

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

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, as Amended by the Broadband Data Improvement Act*, GN Docket No. 12-228

Pursuant to Section 706 of the Telecommunications Act of 1996, the Commission is required to issue an annual report determining whether “advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”¹ I have dissented from all of the 706 reports since the 2010 report because I have not agreed with the majority’s conclusion that broadband has not been deployed in a reasonable and timely fashion to all Americans. These conclusions were inconsistent with the underlying market data and were stark reversals of all reports released prior to 2010. Additionally, I have repeatedly raised concerns that such negative and inaccurate conclusions could ultimately be used to support a regulatory agenda with unintended and harmful effects. Unfortunately, on at least two occasions, the Commission misconstrued the language of Section 706 to convey upon itself sweeping new statutory powers that, in reality, do not exist.

We are now commencing the next Section 706 review process and do so by launching a Notice of Inquiry (NOI). As with previous Section 706 NOI’s, I take seriously Congress’s mandate that the FCC conduct this broadband review on an annual basis. I view this process as an opportunity to assess the progress of our nation’s broadband deployment, which has proven to be the fastest penetrating disruptive technology in American history. Nevertheless, my support of this NOI should not be construed as an endorsement of analyses or conclusions in the previous Section 706 reports, or of similar language in this NOI, or as an endorsement of concepts that could be used in a manner to promote further regulation of the Internet. Section 706 implores the Commission to *de*-regulate to promote deployment, not erect new governmental obstacles.² The proliferation of broadband Internet access has been so swift and pervasive precisely because the government has taken a hands-off approach. In fact, Internet access has shown itself to be the fastest penetrating disruptive technology in human history. As I have said many times before, the Internet is the greatest de-regulatory success story of all time.

Moreover, I note that this NOI seeks comment as to new approaches the Commission may consider in its upcoming Section 706 review. It is my hope that the comments will be comprehensive and robust. Stakeholders should highlight, in particular, approaches that would not be true to the de-regulatory bent of the statute or would not be practical in developing an accurate assessment of our nation’s broadband deployment progress. I look forward to reviewing these comments, and I remain hopeful that any concerns raised will be taken seriously as the next Section 706 report is developed.

¹ 47 U.S.C. § 1302(b) (Section 706 of the Telecommunications Act of 1996 has since been amended by the Broadband Data Improvement Act (BDIA), Pub. L. No. 110-385, 122 Stat. 4096 (2008) and is now codified in Title 47, Chapter 12 of the U.S. Code. It is commonly referred to as “Section 706”).

² Congress stated that “[i]f the Commission’s determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.” 47 U.S.C. § 1302(b). Even the most imaginative interpretation of this section could not logically render a conclusion that *adding* more layers of regulation would “remove barriers to infrastructure investment.”