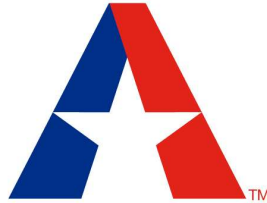


**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Wireline Competition Bureau Seeks	)	GN Docket No. 18-231
Comment on the State of Fixed	)	
Broadband Competition	)	

**COMMENTS**



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August 17, 2018

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**COMMENTS**



**I. INTRODUCTION & SUMMARY**

The American Cable Association (ACA) hereby files comments in response to the above-captioned Wireline Competition Bureau public notice on the state of competition in the fixed broadband marketplace. ACA represents approximately 700 small and medium-sized fixed broadband service providers, which together pass some 18 million households and serve almost 7 million, in rural and urban communities across America.

Consistent with recent Commission observations, ACA finds that the fixed broadband marketplace is substantially competitive.<sup>1</sup> In these comments, ACA will discuss the vital role its members play in bringing consumers high-performance fixed broadband networks and innovative services at reasonable prices in the competitive markets they serve; identify barriers to competitive entry and expansion that disproportionately afflict ACA members by virtue of their size<sup>2</sup> and operating characteristics; and suggest steps to remedy these barriers. ACA applauds the Commission for its recent efforts on many fronts to further stimulate fixed broadband competition by removing barriers to deployment. The removal of remaining barriers would empower ACA members to compete even more extensively, bringing more broadband competition to more Americans and in areas where little to no competition exists today.

## **II. THE FIXED BROADBAND MARKETPLACE IS SUBSTANTIALLY COMPETITIVE**

In the *Restoring Internet Freedom Order*, the Commission observed that fixed broadband competition “appears to be widespread” and that fixed broadband providers “often face material competitive constraints.”<sup>3</sup> ACA agrees. For smaller providers, broadband Internet access markets have become much more competitive in the last decade as numerous fixed providers have upgraded their network capabilities. Mobile providers too have enhanced the performance of their networks, such that they are

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<sup>1</sup> See, e.g., *Restoring Internet Freedom*, Declaratory Ruling, Report and Order, and Order, WC Docket No. 17-108, 33 FCC Rcd 311, 382-87 ¶¶ 123-28 (2017) (*Restoring Internet Freedom Order*).

<sup>2</sup> See *Wireline Competition Bureau Seeks Comment on the State of Fixed Broadband Competition*, Public Notice at 1, DA 18-784 (rel. July 27, 2018) (seeking comment specifically on “entry barriers for entrepreneurs and other small businesses in the fixed broadband marketplace”).

<sup>3</sup> See *Restoring Internet Freedom Order*, 33 FCC Rcd at 382 ¶¶ 123-124 (capitalization removed).

increasingly being viewed by consumers in markets served by smaller providers as a substitute for fixed service. Further, these trends show every indication of continuing. Every year, fixed broadband providers, as well as mobile providers operating in their markets, are investing tens of billions annually to provide higher performance, innovative services, while service prices (per megabit) are declining.<sup>4</sup> Significant investment, substantial innovation, and declining prices are hallmarks of a competitive environment. Because of this dynamic landscape, it necessary for any fixed broadband competition analysis to take into account future trends and the possible emergence of new sources of competition not foreseen today.

As the Commission further evaluates and considers measures to improve the overall state of fixed broadband competition, ACA also encourages it to take account of differences between larger urban and smaller rural markets. While the presence of three or even more fixed broadband providers may be a reasonable expectation for a dense urban market, in less dense rural areas the economics are much more challenging. While most households in rural areas have two providers — an incumbent telephone provider and a cable operator — in the least dense areas it can be difficult for one provider, let alone multiple providers, to make the business case for a fixed network build out. The presence of only one fixed broadband provider (usually the incumbent telephone company) in such a market should not produce a kneejerk conclusion that the provider will not invest or innovate or will price unreasonably. It simply should be understood as a reflection of the underlying economic realities.

