Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	)	GN Docket No. 24-214

COMMENTS OF INCOMPAS

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INCOMPAS, by the undersigned, respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") *Notice of Inquiry* ("*NOI*"), pursuant to Section 706 of the Telecommunications Act of 1996, and the Commission's next annual assessment concerning the "availability of advanced telecommunications capability to all Americans."[1]

I. INTRODUCTION AND SUMMARY

INCOMPAS is the preeminent national industry association for providers of internet and competitive communications networks, including both wireline and wireless providers in the broadband marketplace. We represent fixed broadband companies, including small local fiber and fixed wireless providers, that offer residential broadband internet access service ("BIAS"),[2] as well as other mass-market services, such as video programming distribution and voice services in urban, suburban, and rural areas. We also represent mobile and satellite entities offering BIAS and video services, as well as companies that are providing business broadband

[1] *See Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Eighteenth Section 706 Report Notice of Inquiry, GN Docket No. 24-214 (rel. Sept. 6, 2024) ("*NOI*").

[2] We use BIAS and broadband interchangeably in these comments.

services to schools, libraries, hospitals and clinics, and businesses of all sizes; regional fiber providers; transit and backbone providers that carry broadband and internet traffic; and online video distributors, which offer video programming over BIAS to consumers, in addition to other online content, such as social media, streaming, cloud services, and voice services.

The availability of BIAS connectivity throughout the U.S. is critical for the nation's economic development and global competitive edge. As the leading trade association advocating for competition and innovation, INCOMPAS and its members are at the forefront of helping Americans get better, faster, more affordable internet service and online content. As such, INCOMPAS' members have an interest in making sure that the FCC's Section 706 inquiry accurately captures the availability of advanced telecommunications capability.

As the Commission determines whether broadband service is being deployed in a timely and reasonable manner, INCOMPAS urges the Commission to: (1) continue to use the BDC and confidential residential connections data to analyze the number of providers and current subscription rates to accurately analyze competition in the fixed BIAS marketplace; (2) use additional resources, including broadband labels and providers' websites, to better analyze affordability and prices of broadband services; (3) maintain the current evaluative framework in which fixed and mobile BIAS are recognized as separate, complementary services and not as functional substitutes; (4) continue to analyze data separately on fixed wireless and satellite BIAS services; and (5) take additional regulatory steps in current agency proceedings to promote increased broadband deployment and address barriers to entry.

II. THE COMMISSION SHOULD CONTINUE TO USE BROADBAND DATA COLLECTION AND CONFIDENTIAL RESIDENTIAL CONNECTIONS DATA TO ASSESS THE NUMBER OF PROVIDERS IN THE BROADBAND MARKET.

The FCC proposes to continue using the Commission's relatively new Broadband Data Collection ("BDC") as the primary data source to evaluate broadband deployment and availability.[3] INCOMPAS supports the Commission using BDC as it is the most up-to-date data and offers granular location information on broadband availability.

The FCC also proposes to include an assessment of the number of broadband provider options to which consumers have access in its upcoming Report—as it did in its most recent 706 Report ("*2024 Report*").[4] INCOMPAS supports this proposal. In the *2024 Report*, as well as the *2022 Communications Marketplace Report*, the Commission examined the number of fixed broadband provider options available to consumers and as part of this assessment it also showed the percentage of households living in census blocks with multiple provider options, including areas with adoption rates of one percent and five percent.[5] This regression analysis used confidential residential connections data, which led to a more accurate picture of the true state of competitive options in today's market by including subscription take rates. This type of analysis is helpful in order to understand the state of available broadband options in the market as viewed by customers—by isolating whether a provider's offering has received the minimal take rates of one and five percent. In fact, INCOMPAS recommends that the Commission expand upon its current analysis also show the market penetration rates at 10%, 20%, and 30% to obtain an even

[3] *See NOI*, at paras. 14-15.

[4] *See id.* at paras. 29-30.

[5] *See id.* at paras. 29-30; *see also* 2022 Communications Marketplace Report (rel. Dec. 30, 2022), at 50 (Fig. II.A.33) ("*2022 Communications Marketplace Report*").

stronger undestanding of consumer choice in the market especially given our understanding that competitive broadband providers typically aim for *at least* a 30% penetration rate. While the Commission can continue to do this analysis based on a census block and county level in order to more easily compare with prior reports, the Commission can also conduct its analysis based on the individual household now that it has access to more granular information from the BDC data.

