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

In the Matter of	)	
	)	
The State of the Communications Marketplace	)	GN Docket No. 24-119
	)	

To: Office of Economics and Analytics

COMMENTS OF
WISPA – ***THE ASSOCIATION FOR BROADBAND WITHOUT BOUNDARIES***

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Summary

WISPA focuses its comments in this proceeding on questions raised with respect to the marketplace for fixed broadband services and the Commission's ongoing efforts to narrow, and ultimately close, the digital divide by encouraging wider deployment of high-speed internet access. Overall, the state of the U.S. communications marketplace remains mixed, particularly with respect to conditions impacting providers of fixed wireless broadband services, where substantial service growth in recent years may nonetheless be threatened by unwarranted regulatory burdens and the potential for government-subsidized overbuilding in areas already receiving reliable broadband service.

Competition in the broadband marketplace is robust and wireless internet service providers have emerged as critical contributors to this market across broad areas of the country. Consumer demand for high-speed broadband internet access continues to grow at a rapid rate in all parts of the country, and fixed wireless technology allows the provision of this service in areas that have not been served effectively and efficiently by other broadband technologies. During the most recent two-year period, investment capital has been more accessible for the provision of fixed wireless connectivity, especially to those providers that have scaled their networks, are receiving high-cost support, or have introduced fiber into their networks.

Access to sufficient spectrum to meet increasing demand for fixed wireless broadband is critical to maintaining competitive growth of these services and narrowing the digital divide. The Commission has taken important steps in recent years to make more spectrum available for last-mile connectivity to meet the needs of these rural and other underserved populations. As a result, new technology is enabling small service providers to increase their capacity, as illustrated by the successful opening of the 6 GHz Band to unlicensed use. With additional

spectrum resources, these companies will continue to evolve and maintain the long-term trend of meeting increasing consumer demand through cost-efficient and expeditious deployment. Accordingly, identifying sufficient additional quantities of both unlicensed and licensed spectrum remains essential to maintaining the growth of wireless internet service provider infrastructure and expanding consumer choice. The Commission should continue to promote accelerated deployment of by allocating additional spectrum for both end-user and backhaul and establish a balanced approach that enables small and medium-sized fixed broadband providers a fair opportunity to acquire this resource. Significant near-term target bands for this expansion include the 5.9 GHz, 10 GHz, 12 GHz, and 42 GHz bands.

There remain significant storm clouds on the horizon for fixed wireless service providers, however, in the form of increased regulatory burdens that are likely to have especially harmful impact on the smallest providers. In the past two years, significant new requirements have been imposed with respect to the Broadband Data Collection, broadband labelling requirements, data breach reporting, digital discrimination compliance, and the reimposition of net neutrality regulations resulting from the Commission's return to reclassifying BIAS as a Title II telecommunications service. These enhanced regulatory burdens create significant risks to the future growth of competitive broadband services as a multitude of compliance and reporting requirements impose unique impediments for smaller companies and risk both stranding existing investments and erecting obstacles to attracting new capital. For this reason, wherever possible, the Commission should avoid risking potential reductions in service by granting relief from new regulations for small companies, which inherently lack any market power.

Moreover, consistent with this policy goal, the Commission should not impose any new restrictions on bulk billing in multi-tenant environments ("MTE"). Bulk billing agreements can

provide a valuable consumer benefit by offering broadband service at significant discounts, especially in low-income or public housing developments. Agreements including bulk billing are only problematic when coupled with anti-competitive exclusive rights provisions or restrictions on an individual tenant's right to select an alternative service provider. These types of restrictions should be the Commission's focus, not the practice of bulk billing itself.

Continued federal support to deploy broadband services is critical to promoting the extension of broadband access to unserved and underserved populations. The Commission should continue to engage in efforts to ensure that taxpayer dollars are not allocated to areas that already have access to broadband service and should cooperate with the National Telecommunications and Information Administration to identify those areas that continue to be without broadband connectivity in connection with the implementation of the Broadband Equity, Access, and Deployment program. Awarding government funding for overbuilding in served areas, however, wastes taxpayer money and can reduce competition and consumer choice, an outcome that is counterproductive to the goal of expanding service and bridging the digital divide.

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WISPA – *The Association for Broadband Without Boundaries* ("WISPA"), pursuant to Section 163 of the Communications Act and the *Public Notice* issued by the Commission's Office of Economics and Analytics on April 22, 2024,[1] hereby comments on the matters raised in the *Public Notice* concerning the state of competition in various sectors of the communications marketplace. WISPA comments in particular on the questions raised with respect to fixed broadband services and the Commission's ongoing efforts to bridge the digital divide.

Introduction

WISPA is a trade organization that represents the interests of several hundred small and medium-sized service providers as well as hundreds of equipment manufacturers, engineers, technicians, and consultants that make up the evolving internet service provider ecosystem. WISPA's members provide fixed wireless, fiber and other connectivity solutions to millions of consumers, businesses and industrial users, first responders and community institutions, often in areas of the country where other providers have declined to invest, including rural, suburban,

[1] Public Notice, *Office of Economics and Analytics Seeks Comment on the State of Competition in the Communications Marketplace*, GN Docket No. 24-119, DA 24-374 (rel. April 22, 2024) ("*Public Notice*").

urban and Tribal areas of the country. In many of these areas, these innovative entrepreneurs offer the only terrestrial source of fixed broadband access. In areas with other broadband options, including in multiple tenant environments ("MTEs"), they provide a community-based alternative that benefits customers by fostering competition, thereby lowering costs and improving the quality of broadband services.

WISPA's small wireless internet service provider ("WISP") members have been deploying affordable and reliable broadband service for more than two decades utilizing innovative and evolving technology, as well as a combination of spectrum bands. These companies have made targeted capital investments to meet the needs of populations in rural areas where it has not historically been cost-efficient for larger companies to deploy wired facilities. WISPA's members also have created thousands of jobs in rural and exurban areas that, in turn, attract additional businesses and investment. They have continually upgraded their networks with new technology and, when available, new spectrum allocations to meet consumer demand and responded successfully to the dramatic rise in residential broadband consumption during the 2020-2022 coronavirus pandemic.

Discussion

I. COMPETITION IN THE FIXED BROADBAND MARKETPLACE IS ROBUST AND WIRELESS INTERNET SERVICE PROVIDERS ARE CRITICAL CONTRIBUTORS TO THIS MARKET ACROSS BROAD AREAS OF THE COUNTRY.

