Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of	)	
Advanced Telecommunications	)	
Capability to All Americans in a Reasonable	)	GN Docket No. 07-45
And Timely Fashion, and Possible Steps	)	
to Accelerate Such Deployment	)	
Pursuant to Section 706 of the	)	
Telecommunications Act of 1996	)	

REPLY COMMENTS OF CONSUMERS UNION, CONSUMER FEDERATION OF AMERICA AND FREE PRESS

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I. Introduction

This Notice of Inquiry seeks input that will enable the Commission to determine whether "advanced telecommunications" capability is being deployed to all Americans in a reasonable and timely fashion. This inquiry is mandated under Section 706 of the 1996 Telecommunications Act, which provides a very specific and measurable definition of "advanced telecommunications capability" as "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology."[1]

In our initial comments[2], we provided a wide array of evidence to the Commission demonstrating that the deployment of *advanced telecommunications capability*, as defined in Section 706, is not being deployed to *all* Americans in a reasonable and timely fashion. Our comments pointed the Commission to policy options that would address the failures of the U.S. broadband market in an equitable and efficient manner. The record in this proceeding demonstrates that the benefits of broadband competition have not yet arrived in America. A few commenters, including incumbents and the associations representing them, attempted to convince the Commission that the U.S. broadband market is "teeming" with choice.[3] However, the evidence offered by these commenters does not adequately demonstrate that this is indeed the case. In our reply filing, we rebut the claims of the commenters who contended all is well in America's broadband market.

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[1] § 706(c) of the Telecommunications Act of 1996, Pub. L. 140-104, 110 Stat. 56 (1996) ("The Act" or "1996 Act").

[2] Comments of Consumers Union, Consumer Federation of America and Free Press, GN Docket No. 07-45 ("CU Comments").

[3] Comments of the National Cable and Telecommunications Association at 3, GN Docket No. 07-45 ("NCTA Comments").

II. Commenters Claims of a Vibrantly Competitive Intermodal Broadband Market Do Not Withstand Close Scrutiny

The incumbents who control the two dominant U.S. broadband platforms (cable and DSL) listed a wide variety of technologies that they deemed as competitors. These included Broadband over Powerline (BPL), satellite, mobile wireless, fiber, municipal WiFi, WiFi hot spots and Wi-MAX.[4] While it is true that these technologies *exist*, and are capable of providing data transfer at rates exceeding 200 kilobits per second (kbps), they can hardly be characterized as "competing" technologies. According to the FCC's own data, the two dominant platforms, cable modem and DSL, account for 96% of residential high-speed lines.[5] Below we offer further evidence that the remaining four percent of connections are not viable competitors to the cable-DSL broadband duopoly.

Broadband over Powerline. According to FCC data, Broadband over Powerline currently has slightly more than five thousand residential subscribers accounting for .0011 percent of total subscribers.[6] In their filing, Verizon references an estimate that BPL will increase from 400,000 subscribers in 2007 to 2.5 million in 2011.[7] Looking back to the Commission's *Fourth Inquiry*, Verizon cited a similar estimate that stated, "BPL will encompass six million power lines by 2006, promising revenues of $3.5

[4] See, e.g., Comments of Verizon at 17 ("Verizon Comments"); Comments of AT&T at 8 ("AT&T Comments"); NCTA Comments at 11; Comments of CTIA at 4. All comments submitted in GN Docket No. 07-45

[5] "High-Speed Services for Internet Access as of June 30, 2006," Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission.

[6] Ibid.

[7] Verizon Comments at 20.

billion".[8] This speculation has clearly not come to fruition. The hope for new competition from BPL providers seems to always remain just over the horizon.

Satellite. Similarly, satellite subscribers only account for .033 percent of total subscribers as of June 2006. The number of advanced service satellite connections actually *declined* by forty percent from December 2005 to June 2006.[9] Furthermore, the price, speed, and abundant restrictions of satellite leave the medium as a last resort for those unable to access a terrestrial service.[10] There is no evidence to suggest that the providers of satellite data services compete directly with cable modem and DSL providers.

