

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund	)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
)	
Lifeline and Link-Up	)	WC Docket No. 03-109
)	

To: The Commission

COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

Danielle Coffey
Vice President, Government Affairs

Rebecca Schwartz
Director, Regulatory and Government Affairs

Brian Scarpelli
Manager, Government Affairs

TELECOMMUNICATIONS INDUSTRY ASSOCIATION
10 G Street N.E.
Suite 550
Washington, D.C. 20002
(202) 346-3240

Its Attorneys

April 18, 2011

TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY	2
II. TIA SUPPORTS ADOPTION OF A NEW CORE PRINCIPLE DIRECTING SUPPORT TO NETWORKS PROVIDING ADVANCED SERVICES	4
III. THE COMMISSION HAS AUTHORITY TO TRANSITION HIGH-COST UNIVERSAL SERVICE SUPPORT TO BROADBAND	6
IV. THE CONNECT AMERICA FUND SHOULD BE TECHNOLOGY-AGNOSTIC AND COMPETITIVELY NEUTRAL	7
A. THE COMMISSION CAN MAXIMIZE BROADBAND DEPLOYMENT BY ENSURING THAT ANY SERVICE OR COVERAGE REQUIREMENTS ARE TECHNOLOGY-AGNOSTIC, FLEXIBLE, AND SPECIFICALLY TAILORED	9
1. Any Voice Service Obligations Should Be Flexible And Technology-Agnostic	9
2. Tailored Coverage Requirements Are Appropriate In Certain Situations	10
3. Other Service Obligations Should Be Tailored To Specific Conditions, Flexible, And Technology-Agnostic	10
B. TIA SUPPORTS A TECHNOLOGY-AGNOSTIC DEFINITION OF BROADBAND THAT FOCUSES ON FUNCTIONALITY, NOT MERELY ON SPEED	11
1. Speed Is Not The Lone Determining Factor Of Broadband Service Quality	12
2. Broadband Speed Is Difficult and Expensive To Measure Accurately And Challenging To Compare Across Technologies	13
C. THE COMMISSION SHOULD NOT DIVERT FUNDING FROM PROGRAMS THAT SUPPORT ANCHOR INSTITUTIONS	13
V. TIA SUPPORTS COMPREHENSIVE INTERCARRIER COMPENSATION REFORM UNDER A FEDERAL REGIME THAT REFLECTS ADVANCES IN TECHNOLOGY AND ENCOURAGES BROADBAND DEPLOYMENT	14
VI. THE COMMISSION SHOULD CLASSIFY INTERCONNECTED VOIP AS AN INFORMATION SERVICE AND TERMINATE THE IP-ENABLED SERVICES PROCEEDING	15
VII. CONCLUSION	17

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund	)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
)	
Lifeline and Link-Up	)	WC Docket No. 03-109
)	

To: The Commission

**COMMENTS OF THE TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**

The Telecommunications Industry Association submits these comments on the *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking* (“Notice”) in the above captioned proceeding.¹ TIA supports the goal of the Federal Communications Commission (“FCC” or “Commission”) to comprehensively reform and modernize the Universal Service

¹ *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2010) (“Notice” or “NPRM”).

Fund (“USF”) and the intercarrier compensation (“ICC”) program by reorienting it to support universal availability of broadband Internet access.²

I. INTRODUCTION AND SUMMARY

TIA represents the global information and communications technology (“ICT”) industry through standards development, advocacy, trade shows, business opportunities, market intelligence and world-wide environmental regulatory analysis. For over 80 years, TIA has worked to expand access to information and communications technologies, including broadband, mobile wireless, cable, satellite, and unified communications networks. TIA members manufacture the equipment used for the deployment of broadband services, as well as the devices used by consumers to access these services. TIA is accredited by the American National Standards Institute (ANSI).

TIA agrees with the Commission that the USF and ICC programs are “broken” and that part of the solution is to restructure the programs to support broadband deployment.³ As such, TIA supports the adoption of the proposed new universal service core principle that “universal service support should be directed where possible to networks that provide advanced services, as well as voice services.” This new principle is consistent with the public interest, the Commission’s goals, and Congress’s clear intent as expressed in the statute. Additionally, TIA agrees that the Commission has authority under Section 254 of the Communications Act of 1934 and under Section 706 of the Telecommunications Act of 1996 to transition high-cost support to broadband.

² Notice ¶ 1.

³ *Id.* ¶ 9.