In addition, given that in the *2024 Report* the Commission increased the fixed broadband speed benchmark from 25/3 Mbps to 100/20 Mbps,[6] the Commission does not need to continue reporting on broadband services of 25/3 Mbps speeds given that these services are no longer meeting the broadband standards. The Commission should only report on these speeds for the purpose of analyzing historical trends—similarly to how it now uses the more accurate BDC data for its broadband analysis and Form 477 data for historical trends.

III. THE COMMISSION SHOULD USE ADDITIONAL DATA SOURCES TO CAPTURE AFFORDABILITY AND PRICES OF BROADBAND SERVICES.

In the *2024 Report*, the "lack of granular price information, especially for rural areas, limited the analysis to overall patterns of affordability."[7] As such, the FCC seeks comment on "any additional data sources and methodologies that have become available that could assist in expanding upon these initial analyses."[8] Capturing the prices of broadband services in the market is an important and helpful component to understanding affordability and the need for more competition in the broadband market. One data source that the Commission can now use is the pricing information that broadband providers are required to display on their broadband labels.

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[6] *See NOI*, at para. 11.

[7] *See id.* at 40.

[8] *See id.*

By the time the upcoming 706 Report is published, the Commission should be able to collect this information from broadband providers' websites given that the compliance date for larger providers was April 10, 2024 and the compliance date for smaller providers is October 10, 2024.[9] In addition, in the Commission's *2022 Communications Marketplace Report*, the Commission collected plan information directly from providers' websites to help with the Commission's pricing analysis.[10] The Commission should continue to analyze information directly from the providers' websites—including the new broadband labels—in its upcoming 706 Report.

The Commission's upcoming 706 Report should also update the national median cost of high-speed internet service for fixed broadband. In the *2024 Report*, the Commission used the data collected in the 2024 Urban Rate Survey in line with its intended use in the Universal Service program to construct national average prices for speed tiers.[11] According to a Figure in the *2024 Report*, the national mean broadband price for 100/20 Mbps was $100.18. But rather than tuck this number into a Figure, the Commission should use this number as an important conclusionary result in its upcoming Report. Understanding the national broadband price is critical to the Commission's inquiry in this proceeding, and it is also important because this number differs in various Commission publications. For example, the *2022 Communications Marketplace Report* pulled pricing from providers' websites and also cited a study conducted by

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[9] *Consumer and Governmental Affairs Bureau Announces Compliances Dates of April 10, 2024 and October 10, 2024 for Broadband Label Rules*, CG Docket No. 22-2 (rel. Oct. 10, 2023).

[10] *See 2022 Communications Marketplace Report*, at para. 38.

[11] *See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2024 Section 706 Report, GN Docket No. 22-270 (rel. March 18, 2024), at paras. 96-98 ("*2024 Report*").

Consumer Reports to find that the median cost of high-speed internet service was $74.99 per month.[12] However, the FCC's *Future of USF Report* cited the national benchmark monthly rate for a 100/20 Mbps broadband service at $105.67 per month.[13] As such, the Commission should update this information in its upcoming Report.

IV. THE FCC SHOULD CONTINUE TO VIEW FIXED AND MOBILE BIAS AS SEPARATE, COMPLEMENTARY SERVICES.

INCOMPAS supports the Commission continuing to treat fixed and mobile services as separate, complementary services rather than as substitutes.[14] These services continue to meet different consumer expectations, and most consumers prefer to have both fixed and mobile services. American consumers and businesses expect to have both types of networks available to them because the experience of using these services can be distinctly different. For example, there is a difference between the speeds and connectivity available to consumers of fixed service (with average download speeds of 242.27 Mbps) and mobile service (with average download speeds of 103.73 Mbps).[15] Therefore, they should not be considered functional substitutes.

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[12] See *2022 Communications Marketplace Report*, at para. 38.

[13] *See Report on the Future of the Universal Service Fund*, Report, WC Docket No. 21-476 (rel. Aug. 15, 2022), at para. 94.

[14] *See NOI*, at para. 10.