Mobile Wireless. We have provided extensive evidence demonstrating that mobile wireless constitutes a complimentary service and does not compete head-to-head with DSL or cable modem service.[11] This is evidenced by the fact that 89.5% of mobile wireless connections are business subscriptions.[12] Also, as is the case with satellite service, these mobile wireless connections are slow and hampered by a variety of restrictions that are not placed on fixed line services.[13] It is also noteworthy that two of the top three mobile wireless providers are also the dominant DSL providers.[14] Despite this evidence, some commenters still insist that advances in wireless deployment and

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[8] Initial Comments of Verizon at 11-12, GN Docket No. 04-54.

[9] This was a decline from 25,118 lines to 15,055 lines. *See*, "High-Speed Services for Internet Access as of June 30, 2006," Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission.

[10] CU Comments at 13; Comments of Roy A. Elliot at 2, GN Docket No. 07-45.

[11] CU Comments at 29.

[12] "High-Speed Services for Internet Access as of June 30, 2006," Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission.

[13] CU Comments at 58.

[14] Leichtman Research Group, May 2006.

adoption means the U.S. broadband marketplace is alive with vigorous competition. For example, Verizon tried to explain away the poor U.S. standing in international broadband comparisons by asserting that "[w]ireless broadband services are now more widely available in the U.S. than in Europe."[15] However, this claim does not withstand scrutiny, as it appears to be based on a report that contains no such conclusion.[16] We identified a much more recent survey conducted in partnership with TNS Media Intelligence. After surveying at least a thousand people in five European countries and the United States, the study showed that mobile wireless is more widely available in Europe.[17] Furthermore, a similar study found Europeans to be more likely to actually access web content from a mobile phone.[18]

In spite of the many claims to the contrary, we believe the record provides ample evidence to demonstrate that mobile wireless is not the third pipe competitor its supporters claim it to be, and is not the solution to America's broadband woes.

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[15] Verizon Comments at 24-25.

[16] In making this assertion, Verizon based this claim on a sentence contained in the Commission's most recent report to Congress on the State of Competition in the Commercial Mobile Radio Services Industry (see *Eleventh CMRS Report*). However, the Commission makes no such assertion in the section cited, but instead vaguely refers to a *Wall Street Journal* article on the subject of U.S. versus European deployment of wireless broadband (*see* Walter S. Mossberg, "Cingular Joins Rivals with Fast, Reliable Wireless Broadband, *Wall Street Journal*, January 19, 2006). The *Journal* article itself was published well over a year ago without any reference to where the European information was gathered, and the article also makes no mention of mobile wireless being more widely available in the U.S. than in Europe.

[17] Online Publishers Association, "Going Mobile: An International Study of Content Use and Advertising on the Mobile Web," March 2007, Conducted in partnership with TNS.

[18] comScore Networks, "Europeans More Likely than Americans to Use Mobile Phones to Access the Internet," Mobile Tracking Study, 23 October, 2006.

Fiber. While a welcome addition, Verizon's limited deployment of fiber does not constitute a new competitor nor does the presence of a fiber offering in a few high-income markets mean that advanced telecommunications technology is being deployed to *all* Americans. The excessive price, lack of symmetrical offerings, and restrictions do not constitute advanced telecommunications capability as envisioned under Section 706. Furthermore, when Verizon deploys its FiOS technology, it removes the copper lines that could enable CLEC's to offer competitive services.[19] Thus the addition of the FiOS competitor comes with the elimination of *all* potential DSL competitors, including Verizon itself. Verizon claims that it has "deployed more fiber to mass-market premises than all carriers in Europe combined."[20] We remind the Commission that when comparing the United States to other countries, raw totals are meaningless due to the absolute size of the U.S. population. According to the OECD, as of December 2006 there were 0.3 fiber or LAN subscribers per 100 inhabitants in the U.S., in contrast to 2.6 in Denmark, 1.4 in Norway, 0.4 in the Slovak Republic, 0.4 in the Netherlands, and 0.4 in Italy. The deployment of Fiber in East Asia is even more impressive, with South Korea having 7 fiber or LAN subscribers per 100 inhabitants, while Japan has 6.2 -- over 20 times higher than the level observed in the U.S.[21]

Municipal WiFi & Fiber. It is ironic that some commenters point to municipalities offering fiber and wireless when making a case for a vibrant and

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[19] Mike Musgrove, "FiOS Speeds Up Web, Phone and TV Access", *Washington Post*, May 8, 2005. The article states, "When Verizon installs the fiber-optic connection to your home, the technicians cut down the old, copper-line connection to the telephone network and will not replace it if you later decide to cancel."

