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

In the Matter of	)	
	)	
Inquiry Concerning Deployment of Advanced	)	GN Docket No. 25-223
Telecommunications Capability to All	)	
Americans in a Reasonable and Timely	)	
Fashion	)	

COMMENTS OF INCOMPAS

Staci Pies
Senior Vice President of Gov't Relations and Policy

Christopher L. Shipley
Executive Director of Public Policy

Taylor Abshire
Attorney and Policy Advisor

INCOMPAS
1100 G Street, N.W.
Suite 800
Washington, DC 20005
(202) 872-5746
spies@incompas.org

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Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	)	GN Docket No. 25-223

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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 leading national trade association representing competitive internet, communication, and emerging Artificial Intelligence ("AI") driven network providers. Our membership encompasses the entire telecommunications, broadband and AI ecosystem, including fiber and fixed wireless companies that offer residential broadband internet access services ("BIAS"), as well as mobile and satellite providers expanding connectivity nationwide. Additionally, INCOMPAS members include business telecommunications and broadband providers catering to schools, libraries, hospitals, governmental institutions, and enterprises of all sizes. We also represent regional fiber carriers, middle-mile operators, and transit providers that support the internet's backbone and AI infrastructure, as well as online content and application

[1] *See Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* Nineteenth Section 706 Report Notice of Inquiry, GN Docket No. 25-223 (rel. Aug. 8, 2025) ("*NOI*").

providers, including video distributors and cloud service platforms. This diversity gives INCOMPAS a valuable perspective on both the technical and economic aspects of deployment. Our members operate in urban, suburban, and rural areas, often as new entrants investing private capital to challenge established providers. Consequently, INCOMPAS offers reliable insight into the barriers, costs, and policy frameworks that impact whether advanced telecommunications services are deployed in a "reasonable and timely" manner under Section 706 of the Telecommunications Act.[2]

The availability of BIAS connectivity throughout the United States 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, and more affordable internet service and online content. Accordingly, INCOMPAS and its members have a strong interest in ensuring that the Commission's Nineteenth Section 706 Report 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 Broadband Data Collection ("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, while reconsidering the decision to exclude affordability from the statutory assessment; (3) maintain the evaluative framework in which fixed and mobile BIAS are recognized as separate, complementary services

[2] 47 U.S.C. § 1302.

and not as functional substitutes; (4) continue to analyze data separately on fixed wireless and satellite BIAS services; (5) initiate limited Universal Service Fund (USF) program changes that are clearly within the FCC's legal authority; and (6) take additional regulatory steps under Sections 253[3] and 224[4] of the Communications Act to remove barriers to deployment and streamline permitting so providers can maximize investment and deliver broadband nationwide.

II. AS AI DRIVES DEMAND FOR FASTER BROADBAND, THE FCC SHOULD MONITOR PROGRESS TOWARD HIGHER-CAPACITY BENCHMARKS

While the Commission proposes to abolish the long-term goal of the 1,000/500 Mbps speed benchmark to maintain technological neutrality and avoid picking winners, INCOMPAS urges the FCC to continue tracking progress toward higher-capacity benchmarks, even if such goals are not a part of the formal Section 706 finding. Monitoring long-term performance trends serves a critical policy function: specifically, it provides transparency about whether networks are evolving to meet the demands of future applications such as AI-driven services, telehealth, and remote education. Section 706's "reasonable and timely" standard contemplates progress. Without visibility into gigabit-class capabilities, the Commission risks overlooking emerging disparities in network capabilities as networks evolve to accommodate AI-driven applications. Continuing to assess progress toward a performance benchmark of 1,000/500 Mbps does not mandate a prescriptive outcome or favor any technology; it simply ensures that policymakers, providers, and consumers have the data needed to evaluate whether deployment is keeping pace with innovation.

[3] 47 U.S.C. § 253(d).

[4] 47 U.S.C. § 224(b)(1).