TIA supports the Commission’s proposed creation of a broadband-focused Connect America Fund (“CAF”) to ultimately replace the existing USF high-cost fund and the implicit subsidies that continue to plague the ICC regime. TIA urges the Commission to implement this fund in a technology-agnostic, competitively neutral manner. To maximize efficient broadband deployment, the Commission must ensure that any coverage or service requirements (including voice service requirements) are technology-neutral, flexible, and able to be customized to address unique circumstances. Overly strict requirements would preclude providers from participation in the program even where compliance is not reasonably achievable due to external factors. Such requirements would arbitrarily exclude providers who might otherwise offer service to the most insular, unserved areas of the county, and would thereby thwart the core purpose of the USF. TIA supports the Commission’s proposal to allow partnerships between multiple providers in order to meet any applicable requirements.

Under a truly technology-agnostic approach, the Commission must holistically evaluate the functionality of broadband services offered by a potential recipient, rather than screening and eliminating potential recipients based solely on the speed of the connection offered. A speed-based threshold for broadband service support could leave some of the hardest-to-reach households uncovered.

In taking these steps to reform the USF, the Commission must avoid any actions that could divert funds from the E-Rate and Rural Health Care mechanisms, or from other programs that support broadband for anchor entities. Funds for these important programs should not be redirected into the CAF.

In addition to comprehensive USF reform, TIA supports comprehensive intercarrier compensation reform under a federal regime that reflects advances in technology and encourages

broadband deployment. The current ICC framework is out of step with the IP-based, nationwide, data-centric communications networks of today. TIA therefore supports a rapid transition away from the outdated and market-distorting inter- and intra-state access rate structure and per-minute charges.

Finally, TIA urges the Commission to bring certainty to the market for interconnected voice over IP (“VoIP”) market by classifying that service as an information service. Doing so would promote investment in broadband deployment, would have no effect on the Commission’s authority to transition the USF to broadband, and would be consistent with the Commission’s transition to universal service support for broadband.

II. TIA SUPPORTS ADOPTION OF A NEW CORE PRINCIPLE DIRECTING SUPPORT TO NETWORKS PROVIDING ADVANCED SERVICES

In Section 254(b) of the Communication Act, Congress enumerated six core principles upon which universal service programs must be based.⁴ The Act also provides that additional core principles may be adopted where the Federal-State Joint Board on Universal Service (“Joint Board”) and the Commission find such principles “necessary and appropriate for the protection of the public interest, convenience, and necessity,” consistent with the Act.⁵

Based upon a recommendation by the Joint Board,⁶ the Notice proposes to adopt a new core principle that “universal service support should be directed where possible to networks that provide advanced services, as well as voice services.”⁷ The Commission should adopt this new

⁴ 47 U.S.C. § 254(b).

⁵ *Id.* § 254(b)(7).

⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Lifeline and Link Up, WC Docket No. 03- 109, Recommended Decision, 25 FCC Rcd 15598, 15625, ¶ 75 (Joint Board 2010) (Joint Board 2010 Recommended Decision).

⁷ Notice ¶¶ 55, 58.

core principle, which is consistent with the public interest, convenience, and necessity. It accurately reflects the changing nature of communications networks, as voice becomes only one of numerous essential communications applications supported by broadband networks. This new principle is consistent with the Commission’s goal to facilitate universal access to broadband, yet recognizes the continued importance of voice service. Thus, the new principle will serve as an appropriate guide during the reformation of the universal service program.

Additionally, the proposed new core principle is consistent with the intent of Congress as reflected in the existing enumerated core principles. In particular, by directing that funds be used to support broadband networks, the new core principle advances Congress’s second directive, which mandates that “[a]ccess to advanced telecommunications and information services [] be provided in all regions of the Nation.”⁸ Likewise, the new core principle supports the third enumerated core principle, which provides that consumers in all parts of the Nation, including low-income consumers in “rural, insular, and high cost areas,” have access to “advanced telecommunications and information services[] that are reasonably comparable to those services provided in urban areas” at reasonably comparable rates.⁹

Furthermore, as pointed out by the Joint Board in their recommendation, the proposed new core principle is consistent with the clear legislative intent of Congress that the Commission promote the continued development of the Internet.¹⁰ That intent is expressed, for example, in Section 230(b), which states “It is the policy of the United States... to promote the continued

⁸ 47 U.S.C. § 254(b)(2).