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<sup>4</sup> See, e.g., Comments of the Fiber Broadband Association on Restoring Internet Freedom, WC Docket No. 17-108 at Appx. A, “Broadband Pricing Trends” (filed July 17, 2017).

Even in rural areas with only one fixed broadband provider, however, there are significant factors that constrain prices and ensure a baseline level of service. Providers that accept Connect America Fund subsidies to serve high-cost areas do so under the condition that they keep prices in subsidized areas below defined benchmarks and provide service that meets minimum speeds.<sup>5</sup> And because the Commission uses the same benchmarks as part of the determination whether an area is already “served” and thus ineligible for support, unsubsidized rural providers must ensure their own prices and minimum service tier meets these benchmarks to protect themselves from the threat of a subsidized overbuild. Moreover, as noted above, fixed broadband providers in rural areas are increasingly vulnerable to competition from both mobile and fixed wireless providers, a trend that is expected only to continue as Mobile Fund Phase II is rolled out to support rural 4G deployment<sup>6</sup> and the introduction of 5G gives rise to new service offerings. Satellite providers are another potential source of competition for fixed providers in rural areas.<sup>7</sup> Finally, U.S. and state antitrust authorities have the means to address providers in markets who engage in anticompetitive acts.

Under these conditions, the best way to increase fixed broadband competition in rural areas, especially from smaller providers that operate under tight economic

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<sup>5</sup> See, e.g., *Wireline Competition Bureau Announces Results of 2018 Urban Rate Survey for Fixed Voice and Broadband Service, et al.*, WC Docket No. 10-90, Public Notice, DA 17-1093 (Nov. 8, 2017).

<sup>6</sup> See Federal Communications Commission, Mobility Fund Phase II, <https://www.fcc.gov/mobility-fund-phase-ii-mf-ii> (last visited August 17, 2018).

<sup>7</sup> See, e.g., Mark Sullivan, Fast Company, “This New Wave of Satellite Broadband Could Challenge Cable and Fiber,” Mar. 13, 2018, <https://www.fastcompany.com/40542241/this-new-wave-of-satellite-broadband-could-challenge-cable-and-fiber> (last visited Aug. 17, 2018).

constraints, is to identify and implement measures that decrease the cost of deploying broadband networks. In Section V., we suggest such measures.

### III. ACA MEMBERS ARE DRIVERS OF FIXED BROADBAND COMPETITION

ACA members have made substantial investments to deliver high-quality, affordable broadband services to their communities. In 2013 through 2017, ACA members invested more than \$10 billion to expand and upgrade their broadband networks, and they continue to invest more than \$1 billion annually.<sup>8</sup> These investments reflect ACA members' understanding that consumer demand for high-speed broadband continues to grow rapidly, and that continual improvements in service are necessary to keep pace with customer expectations.

ACA members understand that failing to invest in network upgrades and improved service means the loss of customers to existing rivals, and an increased risk of additional competitive entry.<sup>9</sup> Many ACA members, including WOW!<sup>10</sup>, Cable One<sup>11</sup>, and WAVE Broadband (recently acquired by RCN<sup>12</sup>), have deployed Gigabit broadband

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<sup>8</sup> See Written Statement of Matthew M. Polka, President and CEO, American Cable Association, Before the House Energy and Commerce Committee, Subcommittee on Communications and Technology, "Closing the Digital Divide: Broadband Infrastructure Solutions" at 1, January 30, 2018, *available at* <https://docs.house.gov/meetings/IF/IF16/20180130/106810/HHRG-115-IF16-Wstate-PolkaM-20180130-U5052.pdf> (last visited August 17, 2018) (Polka Testimony).

<sup>9</sup> ACA members investment in their network for other reasons too. ACA members generally live within the communities they serve, which gives them an extra incentive to ensure that their customers, which include friends and family, have access to high-quality broadband services.

