

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

**FRAMEWORK FOR BROADBAND)
INTERNET SERVICES)** **GN Docket No. 10-127**

**REPLY COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

To the Commission:

I. INTRODUCTION

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits reply comments in the above captioned proceeding.¹ ITTA is an alliance of mid-sized local exchange carriers that collectively provide service to 23 million access lines in 44 states, offering subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video services.

In initial comments, ITTA demonstrated that the Commission has previously addressed broadband-related matters successfully under Title I. The broadband market is strongly competitive. There is no reason to undertake wholesale reclassification of broadband services, whether by full Title II application or the “Third Way.” That approach would impose risks and costs that would harm the broadband market. When and if there is a need for regulation in the broadband market, it can be satisfied through the Commission’s exercise of ancillary jurisdiction. To the extent any jurisdiction is

¹ *Framework for Broadband Internet Service: Notice of Inquiry*, GN Docket No. 10-127, FCC 10-114 (2010) (NOI).

exercised, however, it must be applied evenly, with equitable obligations for all providers subject to it.

II. DISCUSSION

At the outset, ITTA maintains and reiterates its position that the Commission should not impose new regulations upon broadband Internet service providers. In that regard, ITTA notes competition among and between wire-based and wireless providers, and submits that the complementary nature of their services is a hallmark of a robustly developed market in which consumers have a wide and varied range of choices. If, however, the Commission determines to impose regulations, those should be applied in an equitably-effective manner upon all providers. To do otherwise would be contrary to sound public policy and potentially provide a competitive advantage to one segment of the industry.

In initial comments, some parties asked the Commission to consider commercial mobile services differently than wired services. The parties argued that wireless providers should not be subject to new requirements. They argued, variously, that “wireless carriers have every incentive” to meet consumer demands, since “unhappy consumers vote with their feet.”² And, that light-touch regulation has “fostered numerous consumer benefits.”³ As demonstrated in ITTA initial comments, those same observations apply to providers of wired broadband services, who are subject to the pressures of healthful competition and whose consumers can just as readily “vote with their feet.” On that basis, there is no reason to impose disparate regulatory policies, since each segment is subject to similar market forces.

² *Comments of Sprint* at 20.

³ *Comments of T-Mobile* at 19.

Separately, however, some parties argue that the nature of wireless networks justifies exemption from network management or “net neutrality” regulations. ITTA agrees that there are inherent instabilities in wireless mobile networks as compared to wireline networks. Wireless mobile networks operate on “shared bandwidth.” Accordingly, when one customer consumes more capacity, less is available for all others attempting to use or access the network. The same principle applies to any technology that depends upon shared resources in the last mile, but that should not exempt shared network providers from equivalent regulations. Indeed, in different proportion, the wireline networks can also be affected adversely by “bandwidth hogs.” Both groups, then, must have the freedom to manage their networks effectively in order to provide the best network experience to all users.

ITTA frequently advocates against the suitability of “one size fits all” solutions. At the same time, however, ITTA champions regulatory parity in order to ensure that marketplace advantages arise out of competitive innovation rather than regulatory fiat. The two positions are not mutually exclusive. Regulatory policy must recognize differences in technology and economic market conditions. But, having accommodated those, carriers of all stripes, competing in the same markets for the same customers with the same services, must be subject to substantively similar and equitably designed regulatory conditions. Failure to do so will send improper signals to the marketplace by insinuating regulatory favor for one technology over another. Those results would be damaging not only to providers of the regulated technology, but to the overall market, technological innovation, and consumers. In the first instance, the market would be skewed with inappropriate signals tendered by imprecise policy. Reluctance to invest in

technologies apparently disfavored by regulators would diminish available capital for research and development in that field. Decreases in research and development would slow the introduction of new products and applications to the market. Ultimately, consumers would suffer the wounds of regulatory kindness irrationally conferred upon one segment of the industry, but not another.

The complementary and competitive relationships between wired and wireless offerings enable consumers to weigh features, capabilities, and convenience; each model continues to expand availability and offerings, providing consumers with an ever-broadening array of competitive options. To the extent wireless networks suffer capability constraints based upon the “shared resources” nature of their networks, properly written regulations can ensure that wireless network providers are given sufficient freedom to manage their networks in the same manner as wireline providers must obtain. It would be wholly improper, however, to exempt wireless providers from regulations that apply to providers of wire-based services. Moreover, it would be particularly egregious when the intent of the proposed regulations is to protect consumer interests. A cynic’s view of such regulatory disparity could be to discern an interest in protecting consumers of wire-based services, and to question whether a similar commitment exists with regard to consumers of wireless services.

III. CONCLUSION

Numerous parties in this proceeding have noted the resilience of the broadband Internet access market and its astounding growth. Similarly, numerous parties have affirmed that the market’s spectacular record has emerged during a period in which the Commission has wisely refrained from settling regulatory fingers upon the industry. The Commission must resist unfounded, however well-intentioned, calls to impose

regulations on a thriving market. But, to the extent the Commission imposes any regulations, those must apply equally and impose equitable outcomes on all providers. Advantages borne of competitive efforts must not be supplanted by flawed regulatory advantage. To do so would undermine the broader consumer-oriented goals the Commission seeks to promote.

Respectfully submitted,



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