⁹ *Id.* § 254(b)(3).

¹⁰ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link Up*, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598, 15625 ¶ 75 (Joint Board 2010).

development of the Internet.”¹¹ And as discussed further below, in Section 706 of the Telecommunications Act of 1996, Congress directs the Commission to monitor the deployment of advanced telecommunications services such as broadband, and to act to accelerate deployment when necessary.¹²

TIA therefore supports the adoption of the proposed new universal service core principle as consistent with the public interest, the Commission’s goals, and Congress’s clear intent as expressed in the statute.

III. THE COMMISSION HAS AUTHORITY TO TRANSITION HIGH-COST UNIVERSAL SERVICE SUPPORT TO BROADBAND

Sections 254 of the Communications Act of 1934 and Section 706 of the Telecommunication Act of 1996 provide all authority needed for the Commission to transition high-cost universal service funds to support broadband services, whether provided as telecommunications services or as information services. Section 254 establishes the principle that all consumers should have access to reasonably comparable telecommunications and information services, and explicitly authorizes the Commission to take “into account advances in telecommunications and *information technologies and services*” in determining which services should be supported by the universal service fund.¹³ Section 254 also authorizes the Federal-State Joint Board to “recommend changes to . . . the definition of the *services* that are supported by Federal universal service support mechanisms,” without limitation to “telecommunications services.”¹⁴ While there is some tension in the text of Section 254 with respect to the funding of

¹¹ 47 U.S.C. § 206(b).

¹² PUB. L. NO. 104-104, 110 Stat. 56, § 706, codified at 47 U.S.C. § 1302.

¹³ 47 U.S.C. §§ 254(b)(3), 254(c)(1) (emphasis added).

¹⁴ *Id.* § 254(a)(1) (emphasis added).

information services,¹⁵ TIA believes the Commission is free to interpret this ambiguity as permitting universal service support for information services.

The Commission’s ability to fund broadband Internet service through the universal service mechanism is particularly strengthened if Section 254 is read in conjunction with Section 706 of the Telecommunications Act of 1996. In Section 706, Congress directs the Commission to encourage the deployment of advanced telecommunications capability, including broadband, to all Americans on a reasonable and timely basis.¹⁶ Thus, there is a strong argument that providing universal service funding for broadband services would be consistent with the statutory directives expressly set forth in Section 254, as informed by Section 706 of the Telecommunications Act of 1996.¹⁷

IV. THE CONNECT AMERICA FUND SHOULD BE TECHNOLOGY-AGNOSTIC AND COMPETITIVELY NEUTRAL

If the Commission hopes to achieve its vision for delivering the best and most efficient broadband service to all Americans, including those in rural and high-cost areas, it is critical that the Commission implement the CAF in a manner that does not prefer particular technologies or certain competitors over others. As TIA has previously noted,¹⁸ the Commission has emphasized the importance of technological neutrality since the earliest days of the USF:

¹⁵ *Contra id.* (“Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.”).

¹⁶ PUB. L. NO. 104-104, 110 Stat. 56, § 706, codified at 47 U.S.C. § 1302.

¹⁷ *Contra Comcast Corp. v. FCC*, 600 F.3d 642, 656 (D.C. Cir. 2010) (“The crux of our decision in CCIA was that in its Computer II Order the Commission had linked its exercise of ancillary authority to its Title II responsibility over common carrier rates—just the kind of connection to statutory authority missing here.”).

¹⁸ Comments of TIA, WC Docket No. 10-90 *et al.*, at 9-10 (filed July 12, 2010).

Technological neutrality will allow the marketplace to direct the advancement of technology and all citizens to benefit from such development. By following the principle of technological neutrality, we will avoid limiting providers of universal service to modes of delivering that service that are obsolete or not cost effective.¹⁹

Competitive neutrality also has a long history in the USF context, having been one of Congress's explicit goals in establishing the universal service program.²⁰ In the first Report and Order implementing the USF portion of the 1996 Act, the Commission concluded that "competitive neutrality" should be among the principles that guide the universal service support mechanisms and rules," and adopted competitive neutrality as a new core principle under Section 254(b)(7).²¹ The 5th Circuit has upheld this competitive neutrality principle as "made necessary not only by the economic realities of competitive markets but also by statute."²²

In implementing CAF, then, the Commission should stay true to these long-established principles. To do so, the Commission should seek to establish flexible service and coverage requirements that will not disadvantage particular technologies or competitors, as this will maximize the effectiveness of the CAF in promoting broadband coverage. The Commission

¹⁹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 ¶¶ 47-49 (1997).

