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BROADBAND IN AMERICA: INTRODUCTION TO A NEW

FEDERAL PRIORITY

by

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The 1990s were an exciting time in America for technology and its potential to entertain, inform, connect and yield profits for both consumers and drivers of innovation. But for all the device and application advances of the past decade, from the iPhone to YouTube, Facebook to netbooks, the United States continues to lag behind other countries when it comes to broadband connectivity. Once among the leaders in broadband development, the United States now ranks 15th in broadband penetration, behind countries such as Japan, South Korea, France and Denmark, according to the Organization for Economic Cooperation and Development.[1]

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[1] Organization for Economic Cooperation and Development Broadband Statistics (2008), http://www.oecd.org/dataoecd/21/35/39574709.xls.

When it comes to broadband speeds, the United States ranks 19th in the world.[2] For years, lawmakers and industry and consumer advocates have lamented on the need for significant upgrades to the United States' communication infrastructure, which are essential for the country to stay competitive in an increasingly digital world that relies on Internet connectivity for even the most basic functions.

Statistics as to the increasing reliance on broadband and Internet connectivity are staggering. For example, in 2000, 27% of Fortune 500 companies had only online job postings and applications.[3] As of 2005, that number had risen to 77%, and it can be safely assumed that the percentage is much higher today.[4] Further, 90% of high school students use the Internet to search for financial aid information,[5] and a 2008 Zogby Interactive poll reported that 48% of respondents listed the Internet as their main source for news and information.[6]

As these examples demonstrate, the need for increased broadband access and usage is clear. While connecting every home in America is critical, it may be only the first step in a much larger undertaking that will have an impact on many aspects of our lives. Already, a soldier stationed in Iraq can read a bedtime story to his young daughter via video

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[2] Organization for Economic Cooperation and Development Broadband Statistics, Average Advertised Broadband Speed, by Country, kbits/s (2009), http://www.oecd.org/dataoecd/10/53/39575086.xls.

[3] Taleo Research, *Talent Management Processes: Don't Miss The Next Strategic Turn*, http://www.taleo.com/research/articles/talent/don-miss-the-next-strategic-turn-115.html (last visited Nov. 17, 2009).

[4] *Id.*

[5] EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL OF ECONOMIC ADVISERS, NATIONAL ECONOMIC COUNCIL, SIMPLIFYING STUDENT AID: THE CASE FOR AN EASIER, FASTER, AND MORE ACCURATE FAFSA 8 (2009), http://www.whitehouse.gov/assets/documents/FAFSA_Report.pdf (last visited Nov. 17, 2009).

[6] Zogby International, *Zogby Poll: 67% View Traditional Journalism as "Out of Touch,"* ZOGBY, Feb. 27, 2008, http://www.zogby.com/news/ReadNews.cfm?ID=1454.

chat;[7] residents of Black Hawk County, Iowa can send an emergency text message to the local public safety answering point through next generation 9-1-1 technologies;[8] business leaders from all over the globe interact and mentor entrepreneurs with the next "big idea" through telepresence and web conferencing.[9] In the twenty-first century, broadband has an even greater potential to enhance innovation, entrepreneurship, education and the quality of life for Americans in ways not seen since the invention of the telephone.

II
CONGRESS' CALL FOR A NATIONAL BROADBAND PLAN

With the devastating downturn of the economy last fall, a reexamination of where to invest suddenly very scarce governmental resources was in order. With a new President and Congress willing to turn a crisis into an opportunity, the American Recovery and Reinvestment Act of 2009 (ARRA) was enacted by Congress and signed into law by the President, allocating over $787 billion dollars in appropriations to help stimulate the economy.[10] The ARRA was designed as an economic stimulus measure to provide funds to create American jobs through investments in education, healthcare, infrastructure, and small businesses, as well as tax cuts, grants, and other methods.[11]

As part of the ARRA, Congress mandated that the Federal Communications Commission (FCC) develop the nation's broadband

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[7] Kathryn Rains, *Soldiers Unite With Families*, ARMY.COM, Aug. 14, 2008, http://www.army.com/news/item/4131.

[8] Donny Jackson, *Iowa Call Center First To Receive 911 Text Message*, URGENT COMMUNICATIONS, Aug. 6, 2009, http://urgentcomm.com/networks_and_systems/news/call-center-911-text-message-20090806/.

[9] Posting of Sramana Mitra to Forbes.com, http://www.forbes.com/2009/09/10/mentor-entrepreneur-cisco-intelligent-technology-telepresence.html (Sept. 11, 2009).

[10] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, (2009), *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf.

