



July 12, 2019

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: In the Matter of Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10

Dear Ms. Dortch:

On behalf of The Leadership Conference on Civil and Human Rights and its Media/Telecommunications Task Force, we write to offer our views on the Further Notice of Proposed Rulemaking in the above-referenced docket.<sup>1</sup> The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference's Media/Telecommunications Task Force is committed to ensuring that all communities, particularly those who are underserved, have access to affordable, reliable, high-quality broadband connectivity. We urge the Federal Communication Commission's ("FCC" or "Commission") to update the Form 477 process and methodology for broadband mapping in order to collect more granular and accurate data to determine broadband availability. Specifically, the Commission must incorporate key metrics in its data collection process that ensure broadband availability is accurately measured in underrepresented and marginalized communities that have historically lagged behind in connectivity.

High-speed broadband is the essential infrastructure of the 21<sup>st</sup> century. It provides the platform for economic development, jobs, education, health care, public safety, energy efficiency, civic participation, entertainment, and communications among friends and family. Granular and accurate data in the FCC's Form 477 is necessary to create a map that correctly identifies what areas do and do not have access to broadband. The FCC's broadband map helps determine what policies are necessary for unserved areas to get the necessary resources to achieve broadband access. Therefore, the Commission's mapping methodology is critical to ensuring that the correct communities are supported.

As discussed in more detail below, we recommend that the Commission's Form 477 data collection incorporate the following metrics:

- Data on broadband pricing
- Data on quality of service and actual speeds
- Data on race and other key demographics
- Data on usage and subscription rates

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**Data on broadband pricing.** Given that cost is consistently cited as the main barrier to broadband adoption,<sup>ii</sup> pricing information is critical to evaluating broadband availability. As Commissioner Clyburn stated, “service cannot truly be *available* if you cannot *afford* it.”<sup>iii</sup> Without collecting broadband pricing data, the Commission has no reliable way to track how much communities pay for broadband and how rates may impact availability. Therefore, broadband pricing data will allow the Commission to determine whether services are available at affordable rates.

Affordability remains a significant barrier for low-income and marginalized communities. According to most recent census data, nearly 41 percent of households earning \$20,000 a year or less do not have a wired broadband connection.<sup>iv</sup> For households earning between \$20,000 and \$75,000, nearly 20 percent lack access.<sup>v</sup> According to Free Press’ report, *Digitally Denied*, 30 percent of Hispanics, 32 percent of African Americans, and 32 percent of Native Americans do not have a wired connection.<sup>vi</sup> The disparity is most severe at the lowest income levels, where 49 percent of Hispanics and 50 percent of African Americans making less than \$20,000 lack access to broadband at home.<sup>vii</sup> These communities often cite affordability as a reason for not subscribing to broadband.

**Data on quality of service and actual speeds.** For many communities, simply having a connection is not enough. Not having access to reliable and robust broadband can prevent communities from accessing the full economic benefits connectivity offers. For example, a recent Government Accountability Office report found that “quality of service is a key component of access to broadband and that routine outages, slow speeds, and high latency keep people on tribal lands from consistently accessing the Internet.”<sup>viii</sup> Therefore, the Commission must collect data that measures broadband performance.

Broadband speed is one of the most important metrics for determining the quality of broadband service. However, the Commission’s Form 477 currently collects data only on broadband speeds advertised by carriers. Third-party groups such as Measurement Lab collect data on actual speeds and often that the results are a stark contrast to the advertised speeds collected by the Commission.<sup>ix</sup> The FCC should look at actual speeds rather than advertised speed. Without measuring actual speeds, the Commission will be unable to grasp the full picture of broadband access and quality in communities across the country.

**Data on race and other key demographics.** Existing disparities in broadband access are based on several demographic factors including race, ethnicity, income, and education level. A study by Pew Research shows that communities of color, older adults, rural residents, and those with lower levels of education and income are less likely to have a home broadband connection.<sup>x</sup> Further, Free Press’ report found that even when accounting for demographic factors like income and education, African American and Hispanic communities still lag behind whites in adoption.<sup>xi</sup> This racial gap suggests that structural barriers still exist that keep communities of color from achieving broadband access.

Marginalized communities face digital redlining where broadband providers have withheld high-speed internet services from certain parts of their service area. A study by the National Digital Inclusion Alliance (“NDIA”) found AT&T digitally redlined the city of Cleveland, withholding high-speed broadband from low-income areas of the city.<sup>xii</sup> In 2017, NDIA released new maps finding similar evidence of digital redlining in Detroit and Toledo in areas with high poverty rates.<sup>xiii</sup>



The FCC's broadband maps can play a critical role in highlighting existing disparities in broadband access that continue to affect marginalized communities. Incorporating race and other demographic data into the broadband maps will allow policy makers at the national and local levels, as well as other stakeholders, to develop solutions for communities that are continually left on the wrong side of the digital divide.

**Data on broadband usage and subscription rates.** The Commission's current Form 477 data collection process requires broadband providers to report deployment at the census block level. However, the Commission's methodology considers an entire census block served if at least one household has access to broadband. This flawed methodology can dramatically overstate broadband deployment, particularly in rural areas where homes and buildings are spread further apart within census blocks.

