

**Before the
Federal Communications Commission
Washington, DC 20554**

<i>In the Matter of</i>)	
)	
Inquiry Concerning the Deployment of)	
Advanced Telecommunications)	
Capability to All Americans in a Reasonable)	GN Docket No. 07-45
and Timely Fashion, and Possible Steps)	
to Accelerate Such Deployment)	
Pursuant to Section 706 of the)	
Telecommunications Act of 1996)	

**Comments of the Computer & Communications Industry Association (CCIA)
On Broadband Deployment**

CCIA has promoted information technology innovation, open markets, open systems and open networks since it was founded in 1972. CCIA represents computer hardware and software companies as well as network providers and information service providers. The Internet is the most important network innovation in our lifetimes. Ubiquitous, affordable broadband access to the Internet is essential to the global competitiveness of American businesses, and to economic development throughout the nation. It is central to the success of American students from elementary school to graduate school wherever they live. Broadband connectivity can also enhance the quality of Americans' personal lives in so many ways.

CCIA appreciates this opportunity to comment on the NOI.¹ As discussed further in Parts III. and IV. below, CCIA supports the Commission’s efforts to better measure the quantity and quality of broadband deployment and to find ways to extend connectivity to unserved U.S. homes and businesses. The Commission should also take steps to increase competition that will promote lower prices and better quality service in established markets.

I. Definition of Broadband

Broadband service is what CCIA believes is meant by “advanced telecommunications capability” under Section 706 of the Telecommunications Act of 1996.² Telecommunications network facilities capable of delivering broadband services should not generally be classified as deregulated “information services.” They are facilities, not services. Some networks capable of carrying broadband services are already receiving Universal Service Fund (USF) subsidies.

Broadband connectivity should be defined as something greater than the current 200kbps standard: at least 2 mbps downstream and 1 Mbps upstream. The definition should be an evolving, not static standard, based on speeds widely available in other industrialized countries and the best-served U.S. cities and suburbs. The FCC should develop a formula for identifying acceptable broadband speeds or bandwidth, and then apply current data to regularly update the standard.

¹ See Notice of Inquiry, *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*, FCC, GN Docket No. 07-45, (2007).

² Telecommunications Act of 1996, 47 U.S.C. § 157 (1996).

A service mobility feature is today probably less important in unserved areas than the ability to subscribe to affordable broadband Internet access for use on a full sized desktop PC. Yet emerging mobile wireless technologies are quite promising.

II. Availability of Broadband Access

The current level of broadband deployment is neither reasonable nor timely for many Americans, which is why Members of Congress are hearing from constituents at town hall meetings about the lack of broadband Internet access, the lack of adequate telemedicine services, and barriers to distance learning. Most consumers in rural and poor inner city areas do not “enjoy choices among technologies and tiers of high speed services.”³

In terms of broadband reporting requirements, CCIA supports the approach advanced by Senators Nelson of Florida and Webb of Virginia in S. 761.⁴ This legislation would require percentage availability and percentage penetration data to be collected for each zip code plus 4-digit area, with more detailed demographics to be collected for areas found to be unserved. One alternative to 9-digit measurement areas might be to use USF study areas. This might help focus the Joint Board on those areas most in need of high cost support. This in turn might spark the interest of commercial network providers who could apply to become eligible telecom carriers (ETC’s), or apply for Rural Utility Service (RUS) loans to build out network facilities.

To date, FCC data has not included wireless broadband networks. However, the FCC or the National Telecommunications & Information Administration (NTIA) should

³ See Notice of Inquiry, FCC, GN Docket No. 07-45, (2007), 9, ¶ 25.

⁴ America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act or America COMPETES Act, S. 761, 110th Congress (2007).

map out the reach and capacity of wireless networks in operation. Such networks are increasingly able to offer services such as WiMax that may become substitutable for broadband services available via wireline fiber and cable TV networks.

Unserved areas with homes and businesses using PCs are a classic case of market failure, where public-private partnerships and subsidies can bridge the gap. “Connect Kentucky”, a statewide public/private partnership, is by all accounts a spectacular success, but the plan cannot be replicated easily elsewhere without the same sort of extraordinary leadership in both state government and the private sector.⁵ According to the Connect Kentucky CEO Brian Mefford, BellSouth had not built out fiber networks in Kentucky at all as of 2004, so a major statewide initiative was organized and backed by Governor Ernie Fletcher. The impressive results are that, according to the Governor, Kentucky has outpaced tech-related job growth nationally. And with 92% broadband coverage, the “brain drain” from Kentucky colleges and universities has been halted as Kentucky students are taking jobs in state.⁶

In Minnesota, the Center for Rural and Policy Development has mapped out extensive broadband growth and coverage in that state, but has identified significant gaps affecting close to a million people who live outside municipal boundaries.