[11] *Id.*

strategy to address arguably the country's most significant infrastructure challenge: acceleration of broadband deployment in unserved, underserved and rural areas and to strategic institutions that are likely to create jobs or provide significant public benefit.[12] Under the AARA, the FCC was required to deliver to Congress a National Broadband Plan, by March 17th, 2010, that will detail how the United States can bring broadband's immense potential to all corners of the country, thus improving the American quality of life.

III
THE DEVELOPMENT OF THE NATIONAL BROADBAND PLAN

To begin the development of this plan, the FCC, in conjunction with the Department of Commerce's National Telecommunications and Information Administration (NTIA) and the Department of Agriculture's (USDA) Office of Rural Development, held a public kick-off meeting on March 10, 2009 to discuss the new broadband initiative and to reinforce the goals of increasing access and creating jobs in communities.[13] FCC Chariman Julius Genachowski announced the senior leadership of the new "Omnibus Broadband Initiative," led by FCC and Wall Street veteran Blair Levin, who served as Chief of Staff to former FCC Chairman Reed Hundt; Erik Garr, a former partner at Diamond Management and Technology Consultants; and Carlos Kirjner, a telecommunications expert and former Vice President for Telegent Systems, Inc. Levin, Garr and Kirjner were charged with assembling a team that would develop the National Broadband Plan. The National Broadband Plan's areas of focus include broadband deployment and several national purposes such as economic opportunity, job training, education, energy and environment, civic engagement and government performance, health care, public safety, and homeland security.[14]

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[12] *See id.* at §6001.

[13] Press Release, Federal Communications Commission, Vilsack, Copps, and Wade Kick Off American Recovery and Reinvestment Act's Broadband Initiative (Mar. 10, 2009), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-289101A1.pdf.

[14] Press Release, Federal Communications Commission, Broadband Task Force Delivers Status Report On Feb. 17 National Broadband Plan (Sep. 29, 2009), https://portal.neca.org/portal/server.pt/gateway/PTARGS_0_0_307_206_0_43/http;/pro dnet.www.neca.org/wawatch/wwpdf/929fccnews2.pdf.

Understanding the national importance of the National Broadband Plan, the FCC developed a process and formed a team to ensure that a data driven Plan would be prepared and delivered to Congress. Reflective of the open, transparent and data-driven mission of Chairman Genachowski's FCC, the National Broadband Taskforce was established as the vehicle through which the Commission would gather information and report to Congress.

Shortly after, in April 2009, the FCC adopted a Notice of Inquiry (NOI) announcing that the Commission was "begin[ing] a proceeding to create the National Broadband Plan, seeking input from all stakeholders: consumers, industry, large and small businesses, non-profits, the disabilities community, governments at the federal, state, local and tribal levels and all other interested parties."[15] Commissioner Michael Copps stated at adoption of the NOI that, "this Commission has never, I believe, received a more serious charge than the one to spearhead development of a National Broadband Plan."[16] A tremendous amount of feedback, in the form of public comment, already has been received by a variety of stakeholders from the major telecommunications service providers to consumer advocacy, and the record continues to grow.

In order to ensure that the process is fact-based and data-driven, the FCC's Broadband Taskforce has made several new and innovative efforts to engage the public on the National Broadband Plan with unprecedented transparency and collaborative spirit, building on the FCC's existing procedures for obtaining public comment.

The FCC's very first foray into the blogosphere, Blogband, was posted on August 18th, 2009 by Chairman Genachowski as an interactive public forum to discuss broadband policy.[17] Through the use of the broadband technology, the Chairman has ushered in, not only a new era

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[15]F.C.C., GN DOCKET NO. 09-51, NOTICE OF INQUIRY, IN THE MATTER OF A NATIONAL BROADBAND PLAN FOR OUR FUTURE (2009), http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-31A1.pdf.

[16] Statement of Michael J. Copps, Acting Chairman FCC (Apr. 8, 2009), http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-31A2.doc.

[17]See generally, Posting of Julius Genachowski, Chairman, FCC, to Blogband, http://blog.broadband.gov/?p=33 (Aug. 18, 2009).

of communication for the Commission, but also a new period of civic engagement utilizing the latest interactive technologies. The FCC has joined other popular social networking sites like Twitter, Facebook and YouTube, and invites the public to comment, discuss and rank critical broadband issues through IdeaScale.[18] The Commission's Twitter account currently has over 71,000 followers,[19] and is among the most popular federal agencies, along with the White House, Centers for Disease Control and the National Aeronautics and Space Administration. These are all firsts for the FCC, and they highlight a distinguishing characteristic of an Administration that seeks to communicate with its citizens in the same manner citizens are communicating with one another.

