

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

In the Matter of )  
 )  
Inquiry Concerning Deployment of )  
Advanced Telecommunications Capability ) GN Docket No. 18-238  
to All Americans in a Reasonable and )  
Timely Fashion )  
 )

COMMENTS OF THE NATIONAL DIGITAL INCLUSION ALLIANCE

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**Introduction**

The National Digital Inclusion Alliance (NDIA) respectfully submits these comments in response to the FCC’s Fourteenth Broadband Deployment Report Notice of Inquiry (NOI), “Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion”.

NDIA represents leaders of local community organizations, public libraries, municipalities, housing authorities and other institutions working hard to reduce digital disparities among neighbors. To improve the daily lives of all community members, NDIA calls for digital inclusion public policies that reflect local expertise and diverse experiences.

NDIA’s approach is based in the knowledge that digital inclusion is most effectively promoted by community-driven efforts combining:

- Affordable home broadband service.
- Public broadband access.
- Appropriate affordable devices.
- Locally trusted technology training and support.

The National Digital Inclusion Alliance represents organizations with a wide range of experience reducing the digital divide in the United States. The experiences of our 250+ affiliates include providing guidance to low-income parents connecting to their children’s teachers, teaching seniors

how to use their electronic health records, helping veterans learn digital skills in order to acquire a job, and enabling disabled adults to participate more fully in their communities. The services of our affiliates include digital literacy training, public Internet access, home broadband programs and digital inclusion advocacy.

NDIA currently counts 357 affiliated organizations, including 43 national nonprofits and 269 local public and nonprofit organizations in 39 states, the District of Columbia and the US Virgin Islands. Our local Affiliates include 32 municipal government bodies, 48 local public libraries and regional library councils, 19 college/university programs, 13 state government agencies, 3 local school districts, 8 housing authorities and 146 local nonprofit organizations. The full list of NDIA affiliates with links to their websites can be found at <https://digitalinclusion.org/members>.

### **The Commission's previous Section 706 NOI and the 2018 Broadband Deployment Report**

As the NOI notes, Section 706 of the Telecommunications Act of 1996, as amended (1996 Act), requires the Commission to determine and report annually on “whether advanced telecommunications capability is being deployed to **all Americans** in a **reasonable** and timely fashion” (our emphases).

In NDIA's comments<sup>1</sup> submitted a year ago in response to the *Thirteenth Section 706 Report Notice of Inquiry*, we wrote:

*NDIA asserts that, as a practical matter, the “reasonableness” of the current deployment of advanced telecommunications capability (i.e. high-speed broadband Internet access services) to all Americans can only be judged by the degree to which all Americans genuinely have access to the broadband services they need for “reasonable” participation in contemporary economic, educational, medical, social and civic life.*

*By that practical standard, the experiences of our affiliates in diverse locales throughout the U.S., from inner-city neighborhoods to rural towns and tribal communities, confirm that the current state of deployment of high-speed broadband is far from reasonable for millions of Americans.*

We went on to ask the Commission to include three specific issues in its consideration of whether broadband Internet is being “*deployed to all Americans in a reasonable and timely fashion*”:

**Affordability.** *“The Commission’s consideration of whether advanced telecommunications capability has been deployed to all Americans ‘in a reasonable and timely fashion’ must take into account the cost of access, whether that cost is a barrier to access for a significant number of households, and whether that cost of access is being increased by unreasonable or anti-competitive policies and practices.*

*“In particular, we ask the Commission to consider the situation of inner city residents of some cities in AT&T’s service area, whose fixed broadband service choices are limited to very expensive cable modem service or very slow (but still expensive) ADSL service, because AT&T*

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<sup>1</sup> <https://www.digitalinclusion.org/wp-content/uploads/2017/09/NDIA-Comments-Deployment-of-Advanced-Telecommunications-9-21-17.pdf>

*has chosen not to deploy its faster, fiber-enhanced mainstream VDSL service in certain neighborhoods. ”*