A. Consumer Demand for High-Speed Broadband Internet Access Continues to Grow at a Rapid Rate.

The broadband market is thriving with competition driving the achievement of increasingly faster broadband speeds and deployment of service to new areas. According to recent estimates ,

there are over 130 million fixed broadband connections in the U.S., disaggregated by technology as follows:

- Cable: 81 million
- Fiber: 31 million
- Digital Subscriber Line ("DSL"): 13 million
- Fixed Wireless: 7 million
- Satellite/Other: 3 million[2]

But while the connection numbers for cable are static and those for DSL are declining, both fixed wireless and fiber deployments are growing rapidly.[3]

Indeed, according to the *2024 Section 706 Report*, a majority of U.S. households would not have significant choice in their broadband provider without the emergence of fixed wireless service providers. The report found that, in the absence of fixed wireless service providers, more than 50% of U.S. households would have either no broadband access at all or would be limited to only a single provider offering 100/20 Mbps speeds.[4] And only about 5% of American households would have the ability to access three or more wired high-speed broadband options under such circumstances.[5] But with the increasing availability of fixed wireless connectivity, more than 63% of U.S. households now have multiple broadband options.[6] And 18% of U.S.

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[2]Analysys Mason, Dr. Michael Kende, David Abecassis, Elias Djaoui, Clarissa Wang, Report for USTelecom – The Broadband Association, "Evolution of the Internet in the U.S. Since 2015," at 13, Fig. 3.2 (Dec. 12, 2023), *available at* https://www.ustelecom.org/wp-content/uploads/2023/12/Evolution-of-the-internet.pdf.

[3] *See, e.g., id.;* Global Data, "FWA Technology's Share to Grow to Nearly 16% in U.S. Broadband Services Market in 2028, Forecasts GlobalData," (Aug. 17, 2023) (forecasting continued growth for fixed wireless and fiber optic technology as DSL and other technologies decline in market share), *available at* https://www.globaldata.com/media/technology/fwa-technologys-share-grow-nearly-16-us-broadband-services-market-2028-forecasts-globaldata/..

[4] *See Inquiry Concerning the 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 37, Fig. 4 (rel. March 18, 2024) ("*2024 Section 706 Report*").

[5] *Id.*

[6] *Id.*

households now have three or more competitive broadband options with fixed wireless included.[7]

According to the Leichtman Research Group, fixed wireless services accounted for virtually all net additions in the fixed broadband market in 2023 (with fiber displacing older DSL technology).[8] Similarly, data compiled by Ericsson indicates that fixed wireless is capturing more than 90 percent of the net increase in fixed broadband connections in the United States over a slightly longer time period, since the second quarter of 2022.[9] This significant growth suggests that consumers are increasingly viewing fixed wireless as a viable and reliable substitute for traditional wired broadband technologies.

Fixed and mobile broadband services, however, are not fungible substitutes. Fixed broadband provides consistent, high-speed internet suitable for home and office use. By contrast, mobile broadband has significant service limitations – including data usage limits, variable speeds and dead spots – that render it a poor substitute for the kinds of intensive video and data applications for which fixed connectivity has become essential, such as videoconferencing, large data uploads, remote health care services, and other emerging applications.

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[7] *Id.*

[8] Daniel Frankel, "Cable Ended in the Red on Broadband Additions For the First Time Ever in 2023," Next TV, (Mar. 7, 2024)(citing data from the Leichtman Research Group showing that fixed wireless "accounted for all the growth in the home broadband business in 2023, with total customer ranks expanding by more than 3.522 million users"), *available at* https://www.nexttv.com/news/cable-ended-in-the-red-on-broadband-additions-for-the-first-time-ever-in-2023-chart-of-the-day

[9] Ericsson, Fixed Wireless Access Insights, Insight 1 of 6, "5G FWA Momentum Creating Global Economies of Scale, at 5 (Nov. 2023) ("FWA Insights"), *available at* https://www.ericsson.com/4ade14/assets/local/reports-papers/further-insights/doc/fwa_insights_1_momentum_extracted.pdf

B. Fixed Wireless Internet Service Providers Successfully Reach Areas That Cannot Be Served Effectively Using Other Technologies.

As reported by WISPA in its 2022 Comments on the status of the communications marketplace, the use of fixed wireless technology to bring reliable and affordable high-speed broadband service to unserved and underserved communities has increased significantly over the past half decade, driven by the ability of WISPs to deploy broadband service in a very short time frame and at a fraction of the capital cost of cable and fiber facilities.[10] Fixed wireless broadband combines affordability for consumers with increasing performance metrics driven by significant improvements in technology and equipment, including the availability of additional spectrum for unlicensed use. Fixed wireless thus offers a viable, less-expensive alternative where fiber and cable are unavailable or simply too costly.[11] Due to these lower deployment costs, fixed wireless service providers typically offer significantly lower rates to subscribers versus fiber and cable providers.[12] And as discussed in the foregoing section, subscribers and potential customers increasingly see fixed wireless as a viable substitute for the traditional wired broadband technologies.

These trends are critical factors in advancing the Administration's priority "to ensure all Americans have access to reliable, affordable, high-speed internet to learn, work, and participate

[10] *See* Comments of WISPA, GN Docket 22-203, at iv (filed July 1, 2022) ("WISPA 2022 CMR Comments").

[11] *2024 Section 706 Report* at 32 (¶ 59).

[12] *See, e.g.,* Hal Singer, "Is Fixed Wireless Ready to Take on Cable? It's Early, But the Initial Data Seem Promising," *Forbes* (Jul. 25, 2022)(" Fixed wireless plans are typically offered at a much lower price point than cable modem or telco fiber service. Wells Fargo found that fixed wireless can be as much as 50 percent cheaper than a lower-tier cable plan over multiple years."), *available at* https://www.forbes.com/sites/halsinger/2022/07/25/is-fixed-wireless-ready-to-take-on-cable-its-early-but-the-initial-data-seem-promising/?sh=63aa5c7325a1.

in the 21st century economy."[13] Congress, the Commission, and various public interest organizations have acknowledged that citizens in underserved low-income communities are the most at risk of being left behind in a digital economy where high-speed internet access has become essential. Yet despite these clear and consistent policy goals, there remain substantial connectivity shortfalls. As the Commission stated in the *2024 Section 706 Report*, broadband "service availability was approximately 96% in urban areas," but only about "66% in Tribal areas, and approximately 50% in rural areas."[14] Thus, in many significant parts of the country, only half of the population currently has digital access.