As another means of receiving data to help the development of the National Broadband Plan, the FCC also has held a broad series of workshops and field hearings. This series of workshops, which began in August 2009, and the later field hearings, have proved to be lively, interactive and valuable for the staff tasked with collecting data and forming recommendations. Topics have ranged from "how broadband will impact cyber security" to "how content would and should be distributed to the masses."[20] The workshops and field hearings feature a diverse group of panelists from government agencies, telecommunications companies, consumer advocacy organizations and academic institutions.[21] Even the workshops, themselves, are utilizing broadband. For example, in a workshop on climate change, a panelist participated via telepresence, interacting with the in-room audience and moderators and forgoing the carbon footprint left behind by air travel, ground transportation and lodging without sacrificing the integrity of his

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[18] IdeaScale is an online program that allows companies to build communities based on the model of "crowdsourcing." The customers post ideas and comments to the site (called a "community") and other voters vote them up or down. The best ideas float to the top, giving the company subscribing to the service an idea of optimal decisions to be made in the business's best interests.

[19] *See generally* FCC Twitter Account Homepage, http://twitter.com/FCC (last visited Nov. 17, 2009).

[20] *See* Broadband.gov Workshop Homepage, http://www.broadband.gov/workshops.html (last visited Nov. 17, 2009).

[21] *See id.*

presentation.[22]

IV
A NATIONAL PURPOSE AS AN EXAMPLE; PUBLIC SAFETY

In order to provide more insight into how the process for developing the National Broadband Plan has worked, it is helpful to focus on one of its national objectives: public safety. As part of the FCC's Broadband Plan NOI, the FCC focused questions on a wide variety of areas concerning public safety, including broadband communications for the public safety community, cyber security, emergency alerting and next generation 9-1-1.[23] While some comments were received in response to the NOI, overall, the public record was slim and not very data driven. This required the team working on the public safety portion of the National Broadband Plan to perform substantial outreach to obtain a more data-driven record on these critical issues.

The first accomplishment by the Broadband Task Force in this area was to ensure that the existing dockets pending at the FCC that impact broadband and public safety became part of the National Broadband Plan docket. In this way, important filings in other proceedings could be legally considered in this docket.

Next, the Broadband Task Force held two workshops. The first workshop focused on traditional public safety communications and the impact from broadband, while the second focused solely on cyber security. Each workshop was followed up with detailed questions to each panelist, whose answers became part of the record. A third workshop is being planned to supplement the record.

In order to further increase the size of the record, the Broadband Task Force has been blogging on public safety and homeland security issues. In addition, in October 2009 a public notice was released seeking additional data on broadband networks for public safety, emergency

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[22] *See id.*

[23] F.C.C., GN DOCKET NO. 09-51, NOTICE OF INQUIRY, IN THE MATTER OF A NATIONAL BROADBAND PLAN FOR OUR FUTURE (2009), http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-31A1.pdf.

alerting, next generation 9-1-1 and cyber security.[24] This public notice should encourage the filing of additional comments by interested parties, further supplementing the public record.

V
CONCLUSION

In order to connect the unconnected, real numbers matter. In a political climate growing ever more hostile to government spending, it is in the best interests of the American people and for all future public infrastructure investments to get the numbers right and to develop a National Broadband Plan that results in the increased connectivity of all Americans. The global economic downturn and our international competitors in innovation and economic development will not wait for the United States to catch up in this digital divide. The process must be deliberate, and it must have a clear ethos in the way in which it develops solutions and ideas.

Blair Levin often talks about a conversation he had with a longtime friend that works at a telecommunications think tank, which criticized the broadband workshops' lack of regulatory philosophy. Well, Levin insists, that's exactly by design.[25] Whether you are with or without broadband connectivity is truthfully not a philosophical issue; it's a matter of fact. One of the many challenges this team faces is staying true to a data-driven approach in which political, much less regulatory, philosophy never supersedes. What does "broadband" really mean? What speeds should be achieved? How many households need to be connected? These are just some of the questions that must be answered before the March 17th, 2010 deadline.

Most of the broadband team's staff understands, much to their credit, that they simply do not know all the answers. They are asking a lot of questions and have taken steps in making this process as collaborative and open as possible. Perhaps the most important conclusion to be made

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[24] Press Release, Federal Communications Commission, Comment Sought on Public Safety Issues Related to Broadband Deployment in Rural and Tribal Areas and Broadband Communications to and from Persons with Disabilities (Nov. 11, 2009).

[25] *See* Posting by Blair Levin, Executive Director, Omnibus Broadband Initiative, to Blogband, http://blog.broadband.gov/?p=268 (Sept. 11, 2009).

is that only through robust, wide-open and productive dialog among a very diverse universe of stakeholders can the Federal Communications Commission deliver on its mission set out by Congress to deliver a National Broadband Plan.