

stakeholders, to develop to the fullest extent of its legal authority a program of performance criteria, ratings, and other measures, including standards, to encourage the design, manufacture, and sale of radio receivers such that emission levels resulting from reasonable use of adjacent spectrum will not endanger the functioning of the receiver or seriously degrade, obstruct, or repeatedly interrupt the operations of the receiver. In developing such a program, the FCC is strongly encouraged to give due consideration to existing policies and prudent investments that have been previously made in systems, including receivers. In its consultation with the FCC, NTIA shall provide information regarding Federal receiver standards and agency practices under those standards.

SEC. 6. *Incentives for Agencies.* The Spectrum Policy Team shall, within 6 months of the date of this memorandum, publish a report making recommendations to the President regarding market-based or other approaches that could give agencies greater incentive to share or relinquish spectrum, while protecting the mission capabilities of existing and future systems that rely on spectrum use. The report shall consider whether the Spectrum Currency and Spectrum Efficiency Fund proposals made by the President's Council of Advisors on Science and Technology would be effective. The report shall also analyze the impact of the Commercial Spectrum Enhancement Act of 2004 (Title II of Public Law 108-494), as modified by the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96).

SEC. 7. *Rapid Deployment of Wireless Broadband.* The FCC is strongly encouraged, in collaboration with NTIA, where appropriate, to expedite the repurposing of spectrum and otherwise enable innovative and flexible commercial uses of spectrum, including broadband, to be deployed as rapidly as possible by:

- (a) identifying spectrum allocated for nonfederal uses that can be made available for licensed and unlicensed wireless broadband services and devices, and other innovative and flexible uses of spectrum, while fairly accommodating the rights and reasonable expectations of incumbent users;
- (b) identifying spectrum allocated for nonfederal uses that can be made available to agencies, on a shared or exclusive basis, particularly where necessary to accommodate agencies seeking to relocate systems out of bands that could be made available for licensed services or unlicensed devices;
- (c) promulgating and enforcing rules for licensed services to provide strong incentives for licensees to put spectrum to use and avoid spectrum warehousing. Such rules may include build-out requirements or other licensing conditions as appropriate for the particular circumstance;
- (d) establishing and maintaining conditions that promote a reliable secondary market for spectrum, including provisions enabling negotiated access by agencies and uses not addressed in subsection (b) of this section;
- (e) promulgating and enforcing rules for licensed services and unlicensed devices to share Federal spectrum that accommodate mission changes and technology updates by both Federal and nonfederal users; and

(f) consulting with the Department of State regarding international obligations related to spectrum use.

SEC. 8. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to any agency, or the head thereof; or
 - (ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.
- (b) 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 interest of national security or public safety.

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

(d) 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.

(e) Independent agencies are strongly encouraged to comply with the requirements of this memorandum.

(f) The Presidential Memorandum of November 30, 2004 (Improving Spectrum Management for the 21st Century), is hereby revoked.

(g) 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))¹ 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:²

(1) Advanced telecommunications capability

The term “advanced telecommunications capability” is defined, without regard to any

¹ See References in Text note below.

² So in original. Probably should be “section.”

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.

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 characteristics 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