[20] Verizon Comments at 26.

[21] Organization for Economic Cooperation and Development (OECD), "OECD Broadband Statistics to December 2006".

competitive broadband market.[22] The decision by these entities to provide this service to their citizens came in *direct response* to the substandard offerings of these same incumbent providers, who themselves fought tooth and nail to keep municipalities from deploying the service, even in some cases after gaining voter approval.[23] The proactive role taken by these government entities is a harbinger of the lack of competition and service provided by the incumbents.

WiFi Hotspots. The claim of competition from WiFi hotspots is without merit. These hotspots are typically provided by a business in order to encourage customers to spend time in their establishment. While a valuable *complementary* addition to the broadband market, these connections are not substitutes for home broadband access. Similar to mobile wireless, commercial WiFi represents a complimentary service for those who routinely use broadband and want to constantly have it at their fingertips.

Verizon seeks to influence the commission by noting the raw number of WiFi hotspots in the U.S. compared to other OECD countries.[24] This is not a surprising result, given that the U.S. is the world's third most populated nation, and is once again is an example of a commenter using raw numbers in a situation where *per capita* information is appropriate. Section 706 requires deploying advanced telecommunications capability to *all* Americans in a reasonable and timely fashion, not just those with a wireless capable laptop and a craving for coffee.

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[22] Verizon Comments at 17-18 & 19-20; AT&T Comments at 8; NCTA Comments at 11 & 13.

[23] See, for example, http://news.com.com/Voters+approve+citywide+fiber+project/2100-1033_3-5792387.html; http://www.freepress.net/news/12355

[24] Verizon Comments at 26.

Wi-MAX. Wi-MAX is an emerging technology that is currently not available in the overwhelming majority of local markets. According to the WiMax Forum, the technology has only been deployed in 250 markets worldwide. The U.S. deployments are largely test projects, limited to business customers in a few select major U.S. cities.[25] Commenters point to potential future offerings by Sprint and Clearwire.[26] The hope that these will bring about the elusive third pipe is just that, a hope. There is little evidence to suggest that these offerings will be noticeably different from the current mobile wireless offerings. Wi-MAX carriers will likely target business users, who desire mobility as the distinguishing product feature, and place less emphasis on speed and product flexibility, the product traits most coveted by residential users. Furthermore, comments by one incumbent insinuate that they will take action before allowing "new kids on the block".[27]

The Commission needs to take a proactive role to ensure new competitors enter the *existing* broadband market. Relying on niche and complimentary services in the hopes of finally achieving the intermodal panacea will not achieve Congress' goal of bringing advanced telecommunications capability to *all* Americans in a *reasonable* and *timely* fashion.

III. Americans Pay More for Less. Demand Will Increase When the Value of U.S. Broadband Connections Increases.

Broadband Cost. As we noted in our initial comments, the price per megabit paid by U.S. consumers is excessive when compared to that paid by consumers in other

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[25] See http://www.wimaxforum.org

[26] AT&T Comments at 8; Verizon Comments at 18.

[27] Comments of the National Association of Telecommunications Officers and Advisors, The National Association of Counties, The U.S. Conference of Mayors, and The National League of Cities at 13, GN Docket No. 07-45.

leading nations.[28] According to a representative of Japan's NTT, Americans pay seven times as much on a cost-per-megabit basis as the Japanese.[29] AT&T responds to this fact by citing a Pew Center report on the price of DSL and cable modem service, which showed a slight overall decline in the monthly price of broadband service.[30] While this study does indicate the average price of service has slightly declined for DSL, it also reveals that the price of cable modem service has remained flat.[31] The DSL price decline is largely due to the recent proliferation in low-cost low-speed introductory offers aimed at enticing dial-up customers to finally make the leap to broadband. These introductory packages are often time limited, require long-term contracts, are contingent upon the subscription to landline POTS service, and offer data speeds that are a fraction of those offered by cable modem providers.[32]

We would expect a truly competitive broadband market to behave like other industries, where quality increases and cost declines as the "demand curve shifts out". However, this is not the trend observed in the U.S. broadband market. While speeds have slowly increased (though not even close to the rate expected by Moore's law), the *true* prices paid by end users has largely stayed flat, or increased in some instances.[33] DSL and cable incumbents appear to be content to differentiate their services through adjacent

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[28] CU Comments at 39; also, see Comments of New Jersey Rate Council at 12-13, GN Docket No. 07-45.

