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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street SW
Washington, DC 20554

**Re: Modernizing the Form 477, WC Docket No. 11-10
Digital Opportunity Data Collection, WC Docket No. 19-195
Rural Digital Opportunity Fund, WC Docket No. 19-126**

Dear Ms. Dortch,

On July 18, 2019, Steve Morris and Jennifer McKee of NCTA – The Internet & Television Association, Beth Choroser of Comcast, Jennifer Prime on behalf of Cox Communications, Tim Stelzig of GCI, and Christine Sanquist of Jenner & Block, on behalf of Charter Communications, met with Randy Clarke and Matt Tettelbach, Legal Advisor and Intern for Commissioner Starks, to discuss the Commission’s draft Report and Order and Second Further Notice of Proposed Rulemaking on the Digital Opportunity Data Collection and the draft Notice of Proposed Rulemaking on the Rural Digital Opportunity Fund.¹

Digital Opportunity Data Collection. NCTA expressed strong support for the proposal in the *Draft Data Collection Order* to require that providers report broadband availability by submitting polygon shapefiles (i.e., electronic coverage maps) that represent the geographic area where a provider offers service. We described how moving to a reporting regime based on polygon shapefiles would address the overstatement of coverage that results under the Commission’s current census block approach in a manner that providers, as well as the Commission, should be able to implement in a timely manner.

We also discussed the Commission’s proposal to incorporate crowdsourcing to supplement the review of Form 477 filings by Commission staff. We explained that feedback from consumers can be useful in refining the accuracy of any maps the Commission produces, but that such information, particularly online speed test data, may not accurately represent the

¹ See *Establishing the Digital Opportunity Data Collection; Modernizing the Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, FCCCIRC 1908-02 (rel. July 11, 2019) (*Draft Data Collection Order*); *Rural Digital Opportunity Fund*, WC Docket No. 19-126, Notice of Proposed Rulemaking, FCC-CIR1908-01 (rel. July 11, 2019) (*RDOF Notice*)

performance or availability of the service provided and therefore should be used to inform future filings by providers only where it proves to be accurate. In implementing crowdsourcing, NCTA encourages the Commission to consider ways to minimize the burden on broadband providers by, for example, having providers respond to feedback in batches. NCTA also encourages the Commission to direct the Bureaus to evaluate ways to ensure provider confidentiality is protected in the crowdsourcing process.

NCTA also expressed support for the proposed decision to further study and seek additional comment on the proposal advanced by the Broadband Mapping Consortium to create a broadband location fabric that can be used as a background for displaying broadband availability data.² We explained that the *Draft Data Collection Order* correctly finds that there is no need to wait on reforming the reporting requirements for broadband providers while the Commission considers ways to identify specific locations that lack fixed broadband availability. NCTA encourages the Commission to add questions to the Further Notice of Proposed Rulemaking asking whether the creation of a broadband-serviceable location database is necessary or whether alternative information could be used to achieve the same goal. Questions should also be included regarding the cost of establishing a database of broadband-serviceable locations and how such a database would be funded. If USAC is tasked with creating and maintaining such a database, should universal service funds be used and, if so, what effect would that have on the contribution factor? Additionally, the Commission should seek comment on whether to limit the scope of a broadband serviceable-location database to rural areas to focus the Commission's efforts on unserved locations.

In the meeting we also discussed the decision in the draft item to delegate significant responsibility to the Universal Service Administrative Company (USAC) for the creation of a new portal to be used for the filing of deployment data from broadband providers as well as data submitted by any party challenging the accuracy of provider data. The delegation of such broad authority to USAC is unusual and raises many questions. NCTA suggests that a more traditional approach, i.e., delegating authority to the relevant Commission bureaus and offices, which would then direct USAC to take action where needed, is the better approach in this case.

Finally, we explained that additional clarity would be helpful on some of the operational details of the new filing regime. For example, the Commission should clarify that a provider that upgrades the speeds it offers to consumers should report such an upgrade in the same way that it would report a new deployment of broadband facilities. We also suggested that it would be helpful for the Commission to specify a sunset date for reporting broadband availability on a census block basis on the current Form 477.

Rural Digital Opportunity Fund. NCTA explained that it strongly supports the Commission's efforts to move ahead with the RDOF, but that additional questions should be added to the *RDOF Notice* to ensure that the Commission has a complete record on which to make decisions. For example, we discussed the importance of adding questions that would elicit input on how the Commission should gather information on broadband deployment that is being

² See Letter from Lynn Follansbee, USTelecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 11-10 (Mar. 21, 2019).

funded by other agencies (e.g., the Rural Utilities Service) to ensure that any new funding from the Commission is efficiently directed to unserved areas.