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

As proposed in the *NOI*, the FCC should continue to use the Commission's Broadband Data Collection as the primary data source for evaluating broadband deployment and availability.[5] The BDC is the most up-to-date dataset, providing granular location information on broadband availability. The FCC should also continue assessing the number of broadband provider options to which consumers have access, as it did in the 2024 Section 706 Report and the 2024 Communications Marketplace Report.[6]

The Commission should expand its use of regression-based analysis in evaluating broadband competition, particularly by incorporating subscription take rates to reflect actual consumer behavior and market dynamics. This approach, employed in the 2024 Communications Marketplace Report, offers a more accurate representation of competitive options than availability data alone, which can overstate the presence of viable alternatives. By analyzing adoption rates, the Commission can better assess whether consumers are choosing among multiple providers, which is a more meaningful indicator of competition than mere infrastructure presence.

INCOMPAS has recommended that the Commission build on this methodology by evaluating market penetration thresholds at 10%, 20%, and 30%[7], which align with the business

[5] *See NOI* at ¶ 15.

[6] *In the Matter of Inquiry concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, 2024 Section 706 Report, FCC 24-27, at ¶¶ 45–52 (rel. Mar. 18, 2024) ("2024 Communications Marketplace Report").

[7] *See* Comments of INCOMPAS, GN Docket No. 22-270, 6–8 (filed Apr. 2024).

models of competitive providers seeking sustainable operations. These thresholds provide a more nuanced understanding of market entry and viability, particularly in regions where infrastructure investment is limited by scale economics. The 2024 Section 706 Report also supports this direction, noting that the FCC used the BDC and confidential residential connections data to assess provider presence and adoption at the census block level. In those reports, the Commission examined the number of fixed broadband provider options available to consumers and showed the percentage of households living in areas with multiple provider options, including areas with adoption rates of one percent and five percent, using confidential residential connections data. Utilizing the proposed regression-based approach would allow the Commission to identify where competition is emerging, where it is viable, and where additional support or policy intervention may be needed. It would also enhance the Commission's ability to fulfill its statutory obligation under Section 706 of the Telecommunications Act, which requires an annual determination of whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely manner.[8]

While historical Form 477 data remain useful for trend analysis, the Commission's forward-looking assessment should rely on the more accurate BDC. Likewise, given that the Commission increased the fixed broadband benchmark to 100/20 Mbps in 2024, reporting at 25/3 Mbps should be limited to historical comparisons.

[8] Larry Downes, *How Good Is Your Broadband? The FCC Needs to Know*, THE WASHINGTON POST (Aug. 21, 2025), *available at* https://cbpp.georgetown.edu/announcements/larry-downes-how-good-is-your-broadband-the-fcc-needs-to-know-washington-post.

IV. THE COMMISSION SHOULD USE ADDITIONAL DATA SOURCES AND RECONSIDER EXCLUDING AFFORDABILITY FROM ITS ANALYSIS

The Commission's 2025 *NOI* marks a shift in the agency's approach to evaluating broadband deployment under Section 706 of the Telecommunications Act. The Commission proposes to narrow its annual assessment to focus exclusively on the availability of advanced telecommunications capabilities, removing considerations of affordability, adoption, and equitable access from statutory analysis. The revised framework also eliminates the long-term goal of achieving gigabit speeds and emphasizes "reasonable and timely deployment" as incremental progress, rather than universal access. While INCOMPAS supports efforts to accelerate deployment, we urge the Commission to recognize that affordability, adoption, and competition remain essential elements to achieving universal service goals and ensuring that all Americans can benefit from advanced broadband connectivity.

In prior reports, a lack of granular price information, especially for rural areas, limited the Commission's ability to analyze affordability. Today, new data sources can be insightful. The Commission should leverage pricing information displayed on providers' broadband labels and plan information published on provider websites. We recognize that the 2025 *NOI* proposes to exclude affordability and adoption from the statutory Section 706 finding.[9] Even so, INCOMPAS urges the Commission to reconsider this exclusion and, at a minimum, continue to measure, publish, and prominently feature national median and mean broadband prices for key speed tiers (*e.g.*, 100/20 Mbps). Understanding real-world prices is critical to the Commission's broader public interest goals and to ensuring that availability translates into actual use.

