will help facilitate a smooth transition to next-generation networks and provide a unique opportunity for the private sector to partner with government to address the inevitable issues that will arise. Thus, suggestions that unencumbered trials provide no regulatory backstop¹⁹ are simply without merit and undermine the purpose of the trials. On the contrary, the pending AT&T petition, for example, explicitly proposes that any market trials take place under the direct supervision of the Commission and subject to public comment.

Additionally, a number of commenters suggested that any trials should be strictly voluntary.²⁰ We cannot support this approach, given that the success and value of a market trial, in a geographically limited area, will largely depend on the ability to test the scope and scale of an upgraded and modernized high-speed broadband network to various types of consumers and businesses. Moreover, time is of the essence; manufacturers are phasing out equipment based on TDM technology, and consumers are increasingly abandoning the PSTN in favor of IP-based alternatives. Thus, widespread participation in local market trials is essential to examining the questions presented by the IP Transition.

¹⁹ Comments of XO Communications, in *Task Force Seeks Comment*, at 4

²⁰ See Comments of New York State Public Service Commission, *Task Force Seeks Comment*, at 3; Comments of The Massachusetts Department of Telecommunications and Cable, *Task Force Seeks Comment*, at 6.

Our position, therefore, remains consistent and clear. As we wrote in response to the Commission's request for comments on the AT&T Petition, "[t]he limited geographic tests advanced by AT&T provide a framework for the FCC to help transition America's communications infrastructure to all IP-based networks. This approach represents good public policy, promotes sound economics and is an appropriate first step toward more robust and ubiquitous broadband across America."²¹ More broadly, we take this opportunity to reaffirm our earlier comments that "[w]e believe the Commission's long-term goals should be (1) accelerating the IP transition by removing regulatory barriers that no longer make sense, (2) encouraging investment in advanced infrastructure and broader deployment of IP to all Americans, and (3) ensuring no consumers are left behind" ²²

We also believe that the Commission's core policy goal at this juncture should be to simply proceed with trials. We are confident that market trials under the Commission's supervision would advance the long-term goal of high-speed broadband deployment. Indeed, the Commission stated the point best: "The goal of any trials would be to gather a factual record to help determine what policies are appropriate to promote investment and innovation while protecting consumers, promoting competition, and ensuring that emerging all-Internet Protocol (IP) networks remain resilient."²³

²¹ Reply Comments of the Internet Innovation Alliance, (filed Feb. 25, 2013), in *Comment Sought*, at 3 (*IIA Reply Comments*).

²² *Id.* at 4.

²³ *Task Force Seeks Comment*, *supra*.

III. MARKET TRIALS SHOULD PROCEED UNDER THE SAME LIGHTER REGULATORY FRAMEWORK APPLIED TO OTHER RAPIDLY-PROLIFERATING IP NETWORKS, RATHER THAN THE HEAVY LEGACY REGULATIONS APPLIED TO OUTMODED AND SHRINKING TDM-BASED NETWORKS.

We reaffirm our position that the FCC has clear authority to proceed with the trials (and grant the AT&T Petition).²⁴ It is striking and frankly surprising that some argue otherwise. Some parties chose to focus on the boundaries of the Commission's authority, rather than to advance discussion of how the Commission can best remove barriers and accelerate the IP Transition so many consumers have already embraced.

Unfortunately, some advocate that we should use the market trials for the first time to extend legacy regulatory requirements on 21st century IP technologies, like the suggestion that the FCC mandate telephone network interconnection requirements from the Telecommunications Act of 1996 (the Act)²⁵ onto IP-based services in the trials.²⁶ Little can be gained from imposing regulatory burdens on IP-based networks within a market trial that are significantly above and beyond those that apply to highly successful IP networks in the existing marketplace. The very point of these trials is to provide a vehicle that will generate accurate data from market participants and consumers that will be useful for the FCC in its effort to better understand and help guide what the future all-IP world will look like. Any market trial should enable IP-based networks to demonstrate their capabilities and the impact of the transition on consumers subject to the same real-world environment in which all other IP networks currently operate. The data

²⁴ *IIA Comments, supra* at 4.