Since 2002, New York State has been working on cobbling together a statewide wireless network primarily for public safety needs, through state-local government

⁵ ConnectKentucky, at <http://www.connectkentucky.org/>

⁶ *Communications, Broadband and Competitiveness: How Does the U.S. Measure Up?*, U.S. Senate Commerce Committee, 110th Congress, (2007), (statement of Brian Mefford, President and Chief Executive Officer, ConnectKentucky and Connected).

partnerships,⁷ but it cannot truly succeed without more broadband spectrum and greater commercial participation.

In North and South Dakota, western Minnesota and northern Nebraska, Midcontinent Communications, a leading provider of cable TV services, and now telephone and broadband Internet services, is expanding its cable TV systems out beyond cities and towns, but only for those customers within reach of that company's business plans. Companies like Midcontinent have accomplished these rural build-outs with government subsidies, but acknowledge that industry has not gone far enough. Thus Midcontinent says the cable industry supports tax credits and USF funding support for broadband build-outs to unserved rural areas, as well as reform of the U.S. Department of Agriculture's RUS Broadband Loan Program to more effectively target unserved areas.⁸

III. Accelerating Build-Out of Broadband Networks

The FCC can take 3 major steps to accelerate the deployment of broadband networks: 1) extend USF funding to any network provider committing to build out in a high cost unserved area, while curbing USF subsidies for multiple carriers including the ILEC, in the same service area 2) work with RUS to help identify unserved areas and target loans to build out projects in those areas, and 3) make more spectrum available with build out and open access requirements via the 700MHz auction, and the authorization of unlicensed use of DTV "white spaces" frequencies.

⁷ New York State, Office for Technology, at <http://www.oft.state.ny.us/SWN/Aboutswn/aboutswn.htm>

⁸ *Hearing to review rural broadband programs operated by the U.S. Department of Agriculture's Rural Utilities Service*, U.S. House of Representatives Subcommittee on Specialty Crops, Rural Development, and Foreign Agriculture, 110th Congress, (2007), 3, (statement of Tom Simmons, Sr. V.P. of Public Policy, Midcontinent Communications).

Broadband facilities, both wireless and wireline should be classified as a supported “advanced telecommunications capability” under the Telecom of 1996 for purposes of universal service funding. In this regard, CCIA applauds the approach taken by Reps. Rick Boucher and Lee Terry in HR 2054, a bill to improve the Universal Service Fund and ensure its continued viability by broadening the base of contributions into the Fund.⁹ Ideally, the USF should not subsidize multiple broadband carriers, wireline or wireless, in markets where competition is already established. However, to the extent that situation already exists, USF funding should be capped across the board in a technologically and competitively neutral way. Tracking actual costs of competing service providers is not a proper role of the government. Reverse auctions might be an acceptable method of awarding USF support for new build-outs to facilitate first broadband service. CCIA would suggest limiting reverse auction bidding eligibility to those companies that can demonstrate they would not be able to finance the build-out “but for” the subsidy. Certainly, additional “eligible telecommunications carriers” or ETCs should not be certified in already competitive markets.

The Rural Utility Service’s Broadband Loan program should be reformed to redefine “eligible rural community” in a such a way that scarce federal resources are not squandered on projects that serve densely populated suburban communities where competition already thrives, or denied to truly unserved areas because of proximity to an “urban cluster”. Reps. Herseth-Sandlin (D-SD) and Jerry Moran (R-KA) have introduced legislation, HR 2035 designed to solve this problem, and the USDA has pledged its cooperation.

⁹ Universal Service Reform Act of 2007, H.R. 2054, 110th Congress, (2007).

IV. Level of Competition

Data collected from existing network providers should allow the FCC to map out markets: 1) where two or more network providers compete for residential and small business broadband connections, 2) “underserved areas” where there is only one network provider, and 3) unserved areas where there are none.

