

other affected entities to accomplish the actions specified in section 1(a) of this memorandum.

SEC. 3. The Secretary of Commerce, working through NTIA, in consultation with the National Institute of Standards and Technology, National Science Foundation (NSF), the Department of Defense, the Department of Justice, NASA, and other agencies as appropriate, shall create and implement a plan to facilitate research, development, experimentation, and testing by researchers to explore innovative spectrum-sharing technologies, including those that are secure and resilient.

SEC. 4. The FCC is strongly encouraged to work closely with the Department of Commerce, through NTIA, to carry out this memorandum as it relates to the FCC, including the repurposing of nonfederal Government spectrum as appropriate and identifying the mechanisms necessary to ensure compliance with the FCC's decisions.

SEC. 5. The NEC, the OMB, and the OSTP (in consultation with the Department of Commerce, working through NTIA, FCC, and the National Security Staff) shall assess, based on the interim report developed pursuant to section 1(d) of this memorandum, whether there has been sufficient progress in achieving the objectives of this memorandum or whether some other mechanism, such as an independent review panel, is needed to address those areas where sufficient progress is not occurring. The NEC, the OMB, and the OSTP shall make any necessary recommendations to the President regarding such progress 45 days after receiving the initial interim report required by section 1(d) of this memorandum and, as appropriate, following subsequent reports.

SEC. 6.

(a) To the extent permitted by law and within existing appropriations, the Department of Commerce, through NTIA, shall provide administrative support for the interagency groups created in this memorandum.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(c) Nothing in this memorandum shall be construed to require the disclosure of classified information, law enforcement sensitive information, or other information that must be protected in the interests of national security.

(d) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 7. The Secretary of Commerce is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

## § 1302. Advanced telecommunications incentives

### (a) In general

The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.

### (b) Inquiry

The Commission shall, within 30 months after February 8, 1996, and annually thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.

### (c) Demographic information for unserved areas

As part of the inquiry required by subsection (b), the Commission shall compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by subsection (d)(1))<sup>1</sup> and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

- (1) the population;
- (2) the population density; and
- (3) the average per capita income.

### (d) Definitions

For purposes of this subsection:<sup>2</sup>

#### (1) Advanced telecommunications capability

The term “advanced telecommunications capability” is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

#### (2) Elementary and secondary schools

The term “elementary and secondary schools” means elementary and secondary schools, as defined in section 7801 of title 20.

(Pub. L. 104-104, title VII, §706, Feb. 8, 1996, 110 Stat. 153; Pub. L. 107-110, title X, §1076(gg), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 110-385, title I, §103(a), Oct. 10, 2008, 122 Stat. 4096.)

#### REFERENCES IN TEXT

Subsection (d)(1), referred to in subsec. (c), was in the original “section 706(c)(1) of the Telecommunications Act of 1996” and was translated as reading “section 706(d)(1) of the Telecommunications Act of 1996”, which is classified to subsection (d)(1) of this section, to reflect the probable intent of Congress and the redesignation of subsec. (c) as (d) by Pub. L. 110-385, title I, §103(a)(2), Oct. 10, 2008, 122 Stat. 4096.

#### CODIFICATION

Section was formerly set out as a note under section 157 of this title.

Section was enacted as part of the Telecommunications Act of 1996, and not as part of the Broadband Data Improvement Act which comprises this chapter.

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be “section:”.

## AMENDMENTS

2008—Subsec. (b). Pub. L. 110-385, §103(a)(1), substituted “annually” for “regularly”.

Subsecs. (c), (d). Pub. L. 110-385, §103(a)(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

2002—Subsec. (c)(2). Pub. L. 107-110 substituted “section 7801 of title 20” for “paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)”.

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

## DEFINITIONS

For definitions of terms used in this section, see section 3(b) of Pub. L. 104-104, set out as a Common Terminology note under section 153 of this title.

**§ 1303. Improving Federal data on broadband****(a) Omitted****(b) International comparison****(1) In general**

As part of the assessment and report required by section 1302 of this title, the Federal Communications Commission shall include information comparing the extent of broadband service capability (including data transmission speeds and price for broadband service capability) in a total of 75 communities in at least 25 countries abroad for each of the data rate benchmarks for broadband service utilized by the Commission to reflect different speed tiers.

**(2) Contents**

The Commission shall choose communities for the comparison under this subsection in a manner that will offer, to the extent possible, communities of a population size, population density, topography, and demographic profile that are comparable to the population size, population density, topography, and demographic profile of various communities within the United States. The Commission shall include in the comparison under this subsection—

(A) a geographically diverse selection of countries; and

(B) communities including the capital cities of such countries.

**(3) Similarities and differences**

The Commission shall identify relevant similarities and differences in each community, including their market structures, the number of competitors, the number of facilities-based providers, the types of technologies deployed by such providers, the applications and services those technologies enable, the regulatory model under which broadband service capability is provided, the types of applications and services used, business and residential use of such services, and other media available to consumers.

**(c) Consumer survey of broadband service capability****(1) In general**

For the purpose of evaluating, on a statistically significant basis, the national charac-

teristics of the use of broadband service capability, the Commission shall conduct and make public periodic surveys of consumers in urban, suburban, and rural areas in the large business, small business, and residential consumer markets to determine—

(A) the types of technology used to provide the broadband service capability to which consumers subscribe;

(B) the amounts consumers pay per month for such capability;

(C) the actual data transmission speeds of such capability;

(D) the types of applications and services consumers most frequently use in conjunction with such capability;

(E) for consumers who have declined to subscribe to broadband service capability, the reasons given by such consumers for declining such capability;

(F) other sources of broadband service capability which consumers regularly use or on which they rely; and

(G) any other information the Commission deems appropriate for such purpose.

**(2) Public availability**

The Commission shall make publicly available the results of surveys conducted under this subsection at least once per year.

**(d) Improving Census data on broadband**

The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

**(e) Proprietary information**

Nothing in this chapter shall reduce or remove any obligation the Commission has to protect proprietary information, nor shall this chapter be construed to compel the Commission to make publicly available any proprietary information.

(Pub. L. 110-385, title I, §103, Oct. 10, 2008, 122 Stat. 4096.)

## CODIFICATION

Section is comprised of section 103 of Pub. L. 110-385. Subsec. (a) of section 103 of Pub. L. 110-385 amended section 1302 of this title.

**§ 1304. Encouraging State initiatives to improve broadband****(a) Purposes**

The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for im-