**Low-income household adoption.** *“The Commission’s consideration of whether advanced telecommunications capability has been deployed to all Americans ‘in a reasonable... fashion’ must take into account the rate of adoption of those services in different types of locality (rural, city, suburban, tribal) and classes of consumer, e.g. low-income households. ”*

**Digital redlining.** *“The Commission should investigate the apparent deliberate ‘digital redlining’ of certain urban neighborhoods by one or more providers and its impact on the reasonable deployment of advanced telecommunications services in those neighborhoods. To the extent that investigation confirms that any provider has deliberately failed to deploy advanced services due to the income characteristics of neighborhoods, the Commission should take direct, aggressive regulatory action to remedy the situation.”*

The significance of each of these issues was explained and supported in our comments with evidence from the American Community Survey and Form 477 data, as well as concrete examples from community experience.

So we were disappointed to see all three issues effectively ignored by the Commission in the *2018 Broadband Deployment Report*.

1) The *Report*, as required by statute, includes a brief, technical comparison of U.S. broadband prices with prices elsewhere in the world (pp. 36-37). But as then-Commissioner Clyburn noted in her dissent, the *Report* lacks any consideration of the affordability of broadband access to lower-income households as a factor in evaluating its reasonable deployment. *“Price is a well-known indicator for assessing broadband availability. A previous study found that 71% of those without broadband identified affordability as a major factor... But in the majority’s rush to declare victory... they once again disregard the plight of low-income Americans.”*

2. The *Report* does include a section on *“Adoption Data”* (pp. 39-44), whose main point is extolling the rapid pace of overall U.S. broadband adoption compared to previous technologies. The section does come with a useful table (Table 12) relating county-level data on broadband adoption rates to median incomes, poverty, rural vs. urban population percentages, and population density. The accompanying text points out that Table 12’s data *“suggest that the average household adoption rate increases with median household income and population density, although **the adoption rate decreases as the poverty rate and rural population rate increase**”* (our emphasis). But this important observation is not pursued.

3. The *Report* acknowledges the issue of digital redlining only in a passing reference to commenters’ *“wide variety of suggestions”* for *“other actions”* (p. 48). The evidence that competitive broadband deployment in some cities has been held back by deliberate ISP discrimination against lower income neighborhoods is not addressed.

### **The NOI's use of the term “digital divide”**

The Commission's lack of interest in whether broadband is being deployed only in ways that make it

unaffordable for lower-income Americans -- urban or rural -- makes the NOI's alleged concern with "closing the digital divide" difficult to take seriously. It's even more difficult when the Commission ignores clear evidence, drawn from its own Form 477 data, that providers have withheld broadband upgrades from communities *because* they have lower-income residents.

What, exactly, does the Commission mean by "closing the digital divide"?

What do this NOI and the related section of the 2018 Report hope to accomplish by invoking the phrase as an alleged goal of the Commission's efforts to:

- *"remove regulatory barriers to investment"* (like municipal small cell oversight authority);
- *"expand access to spectrum to support or supplement wireless and satellite broadband services"*;
- *"eliminat[e]... pricing regulation and tariffing requirements for most types of business data services"*; and even...
- *"Restore Internet Freedom"* by revoking Title II classification for Internet services and rolling back net neutrality protections?

It would be easy to accept the most benign explanation: That the Commission majority simply believes the only important barrier to near-universal broadband access is an insufficiently unfettered and insufficiently subsidized ISP industry -- so anything the FCC can do to eliminate regulation while increasing rural (and perhaps inner-city) deployment subsidies helps to bring the day of universal access closer.

Even if correct, this benign interpretation does not explain the Commission's disinterest in investigating whether the consumer cost of home broadband is a barrier to the optimal use of networks already deployed -- thus affecting the economics and (one would hope) the design of future deployments. (As the 2018 Report acknowledges, *"adoption also is necessarily a lower bound on deployment and therefore may help guide our inquiry into deployment."*)

And it certainly does not explain why the Commission treats evidence of an historic, ongoing pattern of deployment discrimination against poorer neighborhoods by a major provider -- a pattern that could be repeated in that provider's future deployments of advanced technologies, such as fiber to the premises and 5G fixed wireless -- as just another "suggestion".

