

use spectrum more efficiently. We can also unlock the value of otherwise underutilized spectrum and open new avenues for spectrum users to derive value through the development of advanced, situation-aware spectrum-sharing technologies.

I therefore am hereby directing that executive departments, agencies, and offices, and strongly encourage that independent agencies, take the following steps:

SECTION 1. The Secretary of Commerce, working through the National Telecommunications and Information Administration (NTIA), shall:

(a) collaborate with the Federal Communications Commission (FCC) to make available a total of 500 MHz of Federal and nonfederal spectrum over the next 10 years, suitable for both mobile and fixed wireless broadband use. The spectrum must be available to be licensed by the FCC for exclusive use or made available for shared access by commercial and Government users in order to enable licensed or unlicensed wireless broadband technologies to be deployed;

(b) collaborate with the FCC to complete by October 1, 2010, a specific Plan and Timetable for identifying and making available 500 MHz of spectrum as described in subsection (a) of this section. For purposes of successfully implementing any repurposing of existing spectrum in accordance with subsection (a) of this section, the Plan and Timetable must take into account the need to ensure no loss of critical existing and planned Federal, State, local, and tribal government capabilities, the international implications, and the need for appropriate enforcement mechanisms and authorities;

(c) convene the Policy and Plans Steering Group (PPSG) to advise NTIA on achieving the objectives in subsections (a) and (b) of this section. The Secretaries of Defense, the Treasury, Transportation, State, the Interior, Agriculture, Energy, and Homeland Security, the Attorney General, the Administrators of the National Aeronautics and Space Administration (NASA) and the Federal Aviation Administration, the Director of National Intelligence, the Commandant of the United States Coast Guard, and the head of any other executive department or agency that is currently authorized to use spectrum shall participate and cooperate fully, or in the case of independent agencies are strongly encouraged to, in the activities of the Department of Commerce in accomplishing subsections (a) and (b) of this section and promptly provide appropriate funding and staff resources for agency support to these efforts and the work of the PPSG; and

(d) submit, not later than 180 days after the Plan and Timetable described in subsection (b) of this section are completed, to the National Economic Council (NEC), the Office of Management and Budget (OMB), and the Office of Science and Technology Policy (OSTP) an interim report to assess progress against the Plan and Timetable developed in accordance with subsection (b) of this section. Additional interim reports shall be submitted 180 days after the submission of the first interim report and then annually thereafter until such time as the Plan and Timetable are completed. In preparing these reports, the Secretary of Commerce shall work cooperatively with the FCC and other relevant departments, agencies, and offices.

SEC. 2. The Director of OMB shall work with the Secretary of Commerce, through NTIA and in consultation with affected departments, agencies, and offices, to incorporate into the Plan and Timetable referred to in section 1(b) of this memorandum adequate funding, incentives, and assistance to enable executive agencies or 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.

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), re-

spectively, 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

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

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