²⁵ Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996), §§251, 252.

²⁶ *See generally* Comments of American Cable Association, *Task Force Seeks Comment*; *see* Comments of COMPTTEL, *Task Force Seeks Comment*, at 20-24; Comments of Hypercube, *Task Force Seeks Comment*, at 17-20 and 23, 24; *see generally* Comments of Peerless Networks, *Task Force Seeks Comment*; *see* Comments of Sprint, *Task Force Seeks Comment*, at 3-13 ; Comments of TEXATEL, *Task Force Seeks Comment*, at 2-7; *see generally* Comments of XO, *Task Force Seeks Comment*.

obtained from these trials would enable the Commission to address key policy and regulatory issues related to the high-speed IP broadband network deployment of the future. The Commission should therefore reject arguments that seek to skew this process by mandating the continued application of 20th-century regulatory principles in trials designed to examine what a 21st-century competitive, innovative telecommunications system can be.

Instead, we believe, as Comcast noted, that [t]he Commission should be especially wary of reflexively applying regulatory models developed for the legacy Title II world to the IP ecosystem. Although some consumer protection rules remain appropriate for an IP world, many of the legacy Title II economic regulations as well as those that dictate the details, forms, and jurisdictional oversight of interconnection and traffic exchanged on the public switched telephone network are not applicable to or logical for an IP voice network.²⁷ We also agree with CenturyLink's observation that any attempt to impose legacy regulations on the TDM-to-IP transition would be "a costly mistake[.]"²⁸

Moreover, as an important aspect of its work, the Commission should be cognizant of how regulatory uncertainty could impede the IP transition and the retirement of legacy TDM facilities. Initiating market trials would signal that the Commission is taking a critical first step and encouraging the fullest measure of investment in next-generation networks. We cannot forget that, as the National Broadband Plan states, the existing requirement for incumbent carriers to maintain two networks— a legacy network

²⁷ Comments of Comcast Corporation, *Task Force Seeks Comment*, at Footnote 5.

²⁸ Comments of CenturyLink, *Task Force Seeks Comment*, at 2.

and a network of the future²⁹ reduces the number of dollars available for upgrades and investment in new infrastructure which consumers demand.²⁹

Determinations regarding the appropriate regulatory framework for IP-based deployments and services should take place in a different venue and should come *after* the trials and as a result of the evidence gathered in them, not before. A regulatory hand applying pressure on the scale and conditioning the trials toward certain outcomes is, of course, a prescription for trials that will not be truly scientific and will fail to achieve their basic purpose. We hope the FCC rejects this path of pre-judgment proposed by certain commenters. Just as we seek to avoid locking in old technology, such as the rotary phone or dial-up Internet service, the nation cannot afford to permanently lock-in old rules that would ultimately harm innovation, job creation and economic growth.

Thanks to the Commission's wise policies of promoting broadband and regulatory forbearance, the United States has a constantly changing broadband ecosystem, one now moving rapidly towards dynamic, vibrant, and increasingly resilient broadband IP networks. The trials will enable policymakers to address such issues as network reliability, access for people with disabilities, and the future regulatory framework appropriate for IP-based networks that will represent the backbone of the nation's communications infrastructure for decades to come.

Once initiated, these market trials would jump-start a national dialogue, led by the Commission, in which all stakeholders are welcomed but in which the outcome²⁹ the transition to the all-IP networks of the future²⁹ is clear. The time has come to proceed with trials. No one should fear the debate the trials will undoubtedly engender, but this collaboration should quickly proceed in an open and transparent fashion. Trials such as

²⁹ *National Broadband Plan* at 49.

those proposed in AT&T's Petition are unquestionably in the public interest, clearly within the Commission's authority and will be a significant step toward achieving the goal that the Technical Advisory Committee has set.

Respectfully Submitted,



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