

**Before the
Federal Communications Commission
Washington, DC 20054**

In the Matter of:

Inquiry Concerning Deployment of)	
Advanced Telecommunications Capability)	GN Docket No. 25-223
to All Americans in a Reasonable and)	
Timely Fashion)	

Nineteenth Section 706 Report Notice of Inquiry

**Comments of the American Library Association (ALA) and the Schools,
Health & Libraries Broadband (SHLB) Coalition**

The American Library Association (ALA)¹ and the Schools, Health & Libraries Broadband (SHLB) Coalition files these comments in response to the Commission's *Nineteenth Section 706 Report Notice and Inquiry (NOI)*.

The ALA and SHLB believe that a robust and comprehensive *Section 706 Report* will provide the Commission and all interested parties with the best picture on the state of broadband deployment in the country. In this regard, we are concerned that the *NOI* proposes to develop a report that is more narrowly focused on just 706 statutory language and thus will likely not

¹ For more than 140 years the American Library Association (ALA) has been the trusted voice for academic, public, school, government, and special libraries, advocating for the profession and the library's role in enhancing learning and ensuring access to information for all. ALA represents the nation's 123,000 libraries, which includes 16,557 public libraries.

be as useful as the previous *2024 Section 706 Report*.² We note several specific concerns in relation to this issue in the following paragraphs.

Limitations in Section 706 (para. 4-7). The *NOI* proposes to take a strict constructionist interpretation of the section 706 statutory language and thus release a report more narrowly focused on questions related to the availability and deployment—in a reasonable and timely fashion—of advanced telecommunications to all Americans.³ Obviously, these are important issues in determining how much progress has been made to ensure that all Americans have access to robust broadband connectivity. But as we describe below, we think looking at other issues beyond the language in Section 706 will provide a more accurate report on the state of “reasonable and timely” broadband access by all Americans.

Considering Goals of Affordability, Adoption, and Equitable Access (para. 5-7). The *NOI* has concerns about the *2024 Report* which addressed other issues, in addition to the section 706 ones cited above. Specifically, the *2024 Report* looked at issues of “affordability, adoption, and equitable access.”⁴ It is important to note that these were officially adopted as goals in 2022 when the Commission released its *Report on the Future of the Universal Service Fund*.⁵ This report, which was supported by all Commissioners, recognized the need for these additional goals “beyond deployment to fulfill our statutorily-mandated responsibilities.”⁶ If the Commission does not retain these goals it will likely result in the next 706 report being incomplete and it may give a less than accurate impression of our nation’s status in relation to broadband availability and deployment.

² *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, (*2024 Report*).

³ 47 U.S.C. § 1302(b).

⁴ *2024 Report*. Para. 13.

⁵ *Report on the Future of the Universal Service Fund (Future of the USF)*, para. 12. WC Docket No. 21-476. Released August 2022. This report was mandated by the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021).

⁶ *Id.* Para. 13.

One justification made in the *NOI* to limit the scope of the 2025 report is that the Supreme Court’s *Loper Bright* decision⁷ created narrow guardrails on the interpretation of statutory language by federal agencies. This is true. But we suggest *Loper Bright* is intended to apply to regulatory agencies in relation to decisions they make regarding the parties they regulate⁸. The section 706 report is internal to the Commission and thus we believe the agency has the authority to look at various aspects of the broadband landscape, not just those articulated in section 706 of the statutes. For example, the *1996 Telecommunications Act*’s language in section 254 on universal service gives authority to add principles that “the Commission determine are necessary...”⁹ to ensure that all Americans have access to advanced telecommunication services. And as we state above, the 2022 *Future of the USF* report did just this when it determined that “affordability, adoption, and equitable access” are worthy additional goals. In summary, we think there is ample justification for incorporating these added goals in the next *Section 706 Report*.

