

**STATEMENT OF
COMMISSIONER BRENDAN CARR**

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

For the past few years, the FCC has used the Section 706 Broadband Deployment Report to determine whether all Americans have access to advanced telecommunications capability. Now, there is nothing inherently wrong with such an inquiry. But it answers the wrong question—or, more specifically, it fails to answer the question Congress posed to the Commission in Section 706 of the Telecommunications Act of 1996. The Commission corrects this error with this 2018 Broadband Deployment Report.

In Section 706, Congress determined that the Commission “shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”¹ It then directs the Commission to conduct an inquiry to determine “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”² If it is not, Section 706 states that the Commission “shall take immediate action to accelerate deployment of such capability.”³

As this year’s Broadband Deployment Report explains, Section 706 thus directs the Commission to measure the progress that providers of advanced telecommunications capability are making in deploying those capabilities to all Americans and to determine whether such progress is reasonable and timely. Reading Section 706 as directing the Commission to determine whether advanced telecommunications capability has been deployed to all Americans, as the FCC has in past Reports, reads the “reasonable and timely” language out of the statute and is inconsistent with Congress’s use of the present progressive tense “is being deployed.” This conclusion is further reinforced by the language Congress used for FCC inquiries that result in a negative determination. In such cases, Congress states that the Commission “shall take immediate action to *accelerate* deployment,”⁴ thus confirming Congress’s focus in Section 706 on the pace of deployment and the progress that providers are making.

As a policy matter, it makes sense that Congress would task the Commission with this type of progress-based inquiry. Assessing the pace at which advanced telecommunications capability is being deployed provides far more—and more helpful—information than a binary inquiry into whether or not all Americans already have access to such capability. But of course, the Commission’s approach to Section 706 during the prior Administration did not reflect fealty to the statutory text as much as an interest in expanding the scope of the Commission’s authority.⁵

I am glad that this year’s Report answers the question posed by Congress. The Report correctly determines that advanced telecommunications capability is being deployed in a reasonable and timely manner. Among other things, the data show that 99% of Americans have access to mobile LTE, 95.4% have access to both mobile LTE and fixed broadband at 25 Mbps, and 99.9% have access to either fixed broadband or mobile LTE.

¹ 47 U.S.C. § 1302(a).

² 47 U.S.C. § 1302(b).

³ 47 U.S.C. § 1302(b).

⁴ 47 U.S.C. § 1302(b) (emphasis added).

⁵ With the recent *Restoring Internet Freedom Order*, the Commission returned to its earlier (and proper) view that Section 706 does not constitute an affirmative grant of regulatory authority.

Now, none of this is to say that our job at the FCC is done. As the Report makes clear, far too many Americans remain unable to access high-speed broadband, and we have much more work to do if we are going to encourage the deployment of broadband to all Americans.

Nor do I have any objection to identifying aggressive speed or deployment goals. By all means, let's shoot for the moon. But the question we must answer in this Report is the one Congress set out in Section 706. Congress specifically defined advanced telecommunications capability "without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications."⁶ Whatever one thinks we should be aiming for as an agency or a country, the benchmarks identified in this Report certainly enable users to originate and receive high-quality voice, data, graphics, and video within the meaning of Section 706. Indeed, the record shows that the technologies meeting the Report's benchmarks enable HD video streaming, online gaming, and HD video calling, among other advanced capabilities.

Going forward, we must continue to move with dispatch at the FCC. Over the past year, we turned the corner and moved away from policies that created regulatory headwinds. Over the next year, our success as an agency should and will be measured by whether, in the words of Section 706, we continue to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans." That means we must continue to streamline our wireless and wireline infrastructure deployment rules. We must continue to free up even more spectrum for consumer use. And we must continue to create the incentives that will spur innovation from the edge to the core of the networks. I look forward to working with my colleagues on efforts that will do just that.

⁶ 47 U.S.C. § 1302(d)(1).