

## FREE PRES

### SUMMARY OF FINAL NATIONAL BROADBAND PLAN REPLY COMMENTS - JANUARY 2010

We strongly believe that the ultimate success of the National Broadband Plan, and the success of Commission's ongoing telecommunications policymaking activities in general, hinge on the agency viewing broadband as essential infrastructure -- a regulatory framework required by both the Recovery Act and the Communications Act. The keys to success lie in the Commission promoting meaningful competition, radically overhauling universal service policy, and ensuring the Internet remains an open platform for innovation, education and democratic discourse.

With these final reply comments, we focus the Commission's attention on the policies that are most critical to the overall success of the National Broadband Plan. This list is by no means exhaustive, and we refer the Commission to our extensive initial comments, filed in June for a full treatment of these issues.

- The Plan must set aspirational goals: Mere availability of first-generation level high-speed Internet access services is not a stopping point; it's a starting point. The plan should be designed to ensure that all Americans have access to a world-class network offering affordable services within a 5 to 10 year period.
- The Plan must radically overhaul the High-Cost Universal Service Fund: The current Fund was designed to support basic telephone infrastructure, which were high-cost low-revenue generating networks. Broadband networks enable triple-play services and give rural carriers a path to self-sufficiency. The Commission should use the High Cost Fund to support the construction of broadband networks, and only provide ongoing subsidies where they are truly needed. We outline a plan that will result in universal deployment and will enable the Commission to reduce the size of the Fund dramatically over time.
- The Commission Should Establish a Broadband Lifeline Fund: For millions of Americans broadband and broadband access devices will remain prohibitively expensive absent subsidy support. The Commission should explore a Lifeline/Linkup USF program for broadband Internet access services and devices, but ratepayer funds should not be used to pad exorbitant ISP profit margins. The program should require ISP participation, reimbursing participating providers at a reasonable rate of return.
- Further Public Investment in Middle Mile Access is Critical: The NTIA has begun to allocate billions for the purpose of constructing middle-mile access networks -- a subsidy policy designed to facilitate the further private construction of high-capacity broadband Internet access networks. The Commission, in conjunction with the NTIA, should assess the impacts of these subsidies in order to develop best practices and make recommendations on future needs for public investment.
- Effective competition and universal service policies as well as user training programs are needed to close the adoption gap: Lower prices as well as service and device subsidies will go a long way towards closing the adoption gap. But for millions of Americans, price is not the barrier to adoption; they simply don't view broadband as a high value service. Reaching these non-adopters will require on-the-ground training, education and experimentation. Ensuring that the applications markets are able to continue to innovate will also facilitate the availability of diverse content that will help raise the value proposition.
- The Plan must recognize that broadband is an input to public service: The Plan should account for the information needs of communities that are not met by the marketplace at the level required to ensure the optimal health of our democracy. Community anchor institutions such as schools, libraries, public housing, community centers, etc... must have access to low-cost robust broadband services.
- The Commission should adopt triggers for implementing policies that facilitate competition and investment: Broadband markets are local, and the level of competition and quality varies widely based on geographic area. To reach the goals of the Communications and Recovery Acts, the Commission should conduct ongoing analysis of local broadband markets to determine where market power exists. The Commission should establish triggers for competition policies depending on the specifics of the market. These policies can be time-limited, and designed to reward carrier investment in next generation technologies. Whatever course the Commission takes, it cannot sit idle once it has identified areas where consumers are suffering as a result of ISP abuse of market power.

- Properly functioning special access and enterprise broadband markets are critical to facilitating intermodal competition. The existing special access and enterprise regulatory regimes fail to adequately account for the existence and abuse of ILEC monopoly power and the Commission must act swiftly to adopt pricing regulations that adequately reflect costs. Solving the wholesale market problem is essential if the Commission is serious about facilitating intermodal competition.
- The Commission must adopt “use it or lose it” spectrum rules: The National Broadband Plan should recommend maximizing the public utility of spectrum by tightening buildout restrictions on spectrum licenses. Spectrum that sits unused for years, or that takes far too long to clear out, represents purely wasted resources in a marketplace where scarcity is a potentially serious concern.
- Expanding unlicensed spectrum must be a major component of the Plan: Opening substantial new portions of spectrum for unlicensed use will lower barriers to entry, unleash innovation and ultimately improve the markets for commercial wireless and broadband services.
- The Plan must recognize the need for reasonable and nondiscriminatory data roaming rules: All mobile wireless carriers should be able to roam on compatible competitor data networks on reasonable rates, terms, and conditions, without any discrimination in network management by the host. Ensuring that data roaming pricing is reasonable will greatly facilitate competition in the mobile broadband market.
- Reform of the Commission’s set-top-box (STB) rules is critical to promoting broadband adoption: The ability of consumers to subscribe to video and broadband services, along with the potential of integrating services delivered over both pay-TV and broadband systems into a single device, could be a significant future driver of broadband adoption. This future will be held at bay for as long as cable providers are allowed to control the electronic interface between their services and the consumer.
- The Commission should act on pending rules to preserve the open Internet: Openness is critical to the value of Internet connectivity and overall market growth. The plan for universal availability and adoption of world-class broadband networks will not succeed if the Internet becomes a fractured platform.
- The Commission should implement pending revisions to FCC Form 477 broadband data and act on tentative conclusions to expand the ARMIS reporting system: The ultimate success of all Commission broadband policy -- from USF to competition -- hinges on its ability to have a universal reliable understanding of the market. The Commission has already reached the right tentative conclusions on the issue of broadband data; it just needs to act on these conclusions.
- To correct information asymmetries and empower consumers, the Commission should require enhanced ISPs disclosure: The forces of competition will only work properly if consumers have meaningful and standardized information on actual service speeds, fees, network management, and network performance.

If the Commission adopts a National Broadband Plan that is bold, comprehensive and ambitious, it will signal an end to the era of regulatory indifference. We welcome any such action that finally turns the promise of the Communications Act into a reality for all Americans.