[29] Grant Gross, "U.S. customers pay considerably more than the Japanese for bandwidth," IDG News Service, 4 April 2007, Available at http://www.infoworld.com/archives/emailPrint.jsp?R=printThis&A=/article/07/04/04/HNjapbroadband_1.html.

[30] AT&T Comments at 7.

[31] John B. Horrigan, "Home Broadband Adoption 2006," Pew Internet & American Life Project, May 28, 2006.

[32] *See* S. Derek Turner, "Broadband Reality Check II", Free Press, August 2006.

[33] *Ibid.*

complementary products, resisting head-to-head competition on the underlying data offering. Cable providers emphasize their digital TV and VoIP offerings in "triple play" bundles while incumbent LEC's market the "reliability" of their voice offerings in their "double play" bundles. This is the expected result of an over-reliance on intermodal competition to the detriment of intramodal competition.

Verizon does note in their filing that their FiOS service has "already prompted cable operators to respond by lowering their prices".[34] However, further inspection of the citation reveals that this price drop comes only *after* a customer mentions FiOS to a sales representative, and that these forced price drops are "thinly advertised".[35] This is hardly evidence of a robust, competitive market.

Broadband Speed. The record of evidence is clear: American broadband connections are slow by international standards. Our initial comments focused on Congress' intent to use 706 to foster the deployment of symmetrical true broadband services.[36] With this in mind, we second the sentiment of many commenters that the Commission continue to monitor the deployment of all *non-dial up* connections. But we strongly reiterate that a 200 kbps symmetrical definition for *advanced telecommunications* capability does not live up to the standard set in Section 706.

Keeping this in mind, it is revealing that incumbent providers are set on maintaining the status quo.[37] AT&T infers that the definition provided by Congress of

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[34] Verizon Comments at 7.

[35] *Ibid.*

[36] CU Comments at 9.

[37] NCTA Comments at 20; AT&T Comments at 14 & 17; also see Verizon Comments at 31, including dial-up to increase the U.S. Internet penetration rate.

advanced telecommunications capability was not based solely on transmission speed.[38] We agree. Congress did not mention speed, as it expected compression technology and protocols to advance in tandem with transmission speed. But the fact remains that almost no U.S. connections have advanced telecommunications *download* capability as defined in Section 706, and the lack of emphasis on upload speeds on the part of incumbents has produced a marketplace where no residential broadband consumers can *originate* high-quality video transmissions.

Demand for Broadband. In their initial filing, Verizon spends time touting the dial-up access available to Americans.[39] Given the successes of the Universal Service Fund, it is not surprising to learn that there is high-availability of a dial tone service. The hypothesis that many Americans are content with dial up masks the true reason why some U.S. consumers are content with dial up service: the high price of broadband for a low perceived value. Indeed, recent surveys indicate that the high price of and lack of broadband availability are the major reasons behind dial up customer's reluctance to switch to high-speed service.[40]

Verizon also proffers that due to the cultural differences between Korea and the United States -- specifically Koreans interest in online gaming -- that the demand for advanced telecommunications services is significantly lower in the U.S.[41] But Verizon offers no economic data on demand elasticities in the two countries to support this theory.

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[38] AT&T Comments at 13.

[39] "A relatively high percentage of households in the U.S. still use dial-up Internet access and apparently find that adequate for their Internet needs" Verizon Comments at 29.

[40] *See* S. Derek Turner, "Broadband Reality Check II", Free Press, August 2006.

[41] Verizon Comments at 29-30.

We believe that the success of user-generated video sites like YouTube demonstrates that there is a voracious demand for high-capacity broadband services in the United States. In short, if incumbent providers faced *real* competition, like that seen in other nations, they would move to increase speeds and lower prices. This would increase the *value* of broadband service, enticing the remaining dial up customers to make the switch.