The FCC should also collect data on actual usage rates. It is not enough for communities to have access to broadband if they are not actually subscribed. Indeed, Microsoft recently released a study on the actual use of high-speed broadband finding that 162.8 million people do not use the internet at broadband speeds.<sup>xiv</sup> This study highlights the stark contrast between the FCC's current Form 477 data collection process, which finds that 19 million households lack access.<sup>xv</sup>

Broadband subscription levels are also disproportionately lower in marginalized communities. Households that cannot afford broadband are likely to subscribe, only to end a subscription later when financial struggles and pressures preclude a monthly subscription payment. Further, consumers on data limited plans often run out of data before the end of the month—thereby losing the benefit of their subscription. In fact, it is possible that usage data reflects these kinds of barriers to full use of broadband technology. Accordingly, consistency in subscription should be measured.

Concentrated lack of broadband subscription at the neighborhood level can be more problematic than more widely dispersed adoption. A recent Brookings report found that:

In 2015, almost one in four people (a total of 73.5 million) in the United States lived in low subscription neighborhoods, where fewer than 40 percent of households subscribed to broadband. Such neighborhoods concentrate the digitally disconnected portions of the American population, leaving their residents at risk of missing the economic benefits of a high-speed internet connection.<sup>xvi</sup>

Further granularity in data collection that focused on usage subscription rates would provide a complete and accurate picture of broadband availability.

Accurate maps are vital for ensuring that all communities, particularly those who are underserved, have access to affordable, reliable, high-quality broadband. The metrics listed above are critical to creating maps that accurately represent broadband access in the United States.

If you have any questions about the issues raised in this letter, please feel free to contact Media/Telecommunications Task Force Co-Chair Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at 202-904-2168 or [cleanza@alhmail.com](mailto:cleanza@alhmail.com), Kate Ruane, American Civil Liberties



Union, at (202) 675-2309 or [kruane@aclu.org](mailto:kruane@aclu.org), or Corrine Yu, Leadership Conference Senior Program Director, at 202-466-5670 or [yu@civilrights.org](mailto:yu@civilrights.org).

Sincerely,

Vanita Gupta  
President & CEO

Kristine Lucius  
Executive Vice President

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<sup>i</sup> *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Further Notice of Proposed Rulemaking, 32 FCC Rcd 6329 (Aug. 4, 2017), <https://www.fcc.gov/document/fcc-proposes-improvements-broadbandvoice-services-data-collection-0>.

<sup>ii</sup> See, e.g., Rani Molla, *More than 60 million urban Americans don't have access to or can't afford broadband internet*, Recode (June 20, 2017), <https://www.recode.net/2017/6/20/15839626/disparity-between-urban-rural-internet-accessmajor-economies>.

<sup>iii</sup> *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, Dissenting Statement of Commissioner Clyburn, 33 FCC Rcd 1660 (2018).

<sup>iv</sup> 2017 American Community Survey 1-Year Estimates, Types of Computers and Internet Subscriptions, U.S. CENSUS BUREAU, [https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17\\_1YR/S2801](https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_1YR/S2801).

<sup>v</sup> *Id.*

<sup>vi</sup> S. Derek Turner, *Digital Denied: The Impact of Systemic Racial Discrimination on Home-Internet Adoption*, Free Press (Dec. 2016), at 4, [https://www.freepress.net/sites/default/files/legacypolicy/digital\\_denied\\_free\\_press\\_report\\_december\\_2016.pdf](https://www.freepress.net/sites/default/files/legacypolicy/digital_denied_free_press_report_december_2016.pdf) (“Free Press Report”).

<sup>vii</sup> *Id.*

<sup>viii</sup> GAO, *Broadband Internet: FCC's Data Overstate Access on Tribal Lands*, (Sept. 2018), at 22 <https://www.gao.gov/assets/700/694386.pdf>.

<sup>ix</sup> Brian Whitacre, *Broadband Speed: FCC Map vs. Experience on the Ground*, Daily Yonder (July 25, 2018), <https://www.dailyyonder.com/broadband-speed-fcc-map-vs-experience-ground/2018/07/25/26583/>.

<sup>x</sup> Demographics of Internet and Home Broadband Usage in the United States, Pew Research Fact Sheet, <https://www.pewinternet.org/fact-sheet/internet-broadband/>.

<sup>xi</sup> *Free Press Report* at 14.

<sup>xii</sup> See Bill Callahan, *AT&T's Digital Redlining of Cleveland*, National Digital Inclusion Alliance (Mar. 10, 2017) <https://www.digitalinclusion.org/blog/2017/03/10/atts-digital-redlining-of-cleveland/>.

<sup>xiii</sup> See Bill Callahan, *More digital redlining? AT&T home broadband deployment and poverty in Detroit and Toledo*, (Sept. 6, 2017), <https://www.digitalinclusion.org/blog/2017/09/06/more-digital-redlining-att-deployment-and-poverty-in-detroit-and-toledo/>.

<sup>xiv</sup> John Kahan, *It's time for a new approach for mapping broadband data to better serve Americans*, Microsoft (April 8, 2019), <https://blogs.microsoft.com/on-the-issues/2019/04/08/its-time-for-a-new-approach-for-mapping-broadband-data-to-better-serve-americans/>.

<sup>xv</sup> See *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2019 Broadband Deployment Report, 34 FCC Rcd 220 (2019).

<sup>xvi</sup> Adie Tomer, et al., *Signs of Digital Distress*, Brookings (2017), <https://www.brookings.edu/research/signs-of-digital-distress-mapping-broadband-availability/>.