As a result, millions of Americans living and working in rural areas, urban neighborhoods with persistent poverty, public housing communities, and on Tribal Lands do not have full access to the burgeoning digital economy. This deprives them of educational, employment, health care, and other vital opportunities necessary to thrive in the 21st Century. To meet the needs of these underserved and unserved populations requires that both public institutions and private entities embrace all available technological options capable of delivering the necessary high-speed broadband connections, especially those types of facilities that can be deployed quickly and cost-effectively in the near term and not at some time in the distant future.

Fixed wireless technology offers these requisite features, serving residential customers, commercial and industrial enterprises of all sizes, educational institutions, government agencies and public safety facilities, hospitals and other health-care facilities, farms, entertainment

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[13] The White House, *FACT SHEET: Biden-Harris Administration Announces 10 Million Households Enroll in Broadband Affordability Program, Thanks to Bipartisan Infrastructure Law,* Statements and Releases (Feb. 14, 2022) (emphasizing the importance of the $14.2 Billion Affordability Connectivity Program, "the nation's largest ever broadband affordability program," as appropriated by the Bipartisan Infrastructure Law), *available at* https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/14/fact-sheet-biden-harris-administration-announces-10-million-households-enroll-in-broadband-affordability-program-thanks-to-bipartisan-infrastructure-law/.

[14] *2024 Section 706 Report* at 51 (¶ 87) (applying the 100 Mbps download/20 Mbps upload speed metric).

venues, apartments and other MTEs. Fixed wireless technology will reliably support a wide range of services and applications, including Wi-Fi access, smart homes and other Internet-of-Things applications, video streaming, video conferencing, remote healthcare, security and other network-enabled applications.

For these reasons, fixed wireless technology offers an ideal solution for effectively bridging the digital divide. Indeed, operators increasingly view a combination of fixed wireless and fiber as "their future fixed technologies, replacing legacy fixed technologies and bringing access to unconnected homes and businesses."[15] Fixed wireless has distinct advantages over fiber. First, fiber is the most expensive technology currently available. Second, designing, constructing and deploying fiber takes significantly longer than other solutions because of the need to secure rights of way and to obtain permits for excavation or to string new wires, as well as the construction process itself.[16] Third, fixed wireless can frequently be implemented by leveraging existing infrastructure, including existing telecommunications facilities, as well as water towers, utility poles, storage silos, buildings, and even church steeples. Fourth, fiber and other wireline technologies are simply unavailable to provide new service in certain areas of the country due to environmental, terrain and topography challenges, even with the assistance of generous government funding support.

Finally, fixed wireless is increasingly considered to be the most "futureproof" broadband solution due to the relative ease of upgrading previously deployed equipment to incorporate

[15] FWA Insights, Insight 3 of 6, "Closing the Digital Divide with 5G FWA," at 5, *available at* https://www.ericsson.com/4ade15/assets/local/reports-papers/further-insights/doc/fwa_insights_3_closing_extracted.pdf.

[16] *Id.* ("building out fiber is a much longer process, often requiring permits and civil works to dig fiber… Fiber build-out is a capital-intensive process, with most of the investment made up-front (that is, before signing up customers and earning revenues). At the same time, the investment returns diminish as fiber deployments move away from dense urban areas and fewer homes are served per kilometer of fiber.")

advances in technology without the need for the extensive infrastructure modifications that fiber and cable require.[17] This long-term flexibility produces much lower costs for both providers and consumers. Although fiber connections are sometimes presumed to be "futureproof" simply because they are viewed by some as the pinnacle of current technology, providers now turn more frequently to fixed wireless technology to supplement their last mile networks given the enormous time, effort and upfront costs cited above for 100% fiber deployment. These costs, coupled with fiber's substantial limitations in reaching both low-density population areas and geographic areas with rugged terrain, the length of time it takes to deploy service to the customer, and the challenges inherent in upgrading such physical plant when it becomes necessary, suggest that fiber is by no means the optimal solution to achieve universal broadband coverage.

II. ACCESS TO SUFFICIENT SPECTRUM TO MEET INCREASING CAPACITY DEMANDS IS CRITICAL TO MAINTAINING COMPETITIVE GROWTH AND NARROWING THE DIGITAL DIVIDE.

A. The Commission Has Taken Important Steps to Make Additional Spectrum Available to Meet the Needs of Rural and Other Underserved Populations.

WISPA appreciates the Commission's significant efforts in recent years to accelerate broadband deployment through the reallocation of underutilized spectrum for fixed service use. For example, the Commission's decision in 2020 to make 1200 megahertz of spectrum at 5925 to 7125 MHz (the "6 GHz Band") available for unlicensed services[18] is now coming to fruition,

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[17] *See, e.g.,* BusinessCom Networks, "Why Fixed Wireless Broadband Is a Genuine Alternative to Fibre" (Jan. 14, 2021) ("upgrading is merely a configuration change. As a result, the upgrade costs for wireless broadband services are typically much lower than legacy networks"), *available at* https://www.businesscom.com.au/info-tips/info-blog/fixed-wireless-broadband-vs-business-fibre.

[18] *See Unlicensed Use of the 6 GHz Band; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, ET Docket No. 18-295 and GN Docket No. 17-183, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3852 (2020).

with companies beginning to deploy new service in these bands employing Automated Frequency Coordination ("AFC") systems.

Among the most recent developments, which also include final FCC approval of multiple AFC systems,[19] have been the successful experimental testing trials conducted by WISPA members using 6 GHz Band equipment manufactured by companies such as Cambium Networks, Mimosa (Airspan) and Tarana Wireless. For example, in 2022, WISP Resound Networks announced successful testing of equipment that exceeded "gigabit-tier distance expectations in the 6 GHz Band by 50% reaching out to over 3 miles" and observed that this would "expedite the deployment of reliable gigabit services to even more subscribers in rural markets than previously expected."[20] Tarana Wireless announced in October 2023 that its next-generation wireless access technology can deliver "gigabit-tier services" in the 6 GHz band.[21] And just a few weeks ago, Cambium Networks announced the final approval by the FCC and Canadian (ISEDC) authorities of both access points and subscriber modules for commercial operation in the 6 GHz Band using the approved AFC systems.[22] In announcing this milestone,

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[19] *See* Public Notice, *OET Announces Approval of Seven 6 GHz Band Automated Frequency Coordination Systems for Commercial Operation and Seeks Comment on C3 Spectra's Proposed AFC System*, ET Docket No. 21-352, DA 24-166 (rel. Feb. 23, 2024).