IV. The OECD Provides An Accurate Measurement of the Broadband Market Within the United States and In Comparison to Other Countries

The dominant broadband incumbents seek to discredit the international rankings provided by the Organization for Economic Cooperation and Development (OECD). Many of the arguments employed have been utilized before, and were thoroughly addressed in our initial comments.[42]

Providing Raw Numbers. Commenters point to the raw, absolute increase in subscribers to high-speed service as evidence that the Commission should not be concerned with deployment.[43] No one disputes that the U.S. broadband figures are trending "up and to the right", but the fact remains that millions of Americans are unable to purchase high-speed Internet access, regardless of the price. Most Americans have little real choice in the broadband marketplace, a fact that is further acerbated by the high switching fees imposed by incumbent providers. AT&T and the NCTA also point to the fact that 30 percent of total OECD subscribers reside in the U.S.[44] This argument is simply disingenuous. The plain fact is more people reside within the United States than any other OECD country. Under this rhetorical approach, it could be stated that the U.S.

[42] CU Comments at 40-44.
[43] NCTA Comments at 16; Verizon Comments at 13; AT&T at 6.
[44] AT&T Comments at 17; NCTA Comments at 4.

has more unemployed workers than any other OECD country.[45] However, when viewed through the appropriate per capita metric -- the unemployment *rate* -- U.S. unemployment is among the lowest in the OECD. The repeated use of raw numbers does nothing to inform the Commission or policymakers, and in effect disguises the true performance of the U.S. broadband market.

College Students. Another tactic utilized in certain filings was to point to the large number of U.S. college students who have opportunities to utilize broadband outside of the home. While it is unclear how the OECD deals with university Internet connections, we do know that the OECD's methodology is consistent across all 30 nations, and therefore the *trends* in the U.S. ranking remain highly informative. However, NCTA asserts in its filing, without evidence that "there are approximately 16 million college students, *most, if not all*, of whom reside on campuses that provide wired and wireless HSD access" (emphasis added).[46] But this is simply not the case. A Pew report on the Internet habits of college students finds that almost 70 percent of students report living with parents or in an off-campus location. The survey also demonstrated that almost 60 percent of college students use their home computer most often, with a staggering 93 percent reporting that they used their home computer the most when checking email.[47] Thus it appears that college students overwhelmingly live off campus, and use home connections, not campus connections, as their primary gateway to the Internet. Thus, even though the NCTA provided no evidence that university connections

[45] Using the OECD statistics database, available at http://stats.oecd.org/WBOS/Default.aspx?QueryName=251&QueryType=View.

[46] NCTA Comments at 16.

[47] Steven Jones, "The Internet Goes to College," Senior Research Fellow, Pew Internet & American Life Project, 15 September 2002.

are omitted from the OECD data, it appears that even if some connections are not included that this would not affect the basic conclusion drawn from the data -- that the U.S. continues to fall lower and lower in the international rankings of broadband penetration.

Broadband Penetration. In their initial filing, the NCTA seeks to limit the rankings to household penetration by comparing data from the U.S. and Europe that were obtained in different studies with different methodologies, and are therefore not "apples to apples" comparisons.[48] NCTA asserts that while total penetration data shows the U.S. in 15th place, a look at household penetration would reveal the U.S. in 3rd place among OECD nations. This is a very large leap that requires some unlikely circumstances to be true. In the overall OECD penetration rankings, South Korea is ranked 3rd with 29.1 subscribers per 100 inhabitants, far ahead of the U.S., who has 19.6. In order for the U.S. to have a higher household penetration then the 12 countries with higher total penetration, these 12 countries would all have to have very disproportionate high numbers of business connections, or have abnormally low numbers of persons per household, or a combination of both. There is no evidence to suggest that they do. Granted, the OECD could clarify this situation by calculating household penetration comparative data, but the total penetration data still has immense value. Household penetration is a very important metric, but business adoption of broadband is also an important barometer of future economic strength.

[48] NCTA Comments at 19.

Business Connections. Certain commenters attempt to discredit the OECD data with the accusation that the OECD undercounts U.S. business connections.[49] But a simple look at the OECD data on U.S. connections in comparison to data from the FCC's census of broadband providers shows that this accusation has no basis in fact. After subtracting mobile wireless connections from the June 2006 FCC data (to account for the fact that the OECD does not include these connections in their tally) and comparing these to the June 2006 OECD totals for U.S. subscribers, we found that the FCC counted about 53.6 million lines, while the OECD counted 56.5 million lines.[50] Thus, it appears that the OECD's tally for the U.S. may be *too generous*, and not an underestimate.

