

**SUMMARY OF THE FCC’S NOTICE OF INQUIRY IN THE MATTER OF  
INQUIRY CONCERNING THE DEPLOYMENT OF ADVANCED  
TELECOMMUNICATIONS CAPABILITY TO ALL AMERICANS IN A  
REASONABLE AND TIMELY FASHION, AND POSSIBLE STEPS TO  
ACCELERATE SUCH DEPLOYMENT PURSUANT TO SECTION 706 OF THE  
TELECOMMUNICATIONS ACT OF 1996**



The FCC released a Notice of Inquiry on March 17, 2004 seeking comments on whether infrastructure capable of supporting advanced services is being made available to all Americans in a reasonable and timely fashion. Comments were due by May 10, 2004 and Reply Comments were due by May 24, 2004. Even though these deadlines have passed, Media Access Project nonetheless encourages commenters to file late comments with the FCC.

This Notice of Inquiry was the Commission’s fourth inquiry under Section 706 of the Telecommunications Act of 1996.<sup>1</sup> The proceeding has the following docket number: GEN Docket No. 04-54. A copy of the NOI can be found on the FCC’s Section 706 Webpage: <http://www.fcc.gov/broadband/706.html>

**Issues**

In addition to asking for any general information relevant to the deployment of advanced telecommunications services to all Americans, this Notice of Inquiry solicits information on the following specific questions:

*What is “Advanced Telecommunications Capability?”*<sup>2</sup>

The Commission has used the terms “advanced telecommunications capability” to refer to “high speed, switched broadband telecommunications capability,” but has not specified precisely what speed of broadband should be encompassed within these terms. The Commission previously but unofficially used these terms to describe services that transmit at least 200 kbps in either or both directions, upstream and downstream. In this NOI, the FCC inquires as to whether or not the marketplace and consumer expectations regarding the speed of broadband access have increased such that the Commission should modify and define “advanced telecommunications capability” in such a way to reflect higher consumer expectations.

*Is Advanced Telecommunications Capability Being Deployed to All Americans?*<sup>3</sup>

The Commission seeks comments in three general topic areas to assist its analysis of whether advanced telecommunications are available to all Americans: (1) the availability of advanced

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<sup>1</sup> Section 706 directs the Commission to encourage the deployment of advanced telecommunications capability to all Americans and to conduct regular inquiries into the widespread availability of advanced telecommunications capability. Advanced telecommunications benefit both large and small business operations, employees, educational infrastructure and telemedicine networks in rural areas. See *Notice of Inquiry in the Matter of Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment*, 69 FR 18508 ¶¶ 2-5 (2004) (“Broadband NOI”).

<sup>2</sup> *Id.* at ¶¶ 7-8.

<sup>3</sup> *Id.* at ¶¶ 9-22.



telecommunications capability; (2) the economics underlying investment in advanced infrastructure and deployment; and (3) various advances in advanced services technology.

*Availability of Advanced Telecommunications Capability:*

The Commission has previously collected data on the number of lines available to residential and small business users in order to assess availability of such technology to different demographic groups. This Notice of Inquiry briefly discusses the existing data and invites comments on the conclusions that the Commission should draw from this data. Additionally, the Commission seeks information on the price and speed at which advanced technology is currently being made available to customers, the impact of product tiering on the availability of advanced technologies, or any additional information which commenters feel is relevant to the Commission's assessment of the availability of advanced telecommunications capability.<sup>4</sup>

*Economics:*

The Commission notes that investment in advanced technologies has slowed since its Third Notice of Inquiry on this topic. The Commission invites comments on current investment trends and the role of economics in facilitating or reducing the widespread availability of advanced technologies.<sup>5</sup>

*Trends in Developing Technologies:*

The Commission notes that high speed access is commonly deployed through cable modem service, DSL or ADSL, other local exchange services, terrestrial fixed wireless service, and satellite service. The Commission would like information about the current state of technology and inquires about new technologies that are being developed to provide such services to consumers at a reasonable cost.<sup>6</sup>

*Is Deployment Reasonable and Timely?*<sup>7</sup>

Section 706 of the Telecommunications Act requires that the FCC ensure that advanced telecommunications capabilities are being deployed to *all* Americans “in a reasonable and timely fashion.” To these ends, the Commission requests comments and data on the speed at which advanced services are being offered to consumers, particularly those in rural areas, low income individuals, individuals living in tribal lands, elementary and secondary school classrooms, and persons with disabilities.

*What Actions Can Accelerate Deployment?*<sup>8</sup>

Pursuant to the 1996 Telecommunications Act, the Commission “shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability.” The Act also requires the Commission to “take immediate action to accelerate deployment of such capability by removing barriers to infrastructure and investment and promoting competition.” The Commission has taken action pursuant to these stated goals such as establishing a regulatory framework for

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<sup>4</sup> *Id.* at ¶¶ 10-15.

<sup>5</sup> *Id.* at ¶¶ 16-19.

<sup>6</sup> *Broadband NOI*, 69 FR 18508 at ¶¶ 20-22.

<sup>7</sup> *Id.* at ¶¶ 23-31.

<sup>8</sup> *Id.* at ¶¶ 32-36.



broadband services, promoting investment through increased opportunities for broadband competition, reforming the FCC's universal service system, and encouraging efficient use of the spectrum. The Commission now seeks specific proposals for additional actions that it could undertake to encourage the deployment of advanced technologies and remove barriers to infrastructure investment.

In addition, the Commission notes that some companies have faced challenges in securing access to the rights-of-way necessary to deploy advanced telecommunications infrastructure in a timely manner. The Commission would like to explore fair and expeditious methods of resolving right-of-way disputes and invites comments to this end.

*What are Patterns of Consumer Adoption and Usage of Services Utilizing Advanced Telecommunications Capability?*<sup>9</sup>

In light of consumers' individual uses of advanced telecommunications capability, the Commission inquires about how services should be improved. The Commission seeks information about the types of entities that purchase advanced services, how entities use these services, and the impact that a business' use of advanced technology has on its customers. The Commission requests that commenters address these concerns in both the context of present impact and possible future impact.

*Does Deployment of Advanced Telecommunications Capability in the United States Impact Our Role in the International Arena?*<sup>10</sup>

The International Telecommunications Union recently ranked the United States 11th worldwide in broadband use. The Commission seeks to understand the factors that have contributed to the higher levels of penetration of broadband in other markets, including the possibility of methodological or design flaws in the existing studies. The Commission seeks comments on both the present and the likely future impact of the United States' comparative deployment of advanced infrastructure on citizens' ability to participate in the global economy.

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<sup>9</sup> *Id.* at ¶¶ 37-38.

<sup>10</sup> *Id.* at ¶¶ 39-40.



## **How To Participate**

Although the official comment dates have passed, the FCC will continue to take comments until the proceeding closes. Interested parties can review filed comments or can themselves file comments through the FCC's electronic comments filing system (ECFS), at <http://www.fcc.gov/cgb/ecfs/>. (For ECFS purposes, the Docket Number is just 04-54.)

Anyone can file a comment using nothing more than a standard web browser like Netscape or Internet Explorer. You do not have to be a lawyer or even a U.S. citizen. The Media Access Project maintains a resource page explaining the FCC and its filing process, <http://www.mediaaccess.org/fcc/>.

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