[20] Business Wire, "Resound Networks and Airspan Networks Successfully Test 1 Gigabit Per Second Fixed Wireless Access (FWA) Services using 6 GHz Spectrum" (June 1, 2022), *available at* https://www.businesswire.com/news/home/20220601005855/en/Resound-Networks-and-Airspan-Networks-Successfully-Test-1-Gigabit-Per-Second-Fixed-Wireless-Access-FWA-Services-using-6-GHz-Spectrum.

[21] LightReading, "Tarana touts its G1 tech for unlicensed 6 GHz spectrum" (Oct. 13, 2023), *available at* https://www.lightreading.com/fixed-wireless-access/tarana-touts-its-g1-tech-for-unlicensed-6ghz-spectrum.

[22] Cambium Networks Press Release, "Cambium Networks' ePMP 4600 Receives FCC and ISEDC Certification for Outdoor 6 GHz Fixed Wireless" (May 21, 2024), *available at* https://www.cambiumnetworks.com/blog/cambium-networks-epmp-4600-receives-fcc-and-isedc-certification-for-outdoor-6-ghz-fixed-wireless. *See also* Cambium Networks Press Release, "Nextlink Drives Gigabit Service Expansion with 6 GHz Fixed Wireless Technology from Cambium Networks," (Nov. 14, 2023) (announcing advance order of 6 GHz equipment), *available at*

Cambium noted that this equipment had been tested by "more than 130 broadband service providers under the FCC's experimental license program."[23] As these new operations continue to unfold, they should produce significant benefits by relieving existing congestion in the lower 5 GHz U-NII bands and providing new opportunities for WISPs and others to serve rural communities.

B. Identifying Sufficient Additional Quantities of Both Unlicensed and Licensed Spectrum Remains Essential to Maintaining the Growth of WISP Infrastructure and Expanding Consumer Choice.

Given the increasing consumer demand for advanced telecommunications capability in all parts of the country, there is a concurrent and continuing need for the Commission to make additional spectrum available to accommodate this demand, and to provide access to the accelerating variety of innovative applications and services for which broadband connectivity is essential. There is presently a lack of sufficient accessible and affordable spectrum necessary for the deployment of the additional fixed wireless capability that remains vital for connecting all Americans to broadband networks. The availability of spectrum in remote areas is particularly critical to bridging the persistent digital divide that separates individuals, anchor institutions, other community centers, and small businesses in these areas from connecting on equitable terms with those that have ready access to the internet in populated urban and other well-served areas.

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https://www.prnewswire.com/news-releases/nextlink-drives-gigabit-service-expansion-with-6-ghz-fixed-wireless-technology-from-cambium-networks-301986991.html.

[23] *Id*.

There are several current or proposed proceedings that offer potential new spectrum resources for fixed wireless providers and their customers as detailed below.

1. 5.9 GHz Band, ET Docket No. 19-138

WISPA has been a strong advocate for unlicensed use in additional bands, including the 5.9 GHz band adjacent to the above-described 6 GHz Band allocation.[24] When the Commission appropriately granted emergency STAs to many WISPA members to operate in the 5850-5895 MHz band during the 2020-2022 pandemic,[25] their successful operation illustrated the ability of service providers to coexist with licensed services during a transitional period as licensed incumbents are relocating their operations to other spectrum. Because the Commission technical rules for this band are similar to those for the adjacent U-NII-3 band, many fixed wireless providers made, and continue to make, rapid use of this spectrum through a firmware upgrade and without awaiting the development of or even requiring the purchase of additional equipment. Accordingly, WISPA appreciates the Commission's recent decision to uphold allocating 45 megahertz of this spectrum band for unlicensed outdoor use and urges it to move forward with full implementation of this change.[26]

2. 10 GHz Band Petition for Rulemaking

There are other steps that the Commission has not yet taken that it should pursue as quickly as possible to help meet the increasing demand for fixed broadband access. More than eighteen months ago, the Coordinated Sharing Coalition, which includes WISPA, proposed

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[24] *See, e.g.,* Comments of WISPA, ET Docket No. 19-138, NPRM (filed March 9, 2020); Comments of WISPA, ET Docket No. 19-138, FNPRM (filed June 2, 2021).

[25] *See* FCC News Release, "FCC Grants Wireless ISPs Temporary Access to Spectrum in 5.9 GHz Band to Meet Increase in Rural Broadband Demand During Pandemic" (March 27, 2020).

[26] *See Use of the 5.850-5.925 GHz Band*, ET Docket 19-138, Order on Reconsideration, DA 24-32 (rel. March 18, 2024).

allocation of the 10.0-10.5 GHz band for point-to-point fixed wireless use on a shared basis with Federal and Amateur users.[27] This Petition demonstrates that the existing operations of these users can be protected from harmful interference through nationwide licensing under Part 101 of the FCC's rules and the use of AFC systems.[28] The Petition proposes that "[a] party wishing to access spectrum in the 10 GHz band would first apply for and obtain a nationwide, non-exclusive license" and "would then register links in the AFC system, which would be informed by incumbents reporting their operational characteristics at a given place at that time."[29] This is a proven spectrum sharing technique that optimizes spectral use and efficiency and is in line with similar sharing coordination approaches the FCC has adopted for the 6 GHz Band and in the Citizens Broadband Radio Service ("CBRS").

While the Commission has allocated thousands of megahertz of licensed and unlicensed spectrum for last-mile use over the last 10 years, the identification of spectrum for backhaul, middle mile, and other point-to-point links has lagged, leading to congestion of the existing frequency bands allocated for this purpose, especially in rural areas where fiber may not be available or affordable. Expediting consideration of opening this spectrum for more efficient use can help address this critical need. Accordingly, the Commission should seek comment on the Coordinated Sharing Coalition's Petition as quickly as possible.

[27] *See* Petition for Rulemaking of the Coordinated Sharing Coalition, Amendment of Part 101 of the Commission's Rules to Enable Greater Commercial Use of the 10.0-10.5 GHz Band (filed Oct. 4, 2022).

[28] *Id.* at 11-14.

[29] *Id.* at iv.