Population Density & Urbanicity. We provided extensive evidence in our initial comments to demonstrate why the often-used population density argument[51] is not an accurate explanation for the differences between OECD countries.[52] No significant correlation exists between the population density and broadband penetrations of OECD nations. Even when considering the more relevant metric, urbanicity, there is only a very small, weak statistically significant correlation. Full econometric models point to other factors like median household income and poverty as being much more significant factors that account for the differences between OECD nations.[53] Laying the blame on

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[49] NCTA Comments at 18; Verizon Comments at 28-29; AT&T Comments at 17.

[50] Organization for Economic Cooperation and Development (OECD), "OECD Broadband Statistics to June 2006" (The OECD numbers were taken from the June 2006 study, the same timeframe as the latest totals provided by the FCC); "High-Speed Services for Internet Access as of June 30, 2006," Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission.

[51] NCTA Comments at 17-18; Verizon Comments at 29; AT&T Comments at 17.

[52] CU Comments at 41.

[53] *See* S. Derek Turner, "Broadband Reality Check II," Free Press, August 2006.

geography is not going to bring affordable advanced telecommunication technology to all Americans in a reasonable and timely manner.

European Broadband Adoption. The NCTA points to the latest European Competitive Telecommunications Association scorecard to put forward evidence that broadband adoption rates are slowing across Europe.[54] However, not mentioned by NCTA is the fact that the cited study goes on to note that this stems directly from poor competition policy in certain EU countries who are specifically "rejecting open markets". The study concludes, "Europe could gain an extra 20 million broadband lines by opening markets further to competition".[55]

Furthermore, a look at the OECD's historic broadband penetration growth rates shows a mixed bag. Belgium, Denmark, France, the Netherlands, and Korea exhibited an increase in the penetration growth from December 2005 to 2006 as compared to the same time period a year earlier, while others including the U.K., Canada, Germany, Italy, and the United States did not (see Figure 1).[56]

Intramodal Competition. Verizon offered a graph in its comments that shows the percentage of lines that are DSL or "Other" technologies. This was offered in an attempt to somehow imply that the U.S. has one of the most competitive markets in the OECD. This tactic provides an eye-catching graph, but does little to accurately display the

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[54] NCTA Comments at 18.

[55] ECTA, "Broadband Take-up Dramatically Slows Across Europe – ECTA blames rise in monopolies," News Release, 1 February, 2007, Available at http://www.ectaportal.com/en/upload/File/Broadband%20Scorecards/Q306/FINAL%20European%20PR%20Sc%20Q306_2_.pdf.

[56] Free Press analysis of Organization for Economic Co-operation and Development, Broadband Statistics for December 2004-2005 and December 2005-2006.

competition available in OECD countries.[57] It substitutes *platform* diversity for actual competition. By completely ignoring the ubiquitous *intramodal* competition that exists in other OECD countries, Verizon paints an artificially rosy picture of U.S. broadband competition. For example, according to Verizon's chart the U.K. is ranked 17th while the U.S. is 2nd. However, British Telecom recently reported on the U.K. market, and though BT is the dominant DSL provider, they only have 24% share of the market. This analysis also showed that the most dominant cable modem provider has 26% of the customers, with *intramodal* competitors accounting for the remaining 50% of the market.[58] It is also worth noting that price-per-megabit in the U.K. market is considerably lower than in the U.S.[59] In addition, according to the latest OECD data, 7 of the 14 countries ahead of the U.S. in the OECD rankings have a leading platform with a market share of 62% or less -- which is close to the level seen in this country.[60]

[57] Verizon Comments at 24.
[58] Comments of Time Warner Telecom, Inc at 60, GN Docket No. 07-45.
[59] *Ibid* at 58.
[60] CU Comments at 43.