### **Real steps to close the digital divide**

Nonetheless, NDIA would like to hope that the benign view is correct, and that the Commission majority is truly interested in "closing the digital divide" as that concept is generally understood. If that is the case, we suggest two ways for the Commission to demonstrate its good faith in its *2019 Broadband Deployment Report* and beyond:

#### **1. Engage the digital redlining issue.**

The Commission should recognize the significance of AT&T's historic policy of withholding its last generation of advanced residential technologies (fiber to the node) from lower-income urban communities; the lasting damage this policy has caused to the cities and neighborhoods affected; and

the terrible precedent it may set for future provider practices if the Commission continues to turn a blind eye to this documented instance of large-scale economic discrimination.

The evidence of AT&T's digital redlining of lower-income areas of Cleveland, Detroit, and other cities is reviewed, and the original research footnoted, in NDIA's comments September 2017 on the *Thirteenth Section 706 Report Notice of Inquiry*.<sup>2</sup> We will not repeat that presentation here.

The Commission should add enforcement of the non-discrimination provisions of the Telecommunications Act to its stated policies for encouraging full and fair deployment of high-speed broadband networks, and demonstrate the seriousness of this commitment by opening an investigation of AT&T's historic fiber-to-the-node deployment practices.

(As the Commission is aware, the most recent release of Form 477 Census block deployment data, current for June 2017, became publicly available just one week ago. NDIA is reviewing that new data to determine if it indicates any significant increase in access to AT&T's fiber-to-the-node or fiber-to-the-premises services for residents of lower-income Cleveland neighborhoods, when compared to the data for June 2016. Our preliminary review of the data for Cleveland does not indicate that any significant improvement for those neighborhoods occurred during the year in question. We will be happy to share our findings with the Commission as we move forward.)

## **2. Identify adoption and affordability, especially for low income consumers, as important aspects of deployment.**

As an important component of its 2019 Broadband Deployment Report and subsequent annual reports, the Commission should expand its examination of broadband adoption, as well as its metrics for progress on deployment, to include:

- a) developments in the cost of household broadband access, whether that cost is a barrier to access for a significant number of households, and whether that cost of access is being increased by unreasonable or anti-competitive policies and practices; and
- b) much greater detail regarding the rate of adoption of broadband services in different types of locality (rural, city, suburban, tribal) and by classes of consumer, particularly household income cohorts.<sup>3</sup>

An honest, thorough examination of these topics by the Commission, the only entity with the authority and scope to conduct it, is badly needed so that all parties – policy makers, elected officials, technology service providers and the public – can develop a complete picture of the gaps in Americans' broadband access, the variety of obstacles to closing those gaps, and the likelihood of success of various approaches to closing them.

As a network of experienced digital inclusion practitioners, NDIA is convinced that simply deploying a

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<sup>2</sup> <https://www.digitalinclusion.org/wp-content/uploads/2017/09/NDIA-Comments-Deployment-of-Advanced-Telecommunications-9-21-17.pdf>

<sup>3</sup> The Commission should be aware that the U.S. Census' 2017 American Community Survey 5-Year Estimates, due for release in early December, will include household Internet access data at the tract and block group levels for the first time. ACS data does not indicate connection speeds, or distinguish among users of different wireline broadband technologies; but it does provide survey data on wireline, mobile, satellite, dial-up and "other" subscriptions, and it also provides some basic demographics for Internet and broadband users and non-users.

broadband network is only the first step in “connecting the unconnected”, especially in lower income communities. If that were not the case, then the nation's large cities – which virtually all appear on the Commission's broadband deployment map as fully served – would not suffer from horrendous non-connection rates.<sup>4</sup>

We see increasing evidence that the consumer cost of commercial broadband service is now a major impediment to adoption, especially for the poorer households who constitute a very disproportionate share of those without mainstream broadband access.