3. 12 GHz Band, WT Docket No. 20-443

WISPA also has participated in the Commission's rule making proceedings concerning potential future allocations for the fixed service at 12 GHz.[30] As in other dockets examining the more efficient use of spectrum, WISPA has urged that the Commission proceed in a technology neutral manner, prioritizing dynamic spectrum sharing approaches that will effectively make fallow and underutilized spectrum available to meet present and future needs without displacing or harming incumbent operations or impeding their capability to innovate and expand their services.[31] Such spectrum sharing frameworks will advance access to affordable and competitive broadband services in served areas, connect more Americans to broadband in underserved and unserved areas, and enhance and expand services in more urban and dense areas.

Consistent with this approach, the Commission should take steps to adopt a "use it or share it" approach to the spectrum allocation at 12.2-12.7 GHz. Incumbent licensees should receive priority access, but spectrum that is unused in the band should not be permitted to lie fallow. The Commission should instead make it available for opportunistic access on a non-interfering basis for fixed wireless service point-to-point and point-to-multipoint links. This can be done by implementing a framework analogous to the CBRS with three tiers: (1) a primary tier that protects the fixed customer locations of the incumbent satellite services; (2) a priority access tier for the expanded fixed wireless deployments of incumbent terrestrial licensees; and (3) a third tier of coordinated general authorized access using available frequencies on an

[30] *See, e.g., Expanding Flexible Use of the 12.2-12.7 GHz Band,* WT Docket No. 20-443, Report & Order and Further Notice of Proposed Rulemaking, 38 FCC Rcd 5283 (2023).

[31] *See, e.g.,* Comments of WISPA, WT Docket No, 20-443 (filed Aug. 9, 2023) ("WISPA 12 GHz Comments").

opportunistic, non-interfering basis. The third tier could be used by WISPs or other operators, using an AFC system to protect the higher tier users from harmful interference.[32]

4. 42 GHz Band, WT Docket No. 23-158

The 500 megahertz of "greenfield" spectrum in the 42 GHz band presents a unique and timely opportunity for efficient spectrum sharing.[33] There is a broad consensus in the comments filed in this proceeding supporting a nationwide, non-exclusive licensing model with individual point-to-point links and point-to-multipoint sectors authorized though an AFC system.[34] This approach is similar to the one used for the 70/80/90 GHz band, rather than a copy of the 6 GHz Band model discussed above. This approach would promote spectrum efficiency by facilitating coexistence of multiple, diverse users in the same area instead of attempting to impose a "one-size-fits-all" technological approach that would likely favor some service models over others. Licensees could be given one year within which to commence operations on AFC authorized spectrum, and thereafter be afforded ten-year renewable terms. Unlicensed use of this band, on the other hand, is unworkable given the need to protect the radio astronomy service in the upper adjacent 42.5-43.5 GHz band. Accordingly, the Commission should move forward with a

[32] *See* WISPA 12 GHz Comments at 5-14.

[33] *Shared Use of the 42 GHz Band*, WT Docket No, 23-158, Notice of Proposed Rulemaking, FCC 23-51, at 4 (¶ 8)(rel. June 9, 2023).

[34] *See, e.g.,* Comments of Comsearch, a CommScope Company, GN Docket Nos. 23-158 & 14-177, at 3 *et seq.* (filed Aug. 30, 2023); Comments of the Dynamic Spectrum Alliance, GN Docket Nos. 23-158 & 14-177, at 2 & 3-4 (filed Aug. 30, 2023); Comments of NCTA-The Internet & Television Association, GN Docket Nos. 23-158 & 14-177, at 1 (filed Aug. 30, 2023); Comments of the Open Technology Institute at New America and Public Knowledge, GN Docket Nos. 23-158 & 14-177, at 1, 2 & 4-7 (filed Aug. 30, 2023) ("OTI/PK Comments"); Comments of WISPA - Broadband Without Boundaries, GN Docket Nos. 23- 158 & 14-177, at 5-7 (filed Aug. 30, 2023).

Report & Order in this band adopting this spectrum sharing model under Part 101 of its rules and allowing licensed, flexible frequency use with no mandated channelization plan.

If the Commission adopts a unified framework for the 42-42.5 GHz and 37-37.6 GHz bands, both bands should be subject to the common nationwide, non-exclusive licensing approach using the AFC coordination methodology. To the extent permitted at all, mobile operations should be limited to the 37-37.6 GHz band and only be considered in the 42-42.5 GHz band at a later time if mobile use develops in the lower millimeter wave bands to a significant extent to justify expansion.

III. INCREASING REGULATORY BURDENS POSE A SIGNIFICANT RISK TO THE FUTURE GROWTH OF COMPETITIVE BROADBAND SERVICES.

A. Expansive Compliance and Reporting Requirements Impose Unique Impediments Upon Small Providers and Risk Both Stranding Existing Investments and Erecting Obstacles to Raising New Capital.

As a result of several recently concluded rulemakings, providers of broadband internet access service ("BIAS") are now subject to numerous new and often cumbersome reporting and compliance requirements. Indeed, over the past two years, Congress and the Commission together have implemented new legislation, requirements and reporting obligations covering a host of broadband-related matters, including the Broadband Data Collection, broadband labelling requirements, data breach reporting, digital discrimination compliance, and the reimposition of net neutrality regulations resulting from the Commission's return to reclassifying BIAS as a Title II telecommunications service. Providers are also subject to myriad reporting and compliance obligations arising from participation in Universal Service Fund and other federal and state funding programs. For the smallest providers, the costs imposed to comply with these various

obligations are likely to be absorbed at the expense of network expansion, network upgrades and consumer benefits.

Because of this dramatic increase in compliance costs, the Commission should take extra care in both its ongoing and future proceedings to avoid imposing new regulatory burdens on providers that could further impede, or even discourage, investment in expanded services. Additional regulatory requirements often have the greatest impact on smaller broadband providers that typically have the narrowest margins. At the same time, these small, entrepreneurial companies often offer the greatest potential for expansion of service to the country's most remote unserved and underserved rural locations.

Despite the significant increases in regulatory requirements since the 2022 Communications Marketplace Report, the Commission continues to advance proposals that impose additional regulatory burdens. For example, the Commission has recently raised the possibility that consideration of service availability might be "understood to encompass the quality of broadband service, including for example the frequency of service outages."[35] To the extent that the Commission expresses interest in data that it could "rely upon to analyze service availability" in this regard,[36] it should scrupulously avoid any requirement for broadband service outage reporting, which would simply add to the recordkeeping burdens placed upon all providers without gathering meaningful data that would improve future agency decision making.