Benchmarks for Deployment (para. 8-13). The *NOI* proposes to retain the 100/20 Mbps broadband benchmark adopted in the 2024 report.¹⁰ We cautiously support this but ask that the Commission undertake a thorough review of the need to increase this bandwidth over the next two years. More concerning is that the *NOI* proposes to remove the 2024 *Section 706 Report*’s long-term goal of 1,000/500 Mbps.¹¹ The Commission proposes to remove this goal because such “long-term goals risk skewing the market by unnecessarily potentially picking technological winners and losers.”¹² We take issue with this rationale. What the Commission is saying is that it cannot set a long-term “aspirational” goal because some technologies are currently not capable of meeting such a goal. In its desire to maintain technology neutrality we think the Commission missteps. That is, the Commission’s position is letting technology

⁷ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024).

⁸ We note that both *Loper Bright* and the earlier decision it overturned (*Chevron*) were based on federal agencies’ interpretation of statutes related to industries they regulate.

⁹ 47 U.S.C. §254(b)(7).

¹⁰ 2024 *Section 706 Report*. Para. 47.

¹¹ *Id.* Para. 22, 47-51. The 2024 report makes it clear that this “long-term speed goal is aspirational—we do not intend to use it as the measure to determine our finding under section 706.” Para. 47.

¹² *Id.* Para. 14. And as stated in paragraph 11, setting a long-term goal “would also appear to violate our obligation to conduct our analysis in a technologically neutral manner.”

drive the goal which—in and of itself—is a violation of the FCC’s obligation to conduct its analysis in a technologically neutral manner. Furthermore, using the current limitations of certain technologies as a reason to eliminate a long-term goal assumes that such technologies will not improve their performance over time.

Schools and Classrooms (para. 14): The Commission proposes to continue the short-term goal of 1 Gbps per 1,000 students which was established in the *2024 706 Report*.¹³ No long-term goal is proposed in the NOI because of a lack of bandwidth data. In previous years the Commission depended on school broadband reports published by Connected Nation but this organization has discontinued its reports.¹⁴ In moving forward, we first think it is imperative that the Commission set a new long-term speed benchmark goal of multi-gigabit connectivity for schools, libraries, and healthcare clinics. As the Commission acknowledged, many school districts have already met the new short-term goal.¹⁵ Second, we think that a data gap exists around school, library, and health clinic technology and infrastructure needs, and urge the Commission to collect information from various, more granular sources to establish modernized short-term and long-term benchmark goals. As a starting point we think the Commission can use broadband connectivity data already collected as part of the E-Rate and Rural Health Care programs.¹⁶ While the 706 statutory language references just schools, we also believe the Commission should ascertain the level of health clinic and library broadband connectivity. Data are available for both of these institutions from USAC’s Open Data portal.¹⁷ We also estimate that at least fifteen states have statewide broadband networks that connect schools and libraries. These networks would be another useful source of information on broadband connectivity and speeds.¹⁸ The NOI asks about using states as a metric to

¹³ We note that the 1 Gbps per 1,000 students was established as a long-term goal in the July, 2014 *E-Rate Modernization Order*.

¹⁴ *NOI*. Para. 26.

¹⁵ The Commission noted in last year’s report that “74% of school districts had already met the new short-term goal of 1 Gbps per 1,000 students and staff, which was over a 57% increase since 2020,” citing data presented in a 2023 Connected Nation report. *Id.* at para. 14, fn 37.

¹⁶ *Id.* Para. 26.

¹⁷ With data readily available it would not take too much extra time for Commission staff to compile the status of health care and library broadband connectivity.

¹⁸ For Example, Wisconsin has a statewide network called “BadgerNet” which provides broadband circuits to 75% of school districts and over 95% of public libraries in the state. Other state networks serving schools and libraries include California (CENIC), North Carolina (MCNC) and Illinois (ICN).

measure school broadband goals. This can be an additional statistic but it should not be used in lieu of continuing to use school district data.

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In conclusion, we appreciate the opportunity to comment on this importing proceeding. We hope the Commission finds our observations and suggestions helpful. Please contact any of the parties listed below if you have any questions or seek further information. We look forward to the publication of the *2025 Section 706 Report*.

Respectfully submitted,

/s/ Robert Bocher
Senior Fellow, Office of Public Policy & Advocacy
American Library Association

/s/ Megan Janicki
Deputy Director, Office of Public Policy & Advocacy

/s/ Kristen Corra
Policy Counsel, SHLB

/s/ Joseph Wender
Executive Director, SHLB

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