

FCC Defines “Advanced Broadband” to be 25 Mbps down/3 Mbps up A Connected Nation Policy Brief January 29, 2015

In a 3-2 vote today, the [Federal Communications Commission](#) (FCC) determined that broadband deployment at speeds of 25 Mbps down/3 Mbps up in the United States is not developing on a “reasonable and timely basis,” a move that signals both a shift in the FCC’s definition of “broadband” and foreshadows further actions by the agency in the coming months.

In doing so, the FCC [defined “advanced broadband”](#) as 25 Mbps download and 3 Mbps upload. The FCC stated that prior definitions of broadband were “dated and inadequate” based on “advances in technology, market offerings by broadband providers and consumer demand.” The FCC found that 17 percent of the U.S. population does not have access to 25 Mbps/3 Mbps broadband, and that half of rural Americans do not have such access. The FCC also found that this gap is persisting, with broadband access at 25 Mbps down/3 Mbps up increasing by only 3 percentage points last year.

This Policy Brief summarizes why the FCC took this action today, what the impact will be on states, and how the change in the broadband threshold will affect various FCC policies.

Why does the FCC define broadband?

Section 706 of the Telecommunications Act of 1996, 47 U.S.C. 1302 requires that the FCC report to Congress every year on whether “advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.” This report is often called the *Broadband Progress Report*, and copies are posted on the [FCC website](#). The FCC has typically interpreted “advanced telecommunications capability” to include residential broadband service and has periodically defined broadband at specific speed thresholds in this report. The FCC originally defined “advanced telecommunications capability” in 1999 to be 200 Kbps down/200 Kbps up, and in 2010, the FCC increased that definition to 4 Mbps down/1 Mbps up.

Today, citing the increased demand for web-streamed video and other services, the FCC upgraded its definition of “advanced telecommunications capability” to 25 Mbps down/3 Mbps up. As discussed below, at these speeds, broadband availability and competition nationwide is substantially lower than at lower speed thresholds.

How is this different than the 10 Mbps down/1 Mbps up target used for the Connect America Fund?

In 2011, when it established the \$4 billion per year Connect America Fund (CAF), the FCC chose to provide subsidies to companies willing to expand broadband access by building networks capable of providing 4 Mbps down/1 Mbps up service. In December 2014, the FCC [upgraded that Connect America Fund target](#) to 10 Mbps down/1 Mbps up. Yet, only fifty days later, networks subsidized through the Connect America Fund program now no longer qualify as “advanced broadband” under the FCC’s new definition.

While on their face these actions seem inconsistent, it appears that the new broadband definition will have no immediate impact on the implementation of the Connect America Fund.

As it promotes the deployment of broadband access, the FCC will be applying three different conceptions of “broadband.” To identify areas eligible for Connect America Fund subsidies, the FCC will target areas where there is no broadband service that meets the speed threshold of **3 Mbps down/768 Kbps up**. In those eligible areas, the FCC will subsidize networks that support at least **10 Mbps down/1 Mbps up**. However, the FCC will not regard an area as having access to “advanced telecommunications capability” until it has access to broadband at speeds of **25 Mbps down/3 Mbps up**.

While not formally acknowledging this staggered approach, the FCC’s [Public Notice](#) today refers to the new 25/3 Mbps threshold as “advanced broadband,” potentially to distinguish it from the Connect America Fund 10/1 Mbps minimum speed target. Once released, the final text of the *Broadband Progress Report* may contain further information on the interaction between the FCC’s new definition of “broadband” and the Connect America Fund.

What do all these different speed tiers mean in my state?

Connected Nation has prepared a group of maps that show and compare fixed broadband availability at specific speed tiers in selected states. Readers can see the number of households with access to 3 Mbps down/768 Kbps up and compare that to availability and number of providers at 25 Mbps down/3 Mbps up. These maps are available at www.connectednation.org/fcc-maps.

The table below shows that over one in four households in states mapped by Connected Nation do not have access to 25 Mbps/3 Mbps fixed broadband service.

State	Fixed Broadband Availability at 25 Mbps Down/3 Mbps Up			
	Total Households	Unserved Households	Served Households	Percent Served
Alaska	258,058	99,075	158,983	61.61%
Iowa	1,221,576	324,606	896,970	73.43%
Michigan	3,872,508	456,452	3,416,056	88.21%
Minnesota	2,087,227	265,950	1,821,277	87.26%
Nevada	1,006,250	66,463	939,787	93.40%
Ohio	4,603,435	713,081	3,890,354	84.51%
Puerto Rico	1,376,531	609,767	766,764	55.70%
South Carolina	1,801,181	337,168	1,464,013	81.28%
Tennessee	2,493,552	422,440	2,071,112	83.06%
Texas	8,922,933	3,952,413	4,970,520	55.70%
CN Total	27,643,251	7,247,415	20,395,836	73.78%



What is the impact of the new definition for other policy initiatives?

The FCC's *Broadband Progress Report* has important legal significance since Congress has given the Commission a broad mandate to encourage deployment of "advanced telecommunications capability." If the FCC finds, as it has today, that deployment of advanced broadband is not occurring on a "reasonable and timely basis," Section 706 of the Act gives the FCC wide authority to "take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."

This could potentially result in a significant and broad source of authority for the FCC to promulgate a wide range of rules and initiatives. In January 2014, the D.C. Circuit Court of Appeals (in *Verizon Communications Inc. v. FCC*, 740 F.3d 623 (D.C. Cir. 2014)) ruled that if the FCC makes a finding that advanced telecommunications capability is not being deployed on a reasonable and timely basis, the Commission has "affirmative authority to promulgate rules governing broadband providers," as long as those rules are not otherwise prohibited by law.

The FCC's vote today signals that the FCC may rely upon the Report's findings as soon as its February 26, 2015 open meeting, when it is scheduled to vote on strong [network neutrality](#) rules and to [preempt state restrictions](#) on the construction and operation of municipal broadband networks.

For more information about broadband policy developments please contact Connected Nation at policy@connectednation.org.