[35] *2024 Section 706 Report* at 69 (¶ 115).

[36] *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, Notice of Inquiry, FCC 23-89, at 26 (¶ 62) (rel. Nov. 1, 2023).

B. The Commission Should Grant Relief from New Regulations for Small Providers Lacking Any Market Power to Avoid Reductions in Service.

Compared to their larger counterparts, smaller providers are more resource-constrained and less able to assume certain business risks. Indeed, as noted above, WISPA recently surveyed its members to understand how reimposing the burdens of Title II regulation on broadband internet access service providers would impact their businesses. The result of the survey brings to light the very small size and rural focus of WISPA's ISP members. More than 60 percent of respondents have five or fewer full-time employees and more than 84 percent have 25 or fewer full-time employees. The vast majority of respondents – approximately 65.5 percent – reported serving 2,000 or fewer residential customers. These respondents also reported large increases in the number of subscribers since 2018, when the prior Commission repealed the 2015 Title II rules. Even so, none of WISPA's ISP members serve more than 250,000 subscribers.

As Commissioner Gomez has emphasized, "we must also be cognizant of the potential effects on Internet Service Providers, especially smaller Internet Service Providers. Many of these providers play a crucial role in fostering competition, especially in underserved and rural areas. We must make sure that net neutrality rules do not place an undue burden on these smaller providers while still upholding the core principles of an open Internet."[37]

In the current marketplace, WISPs, among other smaller broadband providers, are facing growing financial challenges due to high infrastructure costs and competitive pressures from larger incumbents. Costs have increased significantly over the past year due to the recent spike in inflation, continuing supply chain disruptions, and higher borrowing costs due to rising

[37] *Safeguarding and Securing the Open Internet*, Notice of Proposed Rulemaking, WC Docket No. 23-320, FCC 23-83, Statement of Commissioner Anna M. Gomez (rel. Oct. 20, 2023).

interest rates.[38] At the same, ongoing technological advancements drive the need for continuous investment in infrastructure upgrades that further strain the budgets of smaller providers. These economic challenges impact the entire value chain for smaller providers, reducing the effectiveness of any government support they may receive and making it more difficult to remain competitive.

Some smaller providers are exiting the industry altogether, as they find it unsustainable to maintain their services and operations under the current economic pressures. In the past year, the acquisition of smaller ISPs by larger entities has accelerated.[39] With the attrition in the number of smaller competitive providers, market concentration is increasing, with the top ten broadband providers now controlling approximately 83% of the market.[40]

The Commission has in the recent past appropriately provided targeted waivers and exemptions for small service providers from the immediate or full impact of major new regulations. For example, in its adoption of the broadband labeling requirement that is now being implemented, the Commission provided smaller service providers (in this case, those with 100,000 or fewer subscriber lines) an additional six months following the effective date to comply with the new rule.[41] Similarly, in the recently concluded Title II proceeding, the

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[38] *See, e.g.,* Tom Loozen and Adrian Baschonga, "Top 10 Risks for Telecommunications in 2024," Ernst & Young (Nov. 30. 2023)("Macroeconomic headwinds, ranging from the cost-of-living crisis to ongoing supply chain disruption, present a continued threat to financial resilience and stability"), *available at* https://www.ey.com/en_gl/insights/telecommunications/top-10-risks-for-telecommunications.

[39] *See, e.g.,* Diana Goovaerts, "PE has a $250M Plan to Build a New Broadband Competitor in the Sunbelt," Fierce Network (Jun 13, 2023) ("Private equity firm Friedman Capital is looking to scoop up as many as 20 small ISPs across the Southeastern Sunbelt region in the U.S."), *available at* https://www.fierce-network.com/broadband/pe-has-250m-plan-build-new-broadband-competitor-sunbelt.

[40] *See, e.g.,* Statista, "Most Used Internet Providers/Brands in the U.S. as of March 2024," *available at* https://www.statista.com/forecasts/997229/most-used-internet-providers-brands-in-the-us.

[41] *See Empowering Broadband Consumers Through Transparency*, 37 FCC Rcd 13686, 13723-24 (¶ 118) (2022).

Commission concluded that it should exempt (potentially permanently) this same category of small BIAS providers "from the requirements to disclose packet loss and report their performance characteristics" and to provide direct notice of end-user activity that would trigger a network management practice under the transparency rule.[42] These exemptions are consistent with the Commission's acknowledgement in that proceeding that it "must ensure that its policies do not further entrench large telecommunications carriers, reducing the viability of smaller, innovative alternative providers and also reducing the service options available to consumers."[43]

In keeping with these past accommodations to ameliorate the extremely negative impacts of regulatory compliance overload for small service providers, the Commission should adopt additional, more robust protections for these critical marketplace participants. It should, for example, further consider exempting small providers from certain aspects of the soon-to-be-effective Title II regulations, such as the bright line rules, the general conduct rule, and the new transparency rule. These small service provider exemptions should apply to ISPs with 250,000 or fewer subscribers, rather than the previously adopted 100,000 subscriber-threshold. Based on data compiled by the Leichtman Research Group, the seventeen largest ISPs had nearly 85% of the total fixed broadband market share (114 million subscribers) as of December 31, 2023, and all of them exceeded this 250,000-subscriber threshold.[44]

The Commission should also consider a permanent forbearance from the application of the transfer of control and assignment requirements under 47 U.S.C. § 214 to small BIAS

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[42] *See Safeguarding and Securing the Open Internet,* WC Docket No. 23-320, Declaratory Ruling, Order, Report & Order, and Order on Reconsideration, FCC 24-52, at 338-39 (¶ 559) (rel. May 7, 2024).

[43] *Id*. at 48 (¶ 82).

[44] *See* Ted Hearn, "WISPA Puts Numbers Behind its Big Title II Exemption Ask," Broadband Breakfast (Apr. 15, 2024), *available at* https://broadbandbreakfast.com/wispa-puts-numbers-behind-its-big-title-ii-exemption-ask/.

providers in the context of the anticipated Further Notice of Proposed Rulemaking in the Title II proceeding.[45] Under such an approach, the Commission could still review significant proposed foreign ownership under Section 310(b) of the Communications Act. In addition, adoption of such a policy would not undermine in any way the Commission's ability to investigate Section 214 authorization holders in order to protect national security, and potentially revoke such authority in appropriate circumstances.