[9] *See NOI* at 2-4, ¶¶ 4–6 (proposing to exclude affordability and adoption from the statutory finding).

Affordability remains a primary barrier to adoption. Pew Research reports that while 79% of U.S. adults subscribe to home broadband, adoption is significantly lower among households with lower incomes and lower educational attainment. Additionally, 15% of adults are "smartphone-only" internet users, most often citing cost as the reason for not having home broadband.[10] These figures underscore that measuring availability without a concomitant effort to study affordability risks overstating progress toward universal service.

The Commission's own 2024 Communications Marketplace Report confirms that broadband prices vary widely by technology and plan type. Weighted average monthly prices were approximately $51 for fixed wireless, $70 for DSL, $94 for cable, and $160 for fiber, with non-promotional prices averaging about 20% higher than advertised rates.[11] Without tracking these trends, the Commission cannot fully assess whether consumers can reasonably obtain service that meets the current 100/20 Mbps benchmark.

INCOMPAS supports identifying areas and related populations that lack access to advanced telecommunications capability but are subject to enforceable commitments under federal or Commission-administered broadband programs. This approach ensures that the FCC's Section 706 analysis reflects both current availability and realistic expectations for near-term deployment, while avoiding the double-counting of unserved locations in policy decisions and funding allocations.

[10] Pew Research Center, *Internet/Broadband Fact Sheet* (Nov. 13, 2024), *available at* https://www.pewresearch.org/internet/fact-sheet/internet-broadband/.

[11] *See* 2024 Communications Marketplace Report at ¶ 30.

The FCC's Broadband Funding Map[12] is an important starting point because it aggregates data from the Commission, NTIA, USDA's Rural Utilities Service, the Appalachian Regional Commission, and the U.S. Department of the Treasury. However, the Commission should acknowledge its limitations. Current data may not fully capture state-level enforceable commitments or reflect the timing and enforceability of milestones. For example, some programs, such as the Rural Digital Opportunity Fund ("RDOF"), have final buildout deadlines as late as 2027–2028, and interim milestones that will not be verified for years.[13] This means that millions of locations technically "covered" by a funding commitment may remain unserved for an extended period. To improve accuracy, INCOMPAS recommends that the Commission:

- **Incorporate timing and enforceability**: Only commitments with clear, enforceable deadlines and performance obligations should be considered in the analysis. Commitments without near-term milestones should not remove a location from the "unserved" category for purposes of assessing whether deployment is "reasonable and timely" under Section 706.[4]
- **Cross-verify with state and federal data**: Supplement the Broadband Funding Map with state broadband office data to ensure completeness and consistency.

This approach aligns with the Broadband DATA Act's mandate for accurate, granular mapping, ensuring that the Commission's Section 706 Report finding reflects both current availability and the realistic pace of deployment.[14]

[12] FCC Broadband Funding Map, *available at* https://broadbandmap.fcc.gov/funding-map.

[13] *See Rural Digital Opportunity Fund*, WC Dockets No. 19-126, 10-90, Report and Order, 35 FCC Rcd 686 (2020), ¶¶ 41–44.

[14] *See* Broadband DATA Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641–646).

V. THE COMMISSION SHOULD CONTINUE TO TREAT 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 substitutes. These services cater to different consumer expectations, and most consumers prefer to have access to both. Fixed wireline typically delivers faster, more robust and dedicated connections that support data-intensive applications, often without strict data caps. Mobile broadband offers essential connectivity on the go, albeit at lower speeds, with variable performance and tighter data constraints.

Consumers' subscription patterns reinforce this conclusion. A large majority of U.S. adults (80 percent) subscribe to home broadband when available and affordable. At the same time, only a minority (15 percent) relies solely on smartphones for internet access, often due to income or education constraints.[15] Separate evaluation ensures that benchmarks appropriately reflect the distinct capabilities and use cases of fixed and mobile networks, including applications (such as certain telehealth services) that require stable, high-throughput fixed connections.