Figure 1: Growth in Broadband in the OECD

Country	Year to Year Change In Broadband Penetration (OECD)					
	Dec 2001-2002	Dec 2001-2003	Dec 2003-2004	Dec 2004-2005	Dec 2005-2006	Slowing ('05 to '06)?
Belgium	4.3	3.0	3.8	2.8	4.2	No
Czech Republic	0.1	0.3	2.0	3.9	4.2	No
Denmark	3.8	4.8	6.0	6.0	6.9	No
France	1.8	3.1	4.6	4.7	5.1	No
Greece	0.0	0.1	0.3	1.0	3.2	No
Hungary	0.3	1.4	1.6	2.7	5.6	No
Ireland	0.3	0.5	2.5	3.4	5.8	No
Korea	4.6	2.4	0.6	0.6	3.7	No
Luxembourg	1.2	2.0	6.3	5.1	5.5	No
Mexico	0.2	0.1	0.5	1.3	1.3	No
Netherlands	3.2	4.8	7.2	6.3	6.5	No
New Zealand	0.9	1.0	2.1	3.4	5.9	No
Poland	0.2	0.5	1.3	0.3	4.5	No
Slovak Republic	0.0	0.3	0.7	1.5	3.2	No
Spain	1.8	2.4	2.7	3.6	3.7	No
Turkey	0.0	0.3	0.4	1.4	1.7	No
United Kingdom	1.7	3.1	5.1	5.4	5.7	No
Australia	0.9	1.7	4.2	6.1	5.4	Yes
Austria	2.0	2.0	2.5	4.0	3.2	Yes
Canada	3.2	3.0	2.5	3.4	2.8	Yes
Finland	4.2	4.0	5.4	7.6	4.7	Yes
Germany	1.8	1.5	2.8	4.6	4.1	Yes
Iceland	4.7	5.9	3.9	8.5	1.2	Yes
Italy	1.0	2.4	4.0	3.8	2.9	Yes
Japan	3.9	4.6	4.3	2.6	2.6	Yes
Norway	2.3	3.8	6.8	7.1	5.6	Yes
Portugal	1.5	2.3	3.4	3.3	2.3	Yes
Sweden	2.7	2.6	3.8	5.8	5.7	Yes
Switzerland	3.6	4.5	7.4	5.6	5.4	Yes
United States	2.4	2.8	3.2	3.9	2.8	Yes

None of the attempts to discredit the OECD data can erase the simple fact that there are many other countries who have enacted pro-intramodal competitive policies that are leading to increased speeds, lower prices, and higher adoption of broadband technologies. The trend lines are clear. A decline from 4th in the OECD to 15th in just a few years is something that deserves the attention of the nation, not something that deserves to be excused.

Deregulation. Verizon references Professor Thomas Hazlett to demonstrate that DSL growth has increased more rapidly since "the FCC eliminated line sharing and other regulatory obligations, than the trend in years prior would have suggested."[61] No quasi-experimental evidence exists that suggests that open access requirements were deterring investment or impeding subscribership. The upward trend of subscribers for DSL after the first quarter of 2003 much more likely stemmed from the fact that cable companies were beginning to encroach into the voice services of the telephone companies, who responded with increased investment. This view was expressed at a Senate Judiciary Committee hearing last year by Blair Levin, a former FCC Chief of Staff and former analyst for Legg Mason (the firm who Professor Hazlett cited as producing evidence of the connection between deregulation and telco investment). Levin told the Committee "[t]he rise of cable broadband, far more than any deregulation, was the principal cause of telco investment in network upgrades to offer DSL."[62]

[61] Verizon Comments at 10.

[62] Written Statement of Blair Levin, Managing Director and Telecommunications, Technology and Media Regulatory Anaylst, Stifel Nicolaus & Company, Before the United States Senate Committee on the Judiciary, June 14, 2006.

V. Conclusion

The question before the Commission is simple: is the deployment of advanced telecommunications capability, as defined by Congress, proceeding in a reasonable and timely fashion to all Americans? The evidence assembled in this proceeding demonstrates that the answer is unequivocally: NO.

Americans do not have access to the advanced telecommunications capability envisioned by Congress -- the world where everyone could be a broadcaster and send their own high-quality video content anywhere in the world from the comfort of their own home. A decade after the Act's passage millions of American consumers remain unable to purchase a broadband connection, and the rest have little choice among providers. The market offers high-priced slow connections that are bundled with other products that the consumers may not want. American residential broadband consumers can't purchase symmetrical connections, and are bound by service agreements that prohibit them from originating content. Incumbent providers have made the argument that the U.S. broadband market is "vibrant" and "teeming" with competition, but millions of Americans know that this is simply not the case.

Increasing broadband deployment and competition is the Commission's stated top priority. If this is the case, then the first step towards success is an honest assessment of the condition of this country's high-speed market. The evidence requires a determination that advanced telecommunication capability is not being deployed to all Americans in a reasonable and timely manner. Once this determination is made, the Commission can then implement policy solutions to provide Americans with what Congress intended.

Respectfully submitted,

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