NDIA recently submitted comments<sup>5</sup> in response to the USDA's inquiry regarding that agency's e-Connectivity Pilot Program for rural broadband investment, in which we presented data indicating that the counties most in need of that investment – heavily rural counties with the slowest aggregate broadband speeds – have a median individual poverty rate of 16-17% . We pointed out that simply deploying more broadband infrastructure, at the current industry-standard rates of \$65 per month or more for 10+ Mbps service, would probably do little to increase the adoption rates for these millions of low-income rural households... any more than ubiquitous \$65-\$75 cable modem deployment has “closed the digital divide” for their urban counterparts.

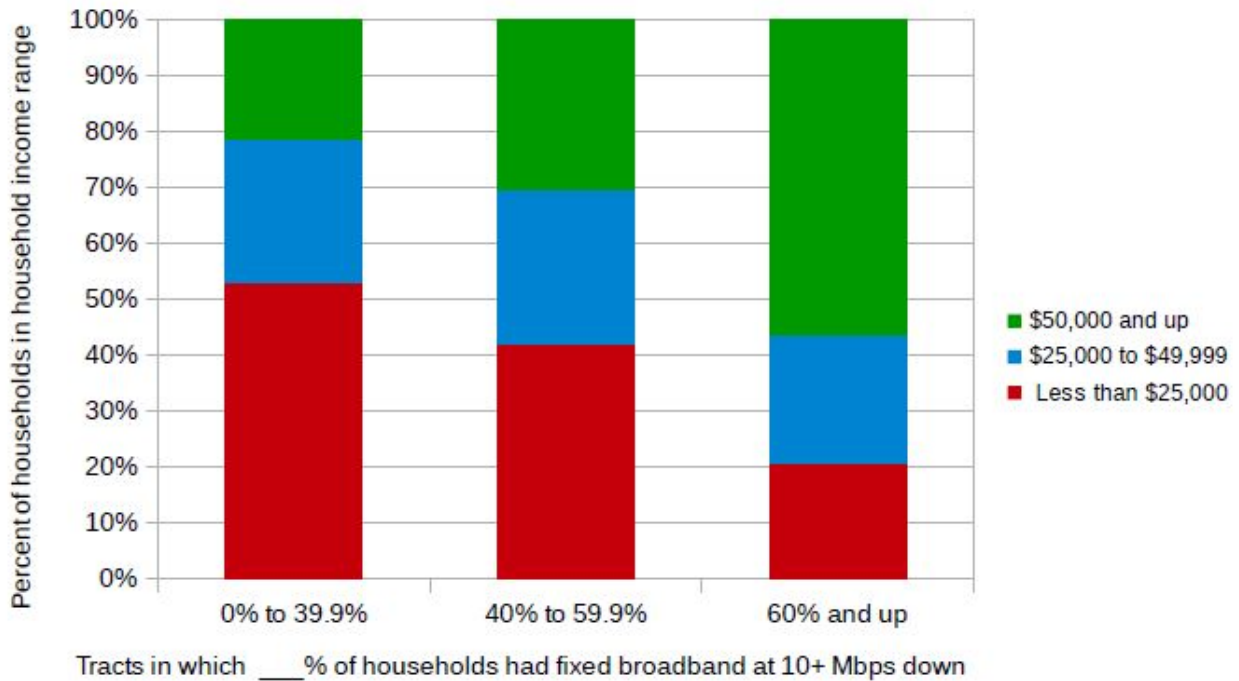
And there is little question that cost *is* the main barrier to further home broadband adoption in the nation's worst-connected cities; the association between household incomes and adoption rates is too obvious to ignore.