<sup>10</sup> WOW!, one of ACA's largest member companies, serves close to 800,000 subscribers in nine states. See WOW!, <https://www.wowway.com/> (last visited Aug. 17, 2018).

<sup>11</sup> Cable One is "the seventh-largest cable company in the United States, [s]erving more than 800,000 customers in 21 states with high-speed internet, cable television and telephone service." See Cable One, About Cable One, <https://www.cableone.net/about> (last visited Aug. 17, 2018).

<sup>12</sup> RCN provides residential and business services in and around New York City, Boston, Washington, D.C., Chicago, Philadelphia, and the Lehigh Valley. See RCN, <https://www.rcn.com/hub/about-rcn/> (last visited Aug. 17, 2018).

throughout their service territories, and others are expected to reach this milestone in the near future.<sup>13</sup> These dynamics are most intense in urban and suburban areas where ACA's members are overbuilders. These members must compete against much larger incumbent telephone companies and incumbent cable operators. These overbuilders face substantial challenges to be viable and must compete aggressively, including by providing superior customer service and offering innovative products. And the high cost of customer acquisition gives overbuilders a strong incentive to work to retain the customers they have. Evidence suggests that overbuilders have widely succeeded in providing an attractive competitive alternative to the large incumbents. For instance, PC Mag bestowed its "Reader's Choice Award for Top ISP" on RCN in three consecutive recent years,<sup>14</sup> and it has praised companies like Hotwire<sup>15</sup> and Allo<sup>16</sup> for delivering some of the highest broadband speeds in the nation.<sup>17</sup>

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<sup>13</sup> See Polka Testimony at 1; see also PR Newswire, WOW! 1 Gig Internet Speeds Now Available to More Than 95 Percent of Customers, Mar. 6, 2018, <https://www.prnewswire.com/news-releases/wow-1-gig-internet-speeds-now-available-to-more-than-95-percent-of-customers-300608795.html> (last visited Aug. 17, 2018); Cable One, GigaOne: The Next Generation of Speed, <https://www.cableone.net/gigaone> (last visited Aug. 17, 2018); Taylor Soper, GeekWire, "WAVE Broadband Launches Residential Gigabit Internet Service in Washington, Oregon, California, Nov. 16, 2017, <https://www.geekwire.com/2017/wave-broadband-launches-residential-gigabit-internet-service-washington-oregon-california/> (last visited Aug. 17, 2018).

<sup>14</sup> See Ben Z. Gottesman, PC Mag, "Readers' Choice Awards 2017: Internet Service Providers," May 25, 2017, <https://www.pcmag.com/article/353825/readers-choice-awards-2017-internet-service-providers>. (last visited Aug. 17, 2018). RCN finished in second place in 2018. See Ben Z. Gottesman, PC Mag, "Readers' Choice Awards 2018: Internet Service Providers, May 23, 2018, available at <https://www.pcmag.com/article/361340/readers-choice-awards-2018-internet-service-providers-isp> (last visited Aug. 17, 2018).

<sup>15</sup> Founded in 2000, Hotwire Communications is a fiber-optic communications services provider that operates in states including Pennsylvania, New York, New Jersey, Ohio, Florida, and Georgia. See Hotwire Communications, About, <http://hotwirecommunications.com/about/> (last visited Aug 17, 2018).

<sup>16</sup> Based in Nebraska, ALLO "provides communications services to over seven cities with more than 335,000 people." See ALLO, <https://www.allocommunications.com/about/> (last visited Aug. 17, 2018).

<sup>17</sup> See Eric Griffith, PC Mag, "The Fastest ISPs of 2018", June 23, 2018, <https://www.pcmag.com/article/361765/the-fastest-isps-of-2018> (last visited Aug. 17, 2018).



