

**CONCURRING STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

Re: *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199

The time for our annual inquiry into broadband availability has come once again. Today, the Commission asks whether advanced telecommunications capability has been reasonably and timely deployed, and seeks comment on how to measure and report on it. While the structure of this item may look similar to past years, and I appreciate the Chairman accepting edits that I proposed, for several reasons I must respectfully concur.

The whole point of this inquiry is to figure out whether consumers across America are getting good broadband. From my conversations around the country, including those I had in Marietta, Ohio last month, too many of our neighbors yearn for affordable, reliable fixed and mobile broadband connections and it is my fear that we continue to short-change consumers in several aspects of this proceeding.

We sell consumers short by proposing a speed benchmark that is way too low. The statute defines advanced telecommunications capability as broadband that is capable of “originat[ing] and receiv[ing] high-quality voice, data, graphics, and video telecommunications.” High-definition video conferencing is squarely within the rubric of “originating and receiving high-quality . . . video telecommunications,” yet the 25/3 Mbps standard we propose would not even allow for a single stream of 1080p video conferencing, much less 4K video conferencing.<sup>1</sup> This does not even consider that multiple devices are likely utilizing a single fixed connection, or the multiple uses of a mobile device.

Second, we seek comment on whether to deem an area as “served” if mobile *or* fixed service is available. I am extremely skeptical of this line of inquiry. Consumers who are mobile only often find themselves in such a position, not by choice but because they cannot afford a fixed connection. Today, mobile and fixed broadband are complements, not substitutes. They are very different in terms of both the nuts and bolts of how the networks operate, and how they are marketed to customers, including both from the perspective of speed and data usage. I have heard from too many consumers who can only afford a mobile connection, and even then they have to drop service in the middle of the month because they cannot afford to pay for more data.

Third, this Notice of Inquiry (NOI) falls into a precarious chicken-and-egg dilemma by seeking comment on whether the Commission should establish a speed benchmark based on the speed tier consumers are subscribing to. This presupposes that consumers are getting the services they want at the prices they want, and are not constrained by network limitations and terms of service. I heard from a provider just last month that priced its 1Gbps service at around \$80 per month and achieved an over 30% take rate, even though it had other lower speed services at lower prices. Taking this approach could also send us on a race to the bottom. If only 25/3 Mbps service and nothing more was offered, and that was all consumers could subscribe to, we could select that as a benchmark and declare advanced telecommunications capability to be reasonably and timely deployed. This also seems contrary to the language of the statute. We are supposed to consider what is “advanced” in the context of what the service can do, not what consumers are buying. If, for example, 70% of Americans are buying broadband that does not allow people to use “high-quality voice, data, graphics, and video telecommunications” does that mean that this level of broadband is advanced telecommunications capability? Consumer purchasing patterns may be a convenient shorthand, but I believe such an approach would be problematic.

---

<sup>1</sup> Six Mbps is a common requirement for 30 fps 1080p raw video stream, and this does not account for packet header overhead. Irwin Lazar, How to calculate video conferencing bandwidth requirements, TechTarget Search Unified Communications (Nov. 2016), <http://searchunifiedcommunications.techtarget.com/tip/Business-video-conferencing-setup-Calculating-bandwidth-requirements>.

Finally, this NOI seeks to measure deployment in terms of year-over-year progress rather than whether the service is actually meeting the needs of consumers. This seems both practically difficult and contrary to the statute. First, the Commission's interpretation of what is "advanced telecommunications capability" will and should change over time. Less than a decade ago, we said 200 kbps service was advanced. When the standard changes, the year-over-year value of measuring deployment will be greatly diminished. Second, the item defines advanced telecommunications capability in terms of what the broadband service can deliver, not whether facilities are present. I am fearful that we are starting down a path to look only at percentage coverage, and not at whether service is truly affordable and accessible for all Americans.

Nonetheless, I thank the Wireline Competition Bureau for their work on this proceeding as we all strive to ensure that broadband is being reasonably and timely deployed to all Americans.