²⁰ S. REP. NO. 104-23, at 25 (1995) ("The clear statutory requirements for universal service in new section 253 are intended to provide ... greater certainty and competitive neutrality among competing telecommunications providers than the existing implicit mechanisms do today." Section 253 as created in the Senate bill ultimately became Section 254 in the final version of the bill. See H.R. CONF. REP. NO. 104-458, at 128-34 (1996).)

²¹ *Federal-State Joint Board on Universal Service*, 12 FCC Rcd at 8789-90 ¶ 21.

²² *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 616 (5th Cir. 2000) ("[USF] must treat all market participants equally ... so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. Again, this principle is made necessary not only by the economic realities of competitive markets but also by statute.").

should also seek to define broadband services eligible for support by focusing on functionality rather than merely on speed.

A. *THE COMMISSION CAN MAXIMIZE BROADBAND DEPLOYMENT BY ENSURING THAT ANY SERVICE OR COVERAGE REQUIREMENTS ARE TECHNOLOGY-AGNOSTIC, FLEXIBLE, AND SPECIFICALLY TAILORED*

The Notice proposes requiring CAF recipients to meet certain service obligations and coverage requirements.²³ TIA agrees that certain obligations and requirements could serve to maximize the public interest benefits of the Fund, provided they are technology-agnostic and competitively neutral. However, the Commission should be mindful that variations in terrain, existing infrastructure, and technical conditions could render some providers unable to meet rigid standards. Such providers would therefore be ineligible for funding even where that provider, if funded, could serve a very large block of otherwise unserved customers. To maximize the public interest benefits of the CAF, the Commission should seek to accommodate the wide variety of conditions and limitations unique to various regions throughout the country. All service obligations and coverage requirements should therefore incorporate significant flexibility to ensure that no portion of the country remains unfunded and therefore unserved.

1. ANY VOICE SERVICE OBLIGATIONS SHOULD BE FLEXIBLE AND TECHNOLOGY-AGNOSTIC

The Commission proposes to require CAF recipients to provide “voice telephony service” throughout their designated service areas, but would allow recipients to partner with third parties to provide the necessary service, and would permit the voice service obligation to be satisfied using any technology (including VoIP) that meets or exceeds the preexisting definition

²³ Notice ¶¶ 90-136 (proposing general requirements for CAF recipients); *id.* ¶¶ 309-15 (describing specific requirements for Phase I CAF recipients).

of “voice telephony service.”²⁴ TIA commends the Commission for proposing this flexible approach. Partnering will enable recipients to deploy services in the manner best suited to relevant geographical, technical, and infrastructure conditions, and will thereby minimize deployment costs and maximize coverage. Further, by permitting VoIP to satisfy the voice service obligation, the Commission will promote the deployment of physical infrastructure capable of carrying both broadband and voice services. The Commission’s approach will have the added benefit of establishing an efficient and effective transition to a broadband-centric approach to universal service.

2. TAILORED COVERAGE REQUIREMENTS ARE APPROPRIATE IN CERTAIN SITUATIONS

In certain high-cost areas, a carrier may be able to provide service to a large number of residents yet not be able to satisfy a one-size-fits-all coverage threshold without significant additional expenditures.²⁵ In such situations, TIA supports the use of tailored coverage requirements. Such requirements could be set by recipients themselves, but the Commission must insure that these requirements remain technology-agnostic and competitively neutral. TIA supports the Commission’s proposal to permit recipients to partner with other broadband providers in order to meet any coverage requirements.²⁶

3. OTHER SERVICE OBLIGATIONS SHOULD BE TAILORED TO SPECIFIC CONDITIONS, FLEXIBLE, AND TECHNOLOGY-AGNOSTIC

Any other obligations that may be imposed on CAF recipients should likewise incorporate significant flexibility. For example, the Commission seeks comment in the Notice

²⁴ Notice ¶ 98.

²⁵ *See, e.g., id.* ¶ 129 (seeking comment on whether requiring coverage of 99% of housing units within a specified geographic region would be appropriate).

²⁶ *Id.* ¶ 131.

on whether CAF recipients should be required to meet various buildout milestones and ultimately complete their buildout within three years.²⁷ Such deadlines will best serve the Commission’s deployment goals only if the Commission incorporates flexibility into any regime it adopts. Most critically, any buildout requirements must allow for tailored solutions that accommodate the uniquely difficult deployment challenges presented in various portions of the country. The Commission should also establish a flexible waiver process for buildout requirements that accounts for unique circumstances in a technology-agnostic and competitively neutral manner.

Finally, the Commission should seek to reduce burdensome reporting requirements. The Commission has acknowledged that reporting requirements can place “potentially significant burdens” on filers.²⁸ The Notice observes that burdensome requirements can discourage service providers from participating in the universal service programs.²⁹ To promote broad participation, the Commission should seek to minimize such barriers by, for example, revising Form 477 reporting requirements to reduce the associated burdens.

B. TIA SUPPORTS A TECHNOLOGY-AGNOSTIC DEFINITION OF BROADBAND THAT FOCUSES ON FUNCTIONALITY, NOT MERELY ON SPEED

TIA supports the Commission’s proposal to “characterize broadband without reference to any particular technology.”³⁰ To ensure that the CAF remains impartial between different technologies, the Commission must characterize broadband as consumers experience it:

²⁷ Notice ¶¶ 135-36.

²⁸ *Modernizing the FCC Form 477 Data Program, et al.*, WC Docket No. 11-1026 *et al.*, Notice of Proposed Rulemaking, 26 FCC Rcd 1508 ¶ 37 (rel. Mar. 7, 2011).

²⁹ Notice ¶ 121.

³⁰ *Id.* ¶ 104.

functionally. In particular, the Commission should avoid singularly focusing on broadband speed, but consider other critical parameters for services and applications that provide more consumer-optimal balances of broadband performance characteristics.

1. SPEED IS NOT THE LONE DETERMINING FACTOR OF BROADBAND SERVICE QUALITY

The Commission suggests that it could adopt a “threshold speed requirement as a proxy for the capabilities that consumers should be able to access with broadband.”³¹ Yet, as the Notice indicates, speed is only one measure of broadband performance.³² Other network performance measures that can significantly impact the capabilities of broadband service include throughput, latency, jitter, traffic loading, packet loss, and diurnal patterns. In addition, some networks offer consumers capabilities that simply cannot be achieved by other networks. For example, many wireless broadband networks offer mobility, a feature that not even the fastest wireline network can offer.

Judging the worthiness of a broadband network on only one dimension inherently biases the system in favor of technologies that excel along that dimension, but may be comparatively weak along other measures of performance. Thus, eliminating certain technologies from support eligibility based on speed alone is counter to the Commission’s commitment to remain technologically neutral, and will disserve consumers, who also value other service characteristics.

³¹ *Id.* ¶ 109.

³² *Id.* ¶ 105.

2. BROADBAND SPEED IS DIFFICULT AND EXPENSIVE TO MEASURE ACCURATELY AND CHALLENGING TO COMPARE ACROSS TECHNOLOGIES

Broadband “speed” can be difficult to define, and measurements can be misleading. Broadband speed, as experienced by the end user, is affected by a multitude of factors, including application type, congestion or misconfiguration of the end user’s home network, congestion in the Internet service provider’s (“ISP”) network, and congestion in other networks not under the control of the ISP. These factors mean that speed measurements can be inconsistent as well as out of the ISP’s control. Collecting and reporting these measurements is also an additional burden on providers.

The Notice states that the Commission is working in partnership with third party broadband measurement company SamKnows.³³ TIA agrees that the SamKnows data will be useful in better understanding existing broadband networks generally. However, the data will be less useful in evaluating the necessarily unique networks that will be needed to cover unserved households in rural, insular, and high-cost areas.

Because of the difficulties explained above in using speed as a decisive measure of broadband quality, the Commission should focus on more comprehensive measures of broadband quality in evaluating potential CAF participants. This is the only way to achieve a truly technology-agnostic definition of broadband.

C. THE COMMISSION SHOULD NOT DIVERT FUNDING FROM PROGRAMS THAT SUPPORT ANCHOR INSTITUTIONS

The Commission seeks comment on how CAF recipients should interact with anchor institutions.³⁴ The E-Rate and Rural Health Care programs have funded broadband

³³ *Id.* ¶ 115.

³⁴ *Id.* ¶ 148.

infrastructure supporting important anchor institutions such as libraries, schools, and hospitals. TIA believes that, going forward, there may be some potential for sharing of this infrastructure in a manner that would further the Commission's USF goals. However, it is critical that funding for E-Rate and the Rural Health Care programs remain dedicated to these important programs. Such funds should not be diverted to CAF.

V. TIA SUPPORTS COMPREHENSIVE INTERCARRIER COMPENSATION REFORM UNDER A FEDERAL REGIME THAT REFLECTS ADVANCES IN TECHNOLOGY AND ENCOURAGES BROADBAND DEPLOYMENT

TIA and its members welcome the Commission's efforts to update the existing ICC regime to reflect the fundamental structural shifts in technology, consumer behavior, and competition. The Commission should move forward expeditiously with this reform effort.

As the National Broadband Plan recognizes, the current ICC regime relies on a per-minute accounting system and was not designed to promote the deployment of broadband infrastructure.³⁵ The ICC was designed in an era dominated by separate local and long distance companies relying on analog, circuit-switched, fixed networks. In contrast, today's communications networks are IP-based, and the distinction between local and long-distance is less important to today's consumers. Traffic today includes data and voice, and is measured and paid for based on the total amount of bandwidth consumed, not total minutes spent. Additionally, many IP-based services, such as VoIP, do not have easily identifiable geographic communication end points and are not tied to a physical jurisdiction, and it makes no sense to impose today's interstate and intrastate access charge structure on such services.

To remove the market distortions and arbitrage that plague today's ICC regime, the FCC should comprehensively reform the system as soon as possible. Such reform should encourage

³⁵ National Broadband Plan at 142.

innovative communications services and applications in a technology- and competitively-neutral fashion. A federally-managed, geographically neutral intercarrier compensation system would foster more rapid deployment of broadband networks and unleash the benefits of evolving technologies. In particular, TIA supports the Commission’s proposed glide path to the elimination of per-minute charges.³⁶

VI. THE COMMISSION SHOULD CLASSIFY INTERCONNECTED VOIP AS AN INFORMATION SERVICE AND TERMINATE THE IP-ENABLED SERVICES PROCEEDING

The Commission states in the Notice that it has never addressed “whether interconnected VoIP is subject to intercarrier compensation rules, and if so, the applicable rate.”³⁷ This is in part because the Commission has yet to resolve whether VoIP is a telecommunications service or an information service, as the Notice also acknowledges.³⁸ TIA believes the most direct way to address the regulatory uncertainty that is “detering innovation and introduction of new IP services to consumers”³⁹ is for the Commission to classify interconnected VoIP as an information service and close the outstanding IP-enabled services proceeding.⁴⁰

Properly classifying interconnected VoIP as an information service will have many benefits. A clear, national framework for IP services will reduce the risk and uncertainty that are today deterring investments in network and devices deployment. This will preserve and promote

³⁶ Notice ¶ 42.

³⁷ *Id.* ¶ 608.

³⁸ *Id.* ¶ 618

³⁹ *Id.* ¶ 608

⁴⁰ *IP-Enabled Services*, WCB Docket No. 04-36.

the growth of the service, which will in turn effectively drive demand for and deployment of broadband.

Classifying interconnected VoIP as an information service would not affect the Commission's authority, discussed above, to transition universal service to broadband. The Commission has successfully extended various obligations (including universal service contribution obligations) to interconnected VoIP, without addressing the classification of the service.⁴¹ There is no reason to believe classifying interconnected VoIP would diminish the Commission's authority in any way.

Indeed, classifying interconnected VoIP as an information service would be consistent with the Commission's goal of transitioning universal service to broadband. The Commission seeks to shift USF and ICC away from voice service itself and toward funding broadband networks that carry many critical services, including (but not limited to) voice.⁴² Consistent with this approach, the Commission should classify interconnected VoIP as an information service like these other services carried on broadband networks, and focus support on the broadband network itself.⁴³

Because doing so would reduce uncertainty, spur investment and innovation, have no effect on the Commission's authority to reform USF, and be consistent with the Commission's

⁴¹ See, e.g., *Universal Service Contribution Methodology*, WC Docket No. 06-122 *et al.*, 21 FCC Rcd 7518 (2006).

⁴² One of the stated goals of the comprehensive reform is to transition all high-cost funding to "provide ongoing support to enable Americans to access robust, affordable IP-based networks *that are capable of providing both high-quality voice service and broadband Internet access service.*" Notice ¶ 398.

⁴³ Of course, this is not to say that the Commission cannot premise support for broadband networks on the provision of voice service.