ACA members are also playing a significant role in fostering competition in rural America where competition is less robust. ACA members' investment in upgrades to their existing networks present opportunities for these providers to extend their services into adjacent areas in competition with existing providers there. ACA members are taking these opportunities.<sup>18</sup> As the Commission has recognized, significant benefits accrue to customers when competition is introduced in a market for the first time.<sup>19</sup>

#### **IV. RECENT FCC ACTIONS WILL DRIVE BROADBAND INVESTMENT AND THEREBY FURTHER PROMOTE COMPETITION**

As discussed above, ACA members already provide choice in most of the rural and urban fixed broadband markets they serve; however, their ability to further upgrade their networks and expand into new areas — thereby further enhancing competition — is heavily dependent on policies that make deployment more economical. ACA members typically operate at modest profit margins and have limited access to capital, often making it necessary to finance network upgrades and expansion from operating cash flows. And because ACA members operate primarily in less populated areas outside major population centers, they face high per-subscriber deployment costs. They also lack the scale necessary to afford their own Internet transport networks, or to obtain access to settlement-free peering, direct interconnection with content delivery networks, and other arrangements that reduce the costs of broadband operations for larger providers. Given these realities, ACA members are tremendously sensitive to

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<sup>18</sup> See, e.g., MCTV, *MCTV To Expand Service in Three New Areas*, June 20, 2018, <https://www.mctvohio.com/mctv-to-expand-service-in-three-new-areas> (last visited Aug. 17, 2018). ACA member MCTV is an Ohio-based provider of communications services to “50,000 homes and businesses in Stark, Wayne, Summit, Holmes and Tuscarawas Counties.” See MCTV, *About Us*, <https://www.mctvohio.com/about-mctv> (last visited Aug. 17, 2018).

<sup>19</sup> *Restoring Internet Freedom Order*, 33 FCC Rcd at 384, ¶ 126 (“[E]mpirical research finds that the largest benefit from competition generally comes from the presence of a second provider . . .”).

cost in their decisions whether, where, and how aggressively to compete for fixed broadband customers. High capital and operating costs for upgrades and new deployments are particularly likely to pose a competitive barrier for ACA members that serve the most rural areas, where the benefits of increased competition would likely be most pronounced.

ACA thus applauds the Commission for pursuing a regulatory agenda in recent years that will reduce deployment costs, thereby promoting infrastructure upgrades and expansion into new broadband markets from smaller providers such as ACA members. By restoring the classification of broadband Internet access service as an information service, the Commission has freed ACA members from the heavy costs of regulatory compliance and uncertainty under a Title II regime. As noted in ACA's filings in the proceeding, these costs included, among others, the direct costs of hiring lawyers and consultants to help navigate providers' newfound obligations as common carriers, as well as the opportunity costs of foregone experimentation with innovative product and service offerings.<sup>20</sup> The prior light-touch regulatory framework back in place, ACA members can now invest their limited resources in improving and expanding their broadband networks with renewed confidence.

The Commission has also adopted policies that will help smaller providers more quickly and efficiently obtain access to critical infrastructure they need to deploy broadband. In past filings ACA has detailed the many challenges and frustrations its

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<sup>20</sup> See Comments of the American Cable Association on Restoring Internet Freedom, WC Docket No. 17-108 (filed July 17, 2017); Reply Comments of the American Cable Association on Restoring Internet Freedom, WC Docket No. 17-108 (filed Aug. 30, 2017).

members face when attempting to attach broadband equipment to utility poles,<sup>21</sup> a process that ACA has estimated accounts for about 13 percent of the costs of deploying a fiber-to-the-home network.<sup>22</sup> For ACA members, the pole attachments process has been riddled with problems, including cumbersome application requirements; lengthy and unpredictable timelines; excessive and unanticipated costs; and inefficient enforcement mechanisms. The Commission's recent pole attachment reforms<sup>23</sup> should make the process faster, less expensive, and more transparent, paving the way for more fixed broadband upgrades and new deployments, and with them increased competition.

