



*Congress of the United States
House of Representatives
Washington, D.C. 20515*

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*Anna G. Eshoo
Eighteenth District
California*

September 8, 2015

The Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler,

I write in response to the Eleventh Broadband Progress Notice of Inquiry released by the Commission last month. The notice offers a timely opportunity to adopt forward-looking policies for broadband that promote the public interest, encourage real competition for consumers, and enhance pricing transparency.

The Commission took a historic step in January by updating its definition of high-speed broadband to better reflect the speeds consumers need to unlock everything the Internet has to offer. I welcomed that decision because it shined a light on the 55 million Americans who today lack access to advanced broadband. Broadband speed is just one factor a consumer must consider when choosing a service provider. To that end, the Commission's inquiry wisely asks whether to consider factors other than speed when assessing broadband deployment, including latency and consistency of service. In the Commission's own words, latency is important because it "affects a consumer's ability to use real-time applications, including interactive voice or video communication."

As the Commission considers whether to establish a comprehensive, consumer-friendly benchmark for broadband which includes these factors, I urge you to review the Government Accountability Office's (GAO) April 2015 report entitled "Broadband Performance: Additional Actions Could Help FCC Evaluate Its Efforts to Inform Consumers."¹ To help consumers more easily compare and select broadband service offerings, the GAO's report discusses the concept of a "voluntary labeling program" and recommends that the Commission "conduct or commission research on the effectiveness of [the] FCC's efforts to provide consumers with broadband performance information and make the results of this research publicly available." The Commission's inquiry is an appropriate proceeding to collect this information and ultimately incorporate into an updated definition of "advanced telecommunications capability."

¹ *Broadband Performance: Additional Actions Could Help FCC Evaluate Its Efforts to Inform Consumers*, U.S. Government Accountability Office, <http://www.gao.gov/products/GAO-15-363> (Released May 15, 2015).

The Commission's notice also asks whether to consider factors beyond physical deployment, including pricing and data allowances. Below-the-line fees and usage-based pricing have become standard practice for many broadband providers and should be analyzed by the FCC in the course of evaluating the state of broadband deployment. Specifically, I urge you to review the GAO's November 2014 report, entitled, "Broadband Internet: FCC Should Track the Application of Fixed Internet Usage-Based Pricing and Help Improve Consumer Education."² The report recommends that the FCC work with wireline broadband providers to develop a voluntary code of conduct, similar to the Wireless Code of Conduct, to improve communication and understanding of data use and pricing by Internet consumers. Consumers deserve greater transparency and disclosure prior to signing-up for broadband service, as well as on their monthly bill. Through this inquiry, the FCC can and should ensure this information is included in the 2016 Broadband Progress Report.

Finally, the notice asks whether mobile broadband services should be included in the Commission's definition of advanced telecommunications capability. Although mobile is not a substitute for high-speed wireline broadband and is technologically distinguishable, both forms of access provide a critical gateway to the Internet and should be viewed as such when examining the state of broadband deployment.

Furthermore, for many traditionally disenfranchised communities including rural, tribal and minorities, mobile broadband is the primary means of accessing the Internet. In fact, according to the Pew Research Center approximately one-third of low-income Americans are primarily smartphone dependent for Internet access and lack broadband at home.³ As an increasing number of Americans depend on mobile services for learning, employment and advancement, the Commission's definition of advanced telecommunications capability should fully reflect the deployment of both fixed and mobile broadband services.

Thank you for the opportunity to comment on the Commission's inquiry and for your continuing leadership to ensure the public has clear and accurate information about the state of broadband deployment.

Most gratefully,



Anna G. Eshoo, Ranking Member
Subcommittee on Communications and Technology
Energy and Commerce Committee

cc: The Honorable Mignon Clyburn, Commissioner
The Honorable Jessica Rosenworcel, Commissioner
The Honorable Ajit Pai, Commissioner
The Honorable Michael O'Rielly, Commissioner

² *Broadband Internet: FCC Should Track the Application of Fixed Internet Usage-Based Pricing and Help Improve Consumer Education*, U.S. Government Accountability Office, <http://www.gao.gov/products/GAO-15-108> (Released December 2, 2014).

³ CTIA, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 (Filed June 11, 2015).