Even with 5G, there will still likely be applications and services that require a fixed connection, such as telehealth, reinforcing that the Commission should 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 broadband is necessary to meet the needs of

[15] *See* Pew Research Center, *Mobile Technology and Home Broadband 2024* (Jan. 31, 2024), *available at* https://www.pewresearch.org/internet/2024/01/31/americans-use-of-mobile-technology-and-home-broadband/.

consumers. Therefore, the Commission should continue to evaluate fixed and mobile broadband networks separately based on benchmarks that reflect advanced capability for these services.

VI. THE FCC SHOULD CONTINUE TO ANALYZE FIXED WIRELESS AND SATELLITE SERVICES SEPARATELY

A. Fixed Wireless and Satellite Broadband Adoption Trends

The adoption and deployment of fixed wireless access ("FWA") and satellite broadband have accelerated in recent years, particularly in hard-to-reach rural and Tribal areas. As of year-end 2024, FWA reached approximately 7.8 million U.S. households, with T-Mobile taking the lead on adding new subscribers. In fact, FWA added nearly as many subscribers in 2024 as fiber-to-the-home ("FTTH"), which now stands at 34 million subscribers, doubling its base over five years.[16] Satellite broadband, especially low-Earth orbit ("LEO") services, is also expanding with new competition coming online. States such as Colorado and Washington have allocated 50% and 6.2% of their BEAD investments, respectively, to LEO providers.[17] Despite these gains, adoption remains modest relative to more established, incumbent services, such as cable and fiber. Cable still dominates with an over 60% market share, although it is in decline, while fiber is projected to reach 33% of all broadband users by 2029.

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[16] *2024: A Year in Review for Fixed Broadband*, Broadbandtrends LLC, (rel. Dec. 30, 2024) available at https://www.broadbandtrends.com/post/2024-a-year-in-review-for-fixed-broadband-and-what-s-next-in-2025.

[17] *Final Guidance for BEAD Funding of Alternative Broadband Technology*, National Telecommunications and Information Administration (Jan. 2, 2025) available at https://www.ntia.gov/blog/2025/final-guidance-bead-funding-alternative-broadband-technology ("NTIA Final BEAD Guidance")

B. Implications for Section 706 Analysis

To avoid overstating competitive options as experienced by consumers today, the Commission should continue to analyze FWA and satellite services separately within the Section 706 framework. The Seventeenth Section 706 Report adopted a benchmark of 100/20 Mbps for fixed broadband and concluded that 28% of rural residents and 23% of Tribal residents still lack access to such service.[18] While the Commission previously incorporated broader universal service goals into its Section 706 analysis, including affordability and adoption, the current report emphasizes physical deployment as the primary metric for determining whether advanced telecommunications capabilities are being deployed in a reasonable and timely manner.

C. The BEAD Program and Alternative Technologies

As states implement BEAD-funded projects, the Commission should ensure its evaluations and actions to increase the availability of broadband reflect the real-world experiences of consumers and the evolving capabilities of broadband technologies. The NTIA's Final BEAD Guidance explicitly supports subgrants to LEO and unlicensed FWA providers, provided they meet technical standards and other thresholds. In turn, states are responding by making these alternative technologies an important part of their deployment proposition, depending on their unique and specific needs. Colorado provisionally proposes connecting 50% of eligible locations via LEO satellite. In comparison, Washington's proposal intends to connect 38.6% of its eligible locations with licensed terrestrial FWA and 8.3% of locations with licensed-by-rule FWA.[19]

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[18] *See* 2024 Communications Marketplace Report at 3, ¶ 4.