Moreover, with respect to the Commission's new and emerging digital discrimination rules and policies, the sweeping requirements adopted for broadband providers to meticulously document decisions relating to a broadband deployment and create detailed new policies also will have a disproportionate and adverse impact on small and rural providers, particularly those that are already subject to significant build-out and reporting requirements under CAF, RDOF, BEAD, or other Federal support programs. Given the considerable burdens these rules will create, in the event it adopts additional requirements in the pending *Further Notice of Proposed Rulemaking* in this proceeding, the Commission should exempt smaller and rural providers from proposals that would require broadband providers to develop compliance plans and file annual reports on deployment,[46] particularly in light of the absence of any evidence that such service

[45] *See id.* at 212-13 (¶ 382). *See also* WISPA Comments, WC Docket Nos. 23-320 and 17-108, at 66-69 (filed Dec. 14, 2023) (expressing concern about the impact of transfer of control application processes on small providers); ACA Connects Comments, WC Docket Nos. 23-320 and 17-108, at 51-53 (filed Dec. 14, 2023) (small, rural BIAS providers "are not prone to the 'evolving national security, law enforcement, foreign policy, and trade policy risks' that animate the Commission's ongoing proceeding to amend its international authorization rules").

[46] *See Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination*, GN Docket No. 22-69, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-100, at 89-99 (¶¶ 179-213) (rel. Nov. 20, 2023) (the Commission specifically seeks comment on potential exemptions at 95 & 98 (¶¶ 198 & 212)).

providers engage in any discriminatory conduct.[47] Without such relief, these small businesses that provide crucial services to consumers in rural spaces will incur regulatory costs and burdens that will impede, rather than promote, the extension of new broadband service to historically unserved and underserved communities.

With respect to the appropriate definition of "small provider," it is notable that after the Commission adopted its 2015 Open Internet Order, the House of Representatives passed with overwhelming bipartisan support a bill that would have delayed imposing the transparency rules adopted then upon broadband providers with 250,000 or fewer subscribers.[48] That legislation also would have required the Commission, within 180 days of the enactment, to send a report to the House Energy and Commerce Committee, and the Senate Committee on Commerce, Science, and Transportation, as to whether the exemption should be made permanent.[49] Exempting small ISPs from these rules is all the more important now versus the circumstances in 2016 given the new panoply of other regulations with which BIAS providers must now comply. Deferring compliance obligations will allow small ISPs to avoid spending hours of time and tens of thousands of dollars on Title II implementation at the same time they are grappling with all of the Congressionally mandated compliance obligations in 2024 and beyond.

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[47] *See, e.g.,* Joint Comments of ACA Connects, NTCA, and WISPA, GN Docket No. 22-69, at 7-9 (filed Mar. 4, 2024); Joint Reply Comments of ACA Connects, NTCA, and WISPA, GN Docket No. 22-69, at 2-6 (filed April 1, 2024).

[48] All 411 Democrat and Republican members of the House of Representatives who voted on the bill supported it. *See* HR 4596 Vote Sheet, *available at* https://clerk.house.gov/Votes/2016124.

[49] *See* HR 4596 as passed on March 16, 2016, *available at* https:///www.congress.gov/114/bills/hr4596/BILLS-114hr4596rfs.pdf.

C. The Commission Should Not Impose New Restrictions on Bulk Billing in Multi-Tenant Environments.

WISPA has been an active participant over the years in the Commission's rulemaking proceedings concerning access to MTEs.[50] It has detailed in these filings how WISPs are actively deploying robust, affordable, high-speed broadband services in urban and exurban communities, including public housing and senior housing developments.[51] An increasing number of WISPs are using combinations of fixed wireless and fiber connections to optimize service and coverage in the locations they serve, including MTEs.

WISPA members have worked with and continue to work closely with building owners/managers to provide competitive access to broadband service for the benefit of their residential and commercial tenants. To the extent that smaller WISPs have been deterred from providing these services, the key obstacles have been legacy State mandatory access laws that provide preferences to traditional providers with discriminatory impact on new technologies[52] and reflexive MTE owner/manager preferences for particular technology solutions.

A few months ago, however, the FCC issued a News Release stating that the Chairwoman was circulating a notice of proposed rulemaking including a proposal to "eliminate 'bulk billing' arrangements" for MTEs.[53] The premise of this new rule is that such arrangements result in higher costs to consumers from being locked into a service plan with particular provider.

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[50] *See, e.g.,* Comments of WISPA, GN Docket No. 17-142 (filed Oct. 20, 2021) ("WISPA 2021 MTE Comments"); Reply Comments of WISPA, GN Docket No. 17-142 (filed Nov. 19, 2021); Letter from Louis Peraertz, Vice President of Policy, WISPA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-142 (filed Feb. 1, 2022); Letter from Louis Peraertz, WISPA, to Marlene H. Dortch, FCC, GN Docket No. 17-142 (filed April 3, 2024).

[51] *See* WISPA 2022 CMR Comments at 14.

[52] *See, e.g.,* WISPA 2021 MTE Comments at 28-29.

[53] *See* FCC News Release, "FCC Chairwoman Announces Push to Lower Broadband Costs & Increase Choice for Families Living in Apartment Buildings" (rel. March 5, 2024).

But, in practice, bulk billing agreements with a competitive service provider can provide a valuable consumer benefit to consumers by offering broadband service at up to 60% off retail rates to all MTE residents, especially in low-income or public housing developments.[54]

Moreover, competitive providers, especially small providers, can also benefit from securing a stable and steady customer base in an MTE at a significant reduction in transactional costs. In addition to more affordable service options for residents, other benefits may include enhanced service quality delivered using fiber connectivity, managed Wi-Fi, and elevated customer support; expansion of property-level choice and competition; and narrowing the digital divide through greater broadband availability and adoption in vulnerable communities.[55]

In short, an outright ban on bulk billing agreements would paint with far too broad a brush. Agreements including bulk billing are only problematic when coupled with exclusive rights to market, install wiring or gain rooftop access, or restrictions on an individual tenant's right to opt out and select an alternative service provider. These types of restrictions should be the Commission's focus, not the practice of bulk billing itself.

