

Is Broadband Deployment Reasonable and Timely?

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On January 28, 2016, the Federal Communications Commission (FCC) adopted its latest Broadband Progress Report pursuant to [Section 706 of the Telecommunications Act of 1996](#). The act requires the FCC to regularly initiate an inquiry concerning the availability of broadband to all Americans and to determine whether broadband is "being deployed to all Americans in a reasonable and timely fashion." If the determination is negative, the act directs the FCC to "take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."

The FCC's latest Section 706 report, the [2016 Broadband Progress Report](#), was released on January 29, 2016, and determined that broadband deployment is not being deployed to all Americans in a timely and reasonable fashion. According to the report, as of December 31, 2014, approximately 10% of all Americans (34 million) lacked access to fixed broadband speeds of 25 megabits per second (Mbps) download and 3Mbps upload. The FCC also reported 39% of rural Americans lacking access to 25 Mbps/3 Mbps broadband service, as compared to only 4% of Americans living in urban areas.

The FCC argues that while significant progress has been made, "advances are not occurring broadly enough or quickly enough to achieve our statutory objective," and that "many Americans still lack access to advanced telecommunications capability, especially in rural areas and on Tribal lands." The FCC also finds that schools—particularly those in rural areas—continue to lack access to adequate broadband. In light of its finding that broadband is not being deployed in a reasonable and timely fashion, the FCC says that it will "continue working to remove barriers to infrastructure investment, in part by direct subsidies, and in part by identifying and helping to reduce potential obstacles to deployment, competition, and adoption."

Opponents of the FCC's negative finding, including an [FCC dissenting Commissioner](#), state that contrary to the report's conclusions, data show steady progress in connecting unserved Americans, and that broadband is being deployed in a timely and reasonable manner due in large part to [significant investments](#) in broadband infrastructure made by the private sector. In 2015 the FCC, citing changing broadband usage patterns and multiple devices using broadband within single households, raised its minimum broadband benchmark speed from 4 Mbps/1 Mbps to 25 Mbps/3 Mbps. Critics have asserted that the FCC excessively raised broadband benchmark speeds in order to produce a negative finding and to justify the FCC's pursuit of policies addressing such regulatory issues as Universal Service Fund reform and net neutrality.

The *2016 Broadband Progress Report* is the tenth Section 706 report adopted and released by the FCC since the first report in 1999. As [Table 1](#) shows, except for the first two reports, there has not been agreement among FCC

commissioners as to whether broadband is being deployed in a timely and reasonable manner. During the George W. Bush Administration, the finding that broadband deployment is reasonable and timely was associated with the FCC's deregulatory policies, whereas during the Obama Administration, the finding that broadband deployment is not reasonable and timely has been associated with FCC policies favoring a greater level of government intervention in the marketplace. An important factor in the Section 706 determination has proven to be how the FCC chooses to define broadband service in terms of minimum speed and capacity. As broadband technology evolves, speeds increase, but the level at which broadband benchmark threshold speeds should be set has remained controversial. Similarly, the 706 determination is likely to remain contentious as long as it is seen by many as providing a justification for FCC regulatory or deregulatory policies.

Table 1. Section 706 Reports, 1999-2016

	Date Adopted	Is Broadband Deployed to All Americans in Reasonable and Timely Fashion?	Broadband Definition (threshold speed)	Vote of FCC Commissioners
First Broadband Progress Report	1/28/1999	Yes	200 kbps in both directions	5-0
Second Broadband Progress Report	8/3/2000	Yes	200 kbps in at least one direction	4-0
Third Broadband Progress Report	2/6/2002	Yes	200 kbps in at least one direction	3-1
Fourth Broadband Progress Report	9/9/2004	Yes	200 kbps in at least one direction	3-2
Fifth Broadband Progress Report	3/19/2008	Yes	200 kbps in at least one direction	3-2
Sixth Broadband Progress Report	7/16/2010	No	4Mbps/1 Mbps	3-2
Seventh Broadband Progress Report	5/20/2011	No	4Mbps/1 Mbps	3-1
Eighth Broadband Progress Report	8/14/2012	No	4Mbps/1 Mbps	3-2
2015 Broadband Progress Report	1/29/2015	No	25 Mbps/3 Mbps	3-2
2016 Broadband Progress Report	1/28/2016	No	25 Mbps/3 Mbps	4-1

Source: FCC, [Archive of Released Broadband Progress Notices of Inquiry](#).