

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN,
DISSENTING**

Re: 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, Fifth Report (Mar. 19, 2008).

In Section 706 of the 1996 Act, Congress wisely directed this Commission to conduct regular inquiries into the status of broadband deployment. Today, we take up the Commission's first report in four years on this important topic. Given the ever-increasing importance of broadband to our country's economy, public safety, education, and health care, I have long argued that the Commission should engage in a comprehensive analysis of broadband deployment, availability, affordability, and competitiveness. Regrettably, this report, like its predecessor in 2004, fails to set out an adequate basis for concluding that broadband is being deployed in a reasonable and timely basis to *all* Americans, which is our directive under the statute. Instead, this report repeats past shortcomings, relies on faulty data, and fails to present a clear picture of broadband in America.

Yes, more people have adopted broadband in recent years. But they have adopted broadband faster in other countries with which we compete. Just because a car speeds up doesn't mean it wins the race, especially if other cars speed up faster. This report fails to admit that while we have improved, other countries have improved at a faster rate, so we are actually falling behind.

Since our 2004 report, it has become increasingly apparent that one of America's central challenges is promoting the widespread deployment of higher-bandwidth broadband facilities to carry the vast array of innovative services that are transforming virtually every aspect of the way we communicate, and to make sure that these facilities are affordable for consumers. We stand at the forefront of a revolution in the applications that will ride over this infrastructure. They are reshaping the way we work, educate our children, provide health care to our citizens, govern, practice democracy, and interact with one another. These are tools that can play a crucial role in driving our economic growth, enhancing public safety, and revitalizing our communities.

Even as consumers are increasingly empowered to use broadband in newer, more creative ways, we are competing on a global stage. So, it is troubling that the warning signs I raised four years ago now flash only brighter. We face real challenges of availability, affordability, and competition. Similarly, while I am glad that this report begins to address broadband in an international context, it is too dismissive of the considerable evidence suggesting that we are behind the global leaders in broadband and have continued to fall.

The report unconvincingly attempts to dismiss the international broadband penetration rankings. The fact is the U.S. has dropped year-after-year. This downward trend and the lack of broadband value illustrate the sobering point that when it comes to giving our citizens affordable access to state-of-the-art communications, the U.S. has fallen behind its global competitors. We do not wrestle with the question of broadband value, or price per megabit, for which our citizens pay far more than those in many other countries. According to the ITU, the digital opportunity afforded to U.S. citizens is not even near the top, it is 21st in the world. Recent OECD data show the U.S. ranked 11th in the world in price per megabit. Other reports show U.S. consumers pay

nearly twice as much as Japanese customers for connections that are twenty times as slow. This is more than a public relations problem, it's a major productivity problem.

Consumers, small businesses, and even government agencies are becoming increasingly creative with broadband, as it becomes more widely available. Indeed, we have made progress since 2004. The broadband data released concurrently today highlights broadband growth, although these statistics are based on our now defunct definitions. The significant investment in the 700 MHz auction also illustrates the investment being made in broadband facilities. Many providers are deeply committed to their communities, our Schools and Libraries program continues to play a vital role bringing broadband to our nation's children, and there are positive lessons to draw on. Yet, this report fails to get at the core question of whether *all Americans* are participating in the broadband revolution and it again fails to present a meaningful analysis of broadband availability, competition, or affordability. It largely relies on the same old methodology for assessing broadband availability and competition that has been recognized almost universally as flawed and broken. Although I am genuinely pleased we also adopt a companion item to improve our data gathering efforts, the truth is that we rest our conclusions today on a far flimsier basis. Unfortunately, the failure over the past eight years to address these data shortcomings – particularly, in time for this report -- seriously undermines the credibility of its findings.

Nor does the report address meaningfully the *competitiveness* of the broadband market. In the Notice initiating this proceeding, we also launched an inquiry into the competitiveness of the broadband market that we committed to do as part of our review of the major BOC-IXC mergers in late 2005. Despite that commitment, a rigorous analysis of the state of broadband competition is absent here.

Also gone from this report are attempts to analyze case studies or to provide a compilation of best practices for providers and communities looking to keep up with the fast pace of change. Good and instructive stories abound, and I believe the Commission could have played an important role in documenting these successes. Choosing representative communities and initiatives is inherently difficult, but we lose an opportunity to grapple with the real world challenges and achievements in a way that could better inform policymakers and readers of this report.

This report also fails to provide a clearer roadmap for achieving the goal of delivering affordable, truly-high speed broadband to all Americans. The report culls a list of FCC decisions since our last report, some of which have been more effective than others. Yet, it does not probe deeply into broadband challenges for those in rural areas, those in Indian Country, those with disabilities, or those in lower income areas. Nor do we grapple with the policy debates occurring in other countries with whom we compete in the global marketplace. Past reports have included recommendations and policy guidance. Although I may not have agreed with all those recommendations, we miss a chance here to provide guidance in this critical area.

It is increasingly apparent that an issue of this importance to the economy and the success of our communities warrants a coherent, cohesive, and comprehensive national strategy. The first step in addressing this challenge is to collect better data about the state of the marketplace and to perform a realistic assessment of our success and failures. Only through such efforts can we truly assess our current strengths and weaknesses and develop responsive solutions. Our

companion data gathering item provides hope for the future but, for the reasons outlined above, I must dissent from this Report, which falls short of those goals because it is based on the old, flawed data gathering methodology.