[19] *See Final Proposal NTIA's Benefit of the Bargain Round*, CO Broadband Office, Governor's Office of Information Technology (Sep. 3, 2025), *available at* https://docs.google.com/document/d/1o9NtBfY6UCpRlkpDwULiGNywHolNcK-WHnA0V5dDiJw/edit?tab=t.0#heading=h.lbhn2olk6p8c; *see also Internet for All in*

VII. THE COMMISSION SHOULD LEVERAGE NEW SOURCES OF DATA REGARDING SCHOOLS AND CLASSROOM ACCESS

Although the Connect K-12 Report is no longer published, the Commission has access to alternative data sources to measure school and library connectivity. The E-rate program's publicly available data, including bandwidth, pricing, and service type, provides a reliable foundation for tracking progress toward short-term goals.[20] Moreover, the State Educational Technology Directors Association's Universal Connectivity Imperative provides a comprehensive national and state-level analysis of K–12 connectivity aligned with the 2024 National Educational Technology Plan.[21] These resources, combined with Funds For Learning's 2024 E-rate affordability analysis[22] and insights from New America's 2024 broadband equity research,[23] can help the Commission maintain transparency and accuracy in its Section 706 assessment. Leveraging these sources will ensure the FCC continues to monitor whether schools and libraries have the necessary bandwidth to support digital learning and equitable access, even as legacy reports are sunset.

Washington, Draft Final Proposal, Broadband Equity, Access, and Deployment Program, Washington State Department of Commerce, *available at* https://deptofcommerce.app.box.com/s/7g17ewenl1xwks7xnzdkro1kxcssl5h1.

[20] *E-rate Program Data,* Universal Service Administrative Company (USAC), (last visited Sept. 3, 2025), https://www.usac.org/e-rate/.

[21] *The Universal Connectivity Imperative*, State Educational Technology Directors Association (SETDA), (last visited Sept. 3, 2025), https://www.setda.org/.

[22] *2024 E-rate Trends Report,* Funds For Learning (last visited Sept. 3, 2025), https://fundsforlearning.com/.

[23] *Closing the Homework Gap: Broadband Access and Equity in Education*, New America, (2024), https://www.newamerica.org/.

VIII. PROPOSED ACTIONS TO ACCELERATE BROADBAND DEPLOYMENT

A. The FCC Should Initiate Universal Service Fund (USF) Program Deployment-Focused Reforms Within Its Legal Authority

As the Commission considers potential modifications to the USF programs, it should first prioritize distribution reform that reflects the unprecedented influx of federal and state broadband funding through the BEAD program and other federal broadband deployment programs. Rather than expanding assessments to entities outside the Commission's statutory authority, such as edge providers or technology platforms, the FCC and Congress should focus on BIAS connections, which remain an appropriate and legally supported basis for contribution. Expanding assessments beyond this scope risks creating market distortions, undermining the Commission's statutory framework, and violating international trade commitments. Specifically, the EU-U.S. Framework Agreement on Reciprocal, Fair, and Balanced Trade, announced August 21, 2025, affirms that both parties "agree not to impose discriminatory access fees or other measures that would unfairly target digital service providers based on nationality or business model."[24]

Moreover, while it is appropriate to examine all funding programs for efficiency and transparency, there is no need to declare "waste, fraud, and abuse" outside of the existing enforcement structures already available to the Commission, including audits, reporting requirements, and program reviews. Reform efforts should aim to ensure that supported providers receive no more support than necessary, and that cost-effectiveness and competitive

[24] Joint Statement on a United States-European Union Framework Agreement on Reciprocal, Fair and Balanced Trade, European Commission & Office of the United States Trade Representative (Aug. 21, 2025) *available at* https://policy.trade.ec.europa.eu/news/joint-statement-united-states-european-union-framework-agreement-reciprocal-fair-and-balanced-trade-2025-08-21_en.

selection are central to deployment decisions, without overreaching into areas that could trigger legal and international trade concerns.