## **V. REMOVAL OF OTHER BARRIERS WOULD FURTHER ENABLE ACA MEMBERS' COMPETITIVE ENTRY AND EXPANSION IN FIXED BROADBAND MARKETS**

While the Commission has made great strides in recent years to promote fixed broadband competition, efforts by the Commission and others to address remaining challenges as described below would further improve ACA members' ability to competitively enter and expand service within fixed broadband markets.

### **A. Further Streamlining Infrastructure Access**

Even after the Commission's pole attachment reforms take hold in the marketplace, ACA members will continue to face deployment barriers that limit their competitive entry and expansion. For instance, ACA members often seek to attach to

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<sup>21</sup> See Comments of the American Cable Association on Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment et al., WC Docket No. 17-84 et al. (filed June 15, 2017); Reply Comments of the American Cable Association on Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment et al., WC Docket No. 17-84 et al. (filed July 17, 2017).

<sup>22</sup> See Polka Testimony at 6.

<sup>23</sup> See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Report and Order and Declaratory Ruling, WC Docket No. 17-84, FCC 18-111 (rel. Aug. 3, 2018).

utility poles owned by rural electric cooperatives, a category of utility provider beyond the reach of Commission regulation. ACA members report that cooperatives often charge excessive pole attachment fees, which ACA members have limited recourse to address. Moreover, electric cooperatives are increasingly competing in the fixed wireline broadband business. Having a level playing field among competitors is essential. ACA therefore urges the Commission to recommend to Congress that it enact legislation to bring electric cooperatives under Commission authority, placing them on the same playing field as the investor-owned utilities the Commission regulates today.

In addition, ACA has long advocated that broadband investment and deployment will be accelerated by ensuring that public right-of-way fees are cost-based, transparent, and non-discriminatory. Further, as providers deploy different network technologies – fixed, mobile or both – and increasingly compete with each other, it is crucial that these fees and any other public fees be technologically neutral.

## **B. Avoiding Excessive Regulatory Burdens**

As noted above, smaller broadband providers such as ACA members operate under very tight economic constraints. A dollar the provider spends on regulatory compliance is a dollar it cannot spend on upgrading or expanding its network. ACA thus encourages the Commission to continue its work to eliminate costly regulatory burdens that have outlived their utility, and to avoid imposing unduly burdensome new requirements on small providers.

The Commission should take action to eliminate burdens on smaller fixed broadband providers where rules are no longer warranted, and where they remain

warranted, to minimize the burden while upholding the rule's purpose. For instance, in the 2016 Biennial Review proceeding, ACA proposed targeted changes to the universal service fund contribution *de minimis* exemption. Commission action on this matter would enhance small providers' ability to invest in their networks and deliver more competition.<sup>24</sup>

With its timely launch of the Media Modernization Initiative, the Commission has created a vehicle for eliminating outdated rules applicable to fixed broadband providers that also deliver multichannel video.<sup>25</sup> In its filings in the various proceedings under this initiative, ACA has encouraged the Commission to:

- Allow for electronic delivery of certain cable operator communications to subscribers;<sup>26</sup>
- Permit cable operators to post certifications of compliance with children's television rules on an annual rather than quarterly basis;<sup>27</sup>
- Eliminate the obsolete Form 325 data collection;<sup>28</sup>
- Reform the leased commercial access rules;<sup>29</sup> and
- Relieve cable operators from maintaining cable channel lineups at their local offices.<sup>30</sup>

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<sup>24</sup> See Reply Comments of ACA on 2016 Biennial Review, WC Docket No. 16-132 at 2 (filed January 3, 2017).

<sup>25</sup> See *Commission Launches Modernization of Media Initiative*, Public Notice, MB Docket 17-105, 32 FCC Rcd 4406 (2017).

<sup>26</sup> See Comments of American Cable Association on Electronic Delivery of MVPD Communications, MB Docket No. 17-317 (filed Mar. 5, 2018).

<sup>27</sup> See Letter From Mary Lovejoy, Vice President, American Cable Association to Marlene H. Dortch, Secretary FCC, Children's Television Programming Rules et al., MB Docket No. 18-202 (filed July 2, 2018).