To date, the announced rulemaking has not yet been initiated. Since it was announced, WISPA has consistently suggested in meetings with Commission staff that, when issued, the notice should tentatively conclude that reasonable bulk billing service agreements are appropriate provided that they include safeguards to address the potential anti-competitive

[54] *See, e.g.*, Letter from Thomas Cohen, Counsel to Hotwire Communications, to Marlene H. Dortch, FCC Secretary, GN Docket No. 17-142 (filed March 22, 2024) ("Hotwire March 22nd *Ex Parte* Letter"), at 2 (estimating an approximately 50% reduction in residents' rates as compared to direct billing).

[55] *See* Letter from Ross J. Lieberman, Senior Vice President of Government Affairs, Hotwire Communications, to Marlene H. Dortch, FCC Secretary, GN Docket No. 17-142, at 1 (filed May 21, 2024).

practices described above.[56] It would also be helpful, due to the large number stakeholders who may wish to provide evidence on the effects of bulk billing arrangements on consumers, for the Commission to adopt at least a sixty-day period for Comments and sixty-day period for Reply Comments in this proceed, if and when initiated.[57]

IV. CONTINUED FEDERAL SUPPORT TO DEPLOY BROADBAND SERVICES TO UNSERVED AREAS IS CRITICAL BUT GRANTING SUBSIDIES FOR OVERBUILDING IN SERVED AREAS WASTES TAXPAYER MONEY AND CAN REDUCE COMPETITION AND CONSUMER CHOICE.

Facilitating the deployment of fast and efficient broadband to unserved and underserved areas is a critical national goal for which Congress and multiple federal agencies have implemented several successful government programs. The Commission's Connect America Fund ("CAF") and Rural Digital Opportunity Fund ("RDOF") programs have accelerated broadband deployment to areas of the country most in need.

The benefits of these programs extend beyond just the federal funding provided. For example, over the past two years there have been multiple transactions involving the transfer of Section 214 authorizations held by WISPA members receiving CAF II and RDOF support that have been filed in connection with substantial capital investments from private equity firms. These capital investments likely would not have been available to these providers but for the ability to leverage government support to obtain additional equity funding. This additional capital extends and bolsters the impact of the initial federal support.

[56] Letter from Louis Peraertz, WISPA Vice President of Policy, to Marlene H. Dortch, FCC Secretary, GN Docket No. 17-1452 (filed April 3, 2024), at 1-2 ("WISPA MTE *Ex Parte* Letter").

[57] *See, e.g.,* Hotwire March 22nd *Ex Parte* Letter at 4.

At the same time, WISPA has consistently urged the Commission and other agencies administering support programs, both state and federal, to ensure that these funds continue to be allocated on a technology-neutral basis. All service providers, including those deploying fixed wireless facilities, must continue to be eligible for and receive funding to extend affordable broadband service to the areas that need it most.[58] In this connection, one positive recent development is the November 2023 decision by the National Telecommunications and Information Administration ("NTIA") to update its guidance with respect to the types of wireless facilities covered under the definition of "reliable broadband service" for purposes of the BEAD program to include services for which no licenses are issued, but which are considered by the FCC to be "licensed-by-rule."[59] This revised interpretation will allow WISPs and other service providers using General Authorized Access spectrum in the CBRS to qualify as reliable broadband service for purposes of the BEAD program.

In administering these grants, the Commission and NTIA also have an obligation to be sound stewards of taxpayer contributions and to facilitate deployment where needed while taking measures to avoid waste and counterproductive duplicative funding. As WISPA has previously observed, one of the greatest obstacles to closing the digital divide is unwarranted government-sponsored overbuilding, *i.e.*, using public money that should go to providers extending service to unserved areas to instead support competition with existing broadband providers that are already

[58] WISPA Comments, WC Docket No. 21-476, at 22 (filed Feb. 17, 2022).

[59] *See* NTIA, Frequently Asked Questions and Answers Version 5.0, Broadband, Equity, Access, and Deployment (BEAD) Program, Appendix at 63 (updated Nov. 9, 2023)(" NTIA will consider broadband service reported under technology code 72 [services using "entirely licensed-by-rule spectrum or a hybrid of licensed-by-rule and unlicensed spectrum"] as meeting the BEAD NOFO definition of 'reliable broadband service'"), *available at* https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Broadband_Equity_Access_Deployment_Program_Frequently_Asked_Questions_Version_5.0.pdf

providing high-speed service.[60] Designing broadband deployment funding programs, such as BEAD, to permit overbuilding of broadband networks using entirely unlicensed spectrum or satellite technology, even if those networks can provide 100/20 Mbps speeds,[61] wastes taxpayer dollars. As Commissioner Carr has recently noted, "fundamentally, the problem with counting broadband as something other than broadband is that it leads inevitably to wasteful overbuilding and upgrading communities that already have connectivity rather than remaining focused on the communities still stuck on the wrong side of the digital divide."[62] WISPA agrees that such government-sponsored overbuilding is not only a waste of taxpayer money but is also contrary to the goal of achieving universal broadband coverage. Not only does it duplicate existing service, it also undermines the businesses of small providers that are critical to the extension of digital access to areas not yet served.

Conclusion

At this time, the state of the U.S. communications marketplace is mixed, particularly with respect to providers of fixed wireless broadband services. During the most recent two-year period, investment capital has been more accessible, especially to those providers that have scaled their networks, are receiving high-cost support or have introduced fiber into their networks. New technology, as illustrated by the successful opening of the 6 GHz Band to unlicensed use, suggests that wireless service providers will continue to evolve and maintain the long-term trend of meeting increasing consumer demand through cost-efficient and expeditious deployment.

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[60] WISPA 2022 CMR Comments at 38-39.

[61] *See* NTIA, Notice of Funding Opportunity, BEAD Program (rel. May 12, 2022) at 15, 28.

[62] *2024 Section 706 Report* at 333, Dissenting Statement of Commissioner Carr.

The Commission should continue to promote accelerated deployment of licensed and unlicensed broadband services by allocating additional spectrum in a balanced way that enables small and medium-sized fixed broadband providers a fair opportunity to acquire this resource and should avoid imposing new regulatory burdens on broadband service providers. Nonetheless, there are storm clouds in the horizon in the form of increased regulatory burdens that are likely to have especially harmful impact on small providers, as well as government subsidy programs that sometimes promote the extension of broadband access to unserved areas but at other times result only in counterproductive government funded overbuilding.

Respectfully submitted,

WISPA – *THE ASSOCIATION FOR BROADBAND WITHOUT BOUNDARIES*

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