Consider the following chart showing the distribution of high, medium and low 10+ Mbps adoption levels, per the Form 477 Internet Access Services tract data for December 2016, among Census tracts with low, medium and higher median household incomes in five urban counties whose central cities have very high non-connection rates:

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<sup>4</sup> <https://www.digitalinclusion.org/blog/2018/06/07/worst-connected-cities-2016/>

<sup>5</sup> <https://www.digitalinclusion.org/wp-content/uploads/2018/09/NDIA-Affordability-Comments-to-USDA-2018.pdf>



**INCOME DISTRIBUTION OF HOUSEHOLDS IN CENSUS TRACTS WITH LOW, MIDDLE AND HIGH FIXED BROADBAND CONNECTION RATES, DECEMBER 2016**

All occupied tracts in Miami-Dade (FL), Wayne (MI), Erie (NY), Cuyahoga (OH) and Shelby (TN) Counties

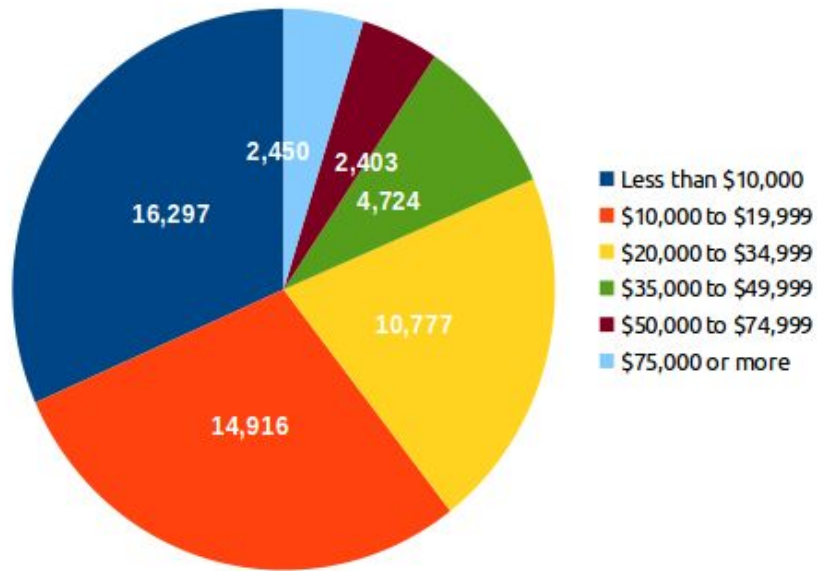
*Broadband connection data: FCC Form 477 Internet Access Services Reports, December 2016.*

*Household income data: American Community Survey 2016 5-Year Estimates, Table B19001*

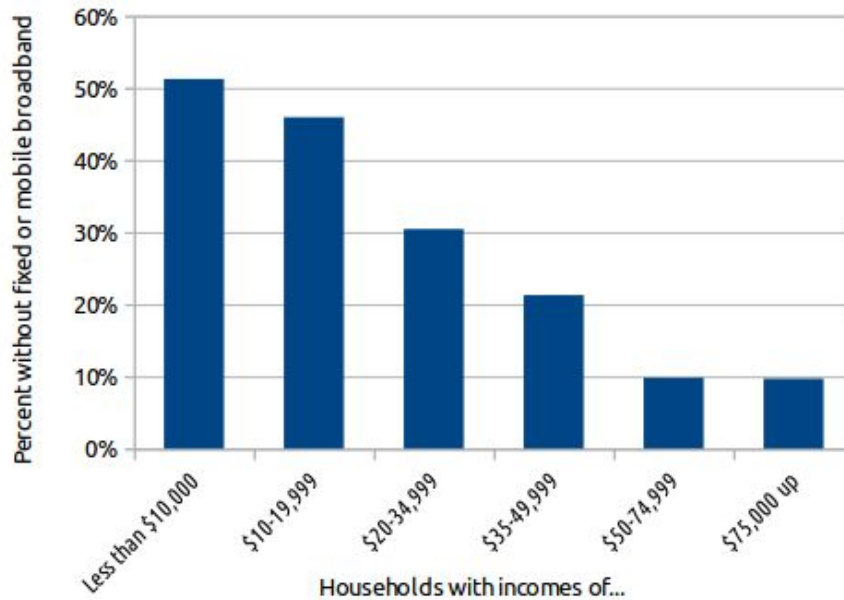
Or consider these charts of 2017 American Community Survey data showing the income demographics of household broadband access in the city of Cleveland:

Distribution of Cleveland households with no fixed or mobile broadband, by income cohort, 2017

Source: 2017 American Community Survey 1-Year Estimates, Table B28004



Percent of Cleveland households with no fixed or mobile broadband by income, 2017



Source: 2017 American Community Survey 1-Year Estimates, Table B28004



Bear in mind: Each of the communities featured in these charts has more or less ubiquitous “real broadband” coverage (better than 25/3) from at least one commercial provider. Each has household service available from that provider for \$65 to \$75 a month.

Yet each has more than 40% of its central-city households living without a wireline broadband connection at any speed.<sup>6</sup>

We might expect that such a stark gap in demand for their services would lead the major ISPs to adapt by devising better-targeted product lines... for example, lower-speed services at lower price points. But in fact, they have moved in the opposite direction.

In July, NDIA published a white paper documenting what we call “tier flattening” of home Internet rates by AT&T and Verizon.<sup>7</sup> It called attention to the fact that

*... in recent years, the nation’s two largest telco ISPs... have eliminated their cheaper rate tiers for low and mid-speed Internet access, except at the very slowest levels.*

*Each company now charges essentially identical monthly prices – \$63-\$65 a month after first year discounts have ended – for home wireline broadband connections at almost any speed up to 100/100 Mbps fiber service...*

*Most of these communities [served by AT&T and Verizon] have no other wireline competitors offering lower-speed Internet access at any price. Standalone Internet services from most cable ISPs like Charter and Comcast start at 60-100 Mbps down for \$65-\$75 a month. AT&T and Verizon are, for all intents and purposes, the sole providers of wireline Internet access at lower speeds.*

*The implications of upward tier flattening for community digital inclusion efforts are serious. \$65 a month for any kind of Internet access, slow or fast, is not a sustainable expense for the low-income residents served by most of NDIA’s affiliated programs.*

NDIA urges the Commission to consider the obvious implications of these examples:

- *Access without affordable prices will not automatically “close the digital divide” for underserved communities, either urban or rural. It may lead instead to stark divides within communities, reinforced by exclusionary pricing or even deliberate redlining.*
- *And simply promoting the expansion of existing commercial providers, either by “removing regulatory barriers” or by direct financial subsidies, won’t automatically lead either to equitable broadband access or to affordable broadband prices.*

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<sup>6</sup> <https://www.digitalinclusion.org/blog/2018/06/07/worst-connected-cities-2016/>

<sup>7</sup> <https://www.digitalinclusion.org/wp-content/uploads/2018/07/NDIA-Tier-Flattening-July-2018.pdf>

## **Conclusion**

NDIA submits these comments in the hope that the Commission's frequent references to "closing the digital divide" reflect a genuine desire to encourage equitable broadband access and digital inclusion for all Americans.

We urge the Commission to demonstrate this desire in its 2019 Broadband Deployment Report by, at a minimum:

1. Seriously engaging the issues raised by evidence of AT&T's digital redlining of lower-income urban neighborhoods in the company's last major deployment of advanced broadband infrastructure, and
2. Identifying adoption and affordability, especially for low income consumers, as important aspects of deployment.

An honest, thorough examination of these topics by the Commission, the only entity with the authority and scope to conduct it, is badly needed so that all parties – policy makers, elected officials, technology service providers and the public – can develop a complete picture of the gaps in Americans' broadband access, the variety of obstacles to closing those gaps, and the likelihood of success of various approaches to closing them.

Thank you,

A handwritten signature in black ink, appearing to read 'Angela Siefer', with a stylized flourish at the end.

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