B. Permitting Reforms Under Sections 253 and 224 Are Critical to Increase Deployment and Broadband Availability

Section 706 requires the Commission to determine annually whether advanced telecommunications capability "is being deployed to all Americans in a reasonable and timely fashion." If that determination is negative, the Commission must "take immediate action to accelerate deployment . . . by removing barriers to infrastructure investment and by promoting competition." Because the speed and predictability of access to poles, conduits, rights-of-way, and local permits directly determine whether deployment is reasonable and timely, especially for competitive providers, permitting reform is central to this inquiry.

INCOMPAS members continue to face unreasonable delays and costs associated with pole access, conduit entry, local permitting, and access to multiple tenant environments (MTEs). These frictions materially inhibit the provision of service, slow consumer access to better and more affordable options, and diminish competitive pressure on incumbents. Courts have affirmed the Commission's authority to preempt state and local requirements that materially inhibit deployment, and the Commission has exercised that authority to remove such barriers consistent with Sections 253 and 224.[25]

[25] *City of Portland v. United States*, 969 F.3d 1020, 1037–38 (9th Cir. 2020) (affirming the FCC's authority under Section 253(a) to preempt state and local laws that "materially inhibit" the provision of telecommunications services); *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133, at ¶¶ 35–37 (rel. Sept. 27, 2018).

With BEAD and related programs driving an unprecedented build cycle, permitting frictions are now a primary determinant of whether national availability goals are achieved "in a reasonable and timely fashion." NTIA's implementation guidance anticipates that state and local permitting will be a critical path and encourages streamlined, transparent, and timely processes to prevent projects from stalling.[26] In short, even fully funded projects cannot advance without timely permits and predictable access to essential facilities; the Section 706 analysis should therefore consider the state of permitting and access processes as leading indicators of availability.

Because permitting and infrastructure access often determine the feasibility and timing of deployment, they should be treated as central inputs to the Section 706 availability assessment. INCOMPAS urges the Commission to: (1) measure permitting and access performance (permit cycle times, incompleteness notices, denial rates, and moratoria, including separate tracking for bulk/large order requests and MTE access) and correlate these measures with missed build milestones and persistent unserved/underserved locations; (2) where the record shows state or local practices that materially inhibit deployment, including non-cost based fees, indefinite "pauses," serial incompleteness letters, refusal of bulk pole applications, these should lead to an adverse 706 finding for the affected geographies and the FCC should announce prompt use of Sections 253 and 224 to preempt or correct the barriers through targeted actions; (3) state that failure to meet the Commission's pole timeline benchmarks will be treated as evidence of a

[26] *National Telecommunications and Information Administration*, BEAD Final Proposal Guidance for Eligible Entities, Version 2.1, at 31–33 (July 2025), *available at* https://broadbandusa.ntia.gov/sites/default/files/2025-08/DOC_NTIA_Final_Proposal_Eligible_Entity_Guidance_07_2025.pdf (encouraging Eligible Entities to implement streamlined, transparent, and timely permitting processes to reduce barriers and accelerate deployment).

presumptive prohibition and an indicator that deployment is not reasonable and timely under Section 706, subject to rebuttal; and (4) coordinate with NTIA so state BEAD implementation includes transparent, timebound permitting at both the state and local level, with deviations that materially inhibit deployment treated as actionable under Sections 253 and 224 of the Communications Act.

IX. CONCLUSION

For the reasons stated above, INCOMPAS urges the Commission to: (1) continue leveraging the BDC and confidential residential connections data for a realistic view of competition; (2) use additional data sources to illuminate affordability and pricing and reconsider excluding these factors from the statutory assessment; (3) maintain separate analyses for fixed and mobile broadband as well as for fixed wireless and satellite; and (4) use its authorities under Sections 253 and 224 to remove barriers and streamline permitting so that deployment is truly reasonable and timely for all Americans.

Respectfully submitted,

INCOMPAS

/s/ Staci Pies

Staci Pies
Senior Vice President of Gov't Relations and Policy

Christopher L. Shipley
Executive Director of Public Policy

Taylor Abshire
Attorney and Policy Advisor

1100 G Street NW, Suite 800
Washington, DC 20005
spies@incompas.org

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