Unserved areas in the third category may be subject to economic barriers to entry and market failure. Private investment capital is often not available to firms without substantial existing network assets. Mr. Jim Andrew, the Director of the USDA’s Rural Utility Loan Service told a Congressional Committee earlier this month that “No one else is making loans for broadband service in rural America.”¹⁰

Even the largest Incumbent Local Exchange Carriers generally do not compete out of region with each other. They often speak of competition with the local cable TV operator, yet outside their regions, where they lack an entrenched market position, the ILEC’s are not investing to compete. Is investment in duplicative network facilities just too risky even for a nationwide ILEC in locations where they are starting from nothing? What does this say about the prospects for smaller, newer firms attempting to build out first connections or compete against existing providers? In a recent positive development, AT&T has announced a new venture that may break this non-compete pattern. AT&T plans to offer packages of VOIP and wireless Internet service in Portland, Oregon (Qwest territory) and central New Jersey (Verizon territory).¹¹ According to USA

¹⁰ *Hearing to review rural broadband programs operated by the U.S. Department of Agriculture’s Rural Utilities Service*, U.S House of Representatives Subcommittee on Specialty Crops, Rural Development and Foreign Agriculture, 110th Congress, (2007), 6, (statement of Jim Andrew, Rural Utilities Service, U.S. Department of Agriculture).

¹¹ “AT&T gives Net phone service a new push”, April 30, 2007, USA Today online, at http://www.usatoday.com/money/industries/telecom/2007-04-30-att-voip-usat_N.htm?csp=34

Today, CallVantage will be available for a 3 month trial period at 14 AT&T Wireless (formerly Cingular) stores.

However in the “underserved” areas where there are no competing network providers, nondiscrimination and anti-tying rules such as those governing the post merger AT&T should apply.¹² At least where consumers and business customers lack a choice of substitutable network providers, they are entitled to neutral broadband access. A monopoly provider has no more right to make content and service decisions for the end user than does the government. (The need for neutrality may also apply in duopoly situations.) The need for neutral access or “net neutrality” is assumed in countries like Japan and the U.K. where privatized monopolies like NTT and British Telecom are still subject to open access requirements and even structural separations.¹³ Interestingly, there are more competitive broadband options available from ISPs in those countries than most Americans enjoy.

The Commission can do much more to promote broadband competition. One way is not to allow ILEC forbearance petitions to be “deemed granted” without clear evidence of broadband competition in the relevant markets. Another way to promote competition is to provide an opportunity for public comment on copper loop retirement initiatives. These points were referenced at a recent hearing in the Entrepreneurship Subcommittee, of the House Small Business Committee, by Brandon Stephens, CEO of BalsamWest

¹² AT&T and BellSouth Corporation Application for Transfer of Control, Memorandum Opinion and Order, WC Docket No. 06-74, FCC.

¹³ *Digital Future of the United States: Part IV, Broadband Lessons from Abroad*, U.S. House of Representatives Subcommittee on Telecommunications and the Internet, 110th Congress, (2007).

FiberNet, a wholesale provider of fiber optic broadband networks in western North Carolina, North Georgia, and Eastern Tennessee.¹⁴

Telephone company copper wire loops are public utility infrastructure financed by monopoly ratepayers. This valuable infrastructure should not be hastily dismantled without a chance for public input into the continued value of these wires for next generation DSL, and network redundancy for public safety in the event of power outages, for example.

V. Affordability of Broadband Access

Broadband access should not be substantially more expensive for Americans than it is for Japanese or British citizens or businesses for the same quality and speed of service. Like telephone service and electricity, broadband access should not be substantially more expensive in rural areas of America than it is in our cities and suburbs. USF funding, RUS loans and state and local government partnerships with industry, such as Connect Kentucky, along with a pro-competitive 700 MHz auction, will all be needed to bridge disabling gaps in U.S. broadband coverage and ensure that all citizens of the United States have affordable access to the Internet. The U.S. economy will be the biggest winner.

¹⁴ *Maximizing the Value of Broadband Services to Rural Communities*, U.S. House of Representatives Subcommittee on Rural & Urban Entrepreneurship, 110th Congress, (2007).

Respectfully submitted,

A handwritten signature in black ink that reads "E J Black". The signature is written in a cursive style with a large, stylized "E" and "B".

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A handwritten signature in black ink that reads "Catherine R. Sloan". The signature is written in a cursive style with a large, stylized "C" and "S".

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