[15] *See* Ookla Speedtest Global Index, *United States Median Country Speeds Updated August 2024*, *available at* https://www.speedtest.net/global-index/united-states#fixed. Based on this data, it appears that fixed broadband is getting faster speeds at a quicker rate than mobile broadband. Ookla speed tests in October 2023 showed the average download speeds of fixed broadband at 215.72 Mbps and average download speeds of mobile broadband service at 103.69 Mbps. Ookla speed tests in August 2024 show the average fixed broadband speeds at 242.27 Mbps and mobile speeds at 103.73 Mbps. As can be seen, there has been a much bigger change for fixed speeds than mobile speeds.

Consumers are using fixed BIAS at home and mobile BIAS on the go. Fixed wireline (especially fiber) typically delivers faster, more robust BIAS connections. When we are at home or the office, our terrestrial fixed connections are faster, allowing consumers to stream and consume long-form video and content much more easily and reliably—and most of us do not have to worry about hitting a data cap for these fixed residential services. On the other hand, when we are on the go, we use our mobile device to stay connected. Mobile connections provide the convenience of access, but typically at slower speeds and higher prices. Sometimes our mobile connection is strong, and sometimes it is not. Americans typically pay more for their mobile broadband connection and have low data caps as compared to terrestrial fixed service. As such, many users limit how much data they consume when Wi-Fi is not available in order to avoid going over data caps and paying more.

Notably, Americans subscribe to both mobile and home BIAS subscriptions, which shows that they are complementary rather than substitutable services. Pew Research found that today, eight-in-ten U.S. adults say they subscribe to a broadband internet service at home.[16] Simultaneously, only 15% of U.S. adults are "smartphone-only internet users," meaning that they own a smartphone but do not have home broadband service.[17] Furthermore, Pew explains that reliance on smartphones for online access is especially common among Americans with lower household incomes and those with lower levels of formal education,[18] which is further proof that for Americans that can afford it, fixed home and mobile broadband services are serving different

[16] *See* Pew Research Center, *Internet, Broadband Fact Sheet* (Jan. 31, 2024), *available at* https://www.pewresearch.org/internet/fact-sheet/internet-broadband/.

[17] *See id.*

[18] *See id.*

purposes. Even with 5G, there will still likely be applications and services that require a fixed connection, such as telehealth, that will require the Commission to continue to evaluate these services separately given the inherent limitations of mobile networks that can be caused by interference.

Access to both fixed and mobile BIAS is necessary to meet the needs of consumers. Therefore, the Commission should continue to evaluate fixed and mobile broadband BIAS separately based on benchmarks that reflect advanced capability for these services.

V. FIXED WIRELESS AND SATELLITE SERVICES ARE RELEVANT TO THE COMMISSION'S INQUIRY AND THE COMMISSION SHOULD CONTINUE TO USE THE SAME ANALYSIS AS ITS PRIOR REPORTS.

Due to the growth in the adoption rate of fixed wireless services from 4% in 2022 to 5.5% in 2023, the Commission tentatively concludes that it should not exclude fixed wireless service in its deployment data.[19] Similarly, while satellite service has been excluded in past 706 Reports, the Commission seeks comment on whether to include satellite service in its upcoming evaluation of the physical deployment of advanced telecommunications capability, including a consideration of the limitations of satellite services.[20] While much progress has been made in deployment and adoption with fixed wireless and satellite services, especially in hard-to-reach rural areas, adoption of these services are still relatively low—reflecting the current market realities of how consumers who have already adopted BIAS from an incumbent may not be inclined to switch to these newer options—even though fixed wireless and satellite have made

[19] *See NOI*, at para. 19.

[20] *See id.* at para. 20.

significant progress in deployment of high speed, low-latency broadband.[21] As such, for the 706 Report next year, it makes sense for the Commission to continue to analyze these services separately in its inquiry of broadband deployment as not to overstate current competitive options available in the market as viewed by consumers today.

Nevertheless, fixed wireless and satellite services are making a lot of progress in the market,[22] and the Commission should prioritize studying these important developments in the marketplace in its upcoming 706 Report. As such, in its Report, the Commission should set forth the technological and market advancements of these services, and all the benefits they are bringing to the market.[23] Moreover, because it may make sense to include fixed wireless and satellite services in a future 706 Report, it is important for the FCC to have collected the most recent information on these services to inform the public of these notable developments.

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[21] For example, as found by Leichtman Research Group, the top fixed BIAS providers—representing about 96% of the market—"account for about 114.7 million subscribers, with top cable companies having about 76.1 million broadband subscribers, top wireline phone [(telco)] companies having over 30.7 million subscribers, and top fixed wireless services having over 7.8 million subscribers." *See* Leichtman Research Group, *Research Notes 1Q 2024* (2024), at 4, *available at* https://leichtmanresearch.com/wp-content/uploads/2024/03/LRG-Research-Notes-1Q-2024.pdf.

[22] It is important to recognize that additional competition for LEO services can also lead to improved customer experiences, which likely will drive consumers' interest and adoption of this technology in the near future. As the Chairwoman recently discussed, there is only one LEO satellite option for consumers in the U.S., and additional options would be beneficial. David Shepardson, "FCC chair wants more competition to SpaceX's Starlink unit," Reuters, *available at*, https://www.reuters.com/technology/space/fcc-chair-wants-more-competition-spacexs-starlink-unit-2024-09-11/.

[23] In fact, the federal government has signaled that some or all of these services are more than capable of providing high quality, affordable, reliable broadband in the near future. *See generally* NTIA Proposed BEAD Alternative Broadband Technology Guidance, *available at* https://www.ntia.gov/other-publication/2024/proposed-bead-alternative-broadband-technology-guidance.

VI. REMOVING BARRIERS TO DEPLOYMENT WILL HELP UNIVERSAL SERVICE GOALS FOR BROADBAND.

The Commission seeks comments on the continuing effects of the Commission's and other ongoing federal efforts to spur broadband deployment.[24] INCOMPAS members continually experience significant barriers to deployment, including unreasonable delays and costs associated with access to poles, conduits, local permitting processes, and access to multiple tenant environments ("MTEs"). Added barriers to deployment and denials from utilities slow down the process and prevent these providers from offering their customers faster, more affordable options and create greater competition in the marketplace. Regardless of their business plans—whether fiber transport, fixed wireless, or mobile wireless—INCOMPAS members rely on the seamless and speedy deployment of fiber networks for their success. It is expensive and time-consuming for competitive providers to build out fiber, and yet when they do, they face significant barriers to deployment. Such barriers and delays are particularly problematic for providers building with borrowed capital, which creates added pressure to deliver networks and revenues on a predictable, timely basis.

With new infrastructure funding being allocated to state and local governments, it is necessary to have guidelines in place that enable faster processing that will allow the deployment of broadband infrastructure more quickly, including wireless equipment such as small cells, as well as fiber that is used by both fixed and mobile providers to connect their networks. To help increase competitive choice and more broadband connectivity and availability, INCOMPAS urges the Commission to take additional action to remove barriers and streamline processes for fixed and mobile providers. It is critical that competitive providers deploying fiber facilities and

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[24] *See id.* at para. 53.

wireless infrastructure that carry telecommunications and broadband services have access and rights to poles as well as MTEs on a non-discriminatory basis.[25]

VII. CONCLUSION

As the Commission determines whether broadband service is being deployed in a timely and reasonable manner, INCOMPAS urges the Commission to: (1) continue to use the BDC and confidential residential connections data to analyze the number of providers and current subscription rates to accurately analyze competition; (2) use additional resources, including broadband labels and providers' websites, to better analyze affordability and prices of broadband services; (3) maintain the current evaluative framework in which fixed and mobile BIAS are recognized as separate, complementary services and not as functional substitutes; (4) continue to analyze data separately on fixed wireless and satellite BIAS; and (5) take additional regulatory steps in current agency proceedings to promote increased broadband deployment and address barriers to entry.

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[25] INCOMPAS has discussed specific barriers to deployment that competitive broadband providers are facing in other FCC proceedings. *See* INCOMPAS Comments, *Office of Economics and Analytics Seeks Comment on the State of Competition in the Communications Marketplace*, GN Docket No. 24-119 (June 6, 2024), at 16-28; *see also* INCOMPAS Comments, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270 (Dec. 1, 2023), at 10-15.

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