<sup>28</sup> See Comments of American Cable Association on Form 325 Data Collection et al., MB Docket No. 17-290 et al. (filed Feb. 12, 2018).

<sup>29</sup> Comments of American Cable Association on Leased Commercial Access et al., MB Docket No. 07-42 et al. (filed July 30, 2018); Reply Comments of American Cable Association on Leased Commercial Access et al., MB Docket No. 07-42 et al. (filed Aug. 13, 2018).

<sup>30</sup> See Comments of American Cable Association on Channel Lineup Requirements – Sections 76.1705 and 76.1700(a)(4) et al., MB Docket No. 18-42 et al., (filed May 31, 2018).

Granting the relief ACA requests in each of these proceedings would free up ACA members from compliance costs that detract from investment in their networks. Moreover, the Commission should grant ACA's Petition to provide small cable operators with narrowly targeted relief from the accessible user interface requirements.<sup>31</sup>

ACA also urges the Commission to consider the economic impact any new rules would impose on fixed broadband providers, and to look for alternatives where possible that would minimize small provider burdens. For instance, ACA has called for a market-oriented solution to the problem of unwanted robocalls to reassigned numbers that relieves small providers from any burdensome reporting.<sup>32</sup> ACA has also advocated that any changes made to the Form 477 data collection not impose greater burdens on smaller providers than are necessary to achieve the goals of the collection.<sup>33</sup>

### **C. Reining in Video Programming Costs**

Another major factor that impedes ACA members' competitive entry in fixed broadband markets is the dysfunction that pervades the video marketplace. While the market in which providers offer video, broadband, and telephone service has changed in recent years, consumers still want to subscribe to a "double play": they want multichannel video service bundled with their broadband Internet access.<sup>34</sup> As one CEO remarked, "If you're going to pull customers to your broadband and other services,

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<sup>31</sup> See American Cable Association Request for Waiver, Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108 (filed June 15, 2018).

<sup>32</sup> See Reply Comments of American Cable Association on Advanced Methods to Target and Eliminate Unlawful Robocalls, GN Docket No. 17-59 (filed July 9, 2018).

<sup>33</sup> See Comments of American Cable Association on Modernizing the Form 477 Data Program, WC Docket No. 11-10, (filed Oct. 10, 2017).

<sup>34</sup> "Triple play" packages that include voice service in addition to video and broadband also remain popular with consumers.

you've got to lead with [multichannel video]."<sup>35</sup> While broadband offers higher margins than multichannel video,<sup>36</sup> few fixed broadband providers see a viable business model in offering only broadband today. The economics of multichannel video service are therefore fundamental to service providers' decisions to invest in new broadband deployments.

In recent years, the economics of multichannel video service have become increasingly challenging. Programming fees, charged on a per-subscriber basis by multichannel video networks and broadcast TV stations, have generally risen much more rapidly than prices for multichannel video. For smaller providers such as ACA members, the growth in programming fees has been even greater,<sup>37</sup> and steep programming fee increases are expected only to continue. And as programming fees have continued to rise, multichannel video revenues have lagged.<sup>38</sup> These dynamics put broadband providers in a bind: They must bundle multichannel video with broadband to meet customer expectations, but video costs increasingly threaten the

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<sup>35</sup> Brian Fung, Washington Post, "Here's the Single Biggest Thing Holding Google Fiber Back," October 6, 2014, [www.washingtonpost.com/blogs/the-switch/wp/2014/10/06/video-is-holding-google-fiber-back/](http://www.washingtonpost.com/blogs/the-switch/wp/2014/10/06/video-is-holding-google-fiber-back/) (last visited Aug. 17, 2018).

<sup>36</sup> SNL Kagan estimates that for some of the largest MVPDs, broadband is a 60% gross margin product versus 18% for video. Tony Lenoir, SNL Kagan, "Q2 Steady, but Red Flags in Future Outlook for Video Margins," August 8, 2014.

<sup>37</sup> Carriage fees for a typical member of the National Cable Television Cooperative, a not-for-profit that acts as a buying group for smaller-scale multichannel video providers to negotiate lower rates from nationally-distributed video programming vendors, increased by 10.6% a year between 2010 and 2015—and this excludes two categories of programming that have risen faster than the market, regional sports networks (like New England Sports Network) and local broadcast stations (affiliates of ABC, NBC, CBS and FOX). Some American Cable Association members have seen annual programming fee growth of 15% or greater.

<sup>38</sup> According to analysis by SNL Kagan, U.S. multichannel video per subscriber programming costs grew at an annual rate of 9.4% between 2010 and 2015 while multichannel video average revenue per subscriber only grew at an annual growth rate of 4.1% during the same period. See Robin Flynn, SNL Kagan, "The Larger Picture of Multichannel Video Revenues, Costs," April 28, 2014.

profitability of the broadband offering. Indeed, an ACA study projects that the continued rise in video programming costs will make it impractical within the next decade for smaller-scale providers to turn a profit deploying broadband in new areas.<sup>39</sup>

The Commission has explored reforms to its media rules in various proceedings, including on program access<sup>40</sup> and retransmission consent.<sup>41</sup> ACA encourages the Commission to follow through in such proceedings with the adoption and implementation of policies that rein in out-of-control video programming costs, thereby ameliorating one of the most substantial barriers to new competitive entry for smaller providers in fixed broadband markets.<sup>42</sup>

#### **D. Protecting Against Anti-Competitive Overbuilds**

Finally, ACA urges the Commission to avoid introducing barriers to competition by allowing Connect America Fund (CAF) support to be used in areas served by price-cap carriers in ways that deter private investment in fixed broadband. In recent years, ACA members have built out broadband networks to over 840,000 households that lie in these areas that the Commission would otherwise classify as unserved areas eligible for high-cost CAF support.<sup>43</sup> But for ACA members' private investments, millions of dollars

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<sup>39</sup> See Reply Comments of American Cable Association on "Section 706 Inquiry", GN Docket No. 14-126 at Appx. ("ACA Video Study: High and Increasing Video Programming Fees Threaten Broadband Deployment") (filed Apr. 2015).

<sup>40</sup> See *Revision of the Commission's Program Access Rules* et al., Report and Order in MB Docket Nos. 12-68, 07-18, 05-192, Further Notice of Proposed Rulemaking in MB Docket No. 12-68, Order on Reconsideration in MB Docket No. 07-29, 27 FCC Rcd 12605 (2012).

<sup>41</sup> See Commission's Rules Related to Retransmission Consent, Notice of Proposed Rulemaking, MB Docket 10-71, 26 FCC Rcd 2718 (2011).

<sup>42</sup> See Letter From Matthew M. Polka, President and CEO, American Cable Association, to the Honorable Ajit Pai, Chairman, Federal Communications Commission, dated Mar. 7, 2017 at 5-7 (filed as Letter From Ross J. Lieberman, Senior Vice President, American Cable Association to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-28 et al. (Mar. 7, 2017)) (recommending measures to "modernize video regulation to spur broadband investment and deployment") (capitalization omitted).

<sup>43</sup> See Polka Testimony at 1-3.



in public subsidies would have been necessary to deliver service to these areas. The Commission must avoid undermining such investments, and discouraging future ones, by allowing CAF funds to subsidize overbuilds of privately funded networks in the territories served by price-cap carriers.

## **VI. CONCLUSION**

ACA members deliver high-quality fixed broadband services and competition to communities across the nation, often in the face of significant marketplace and regulatory challenges. By continuing its work to lower the cost of deployment, the Commission will further empower ACA members to compete in the fixed broadband marketplace and help bring consumers more options, better services, and lower prices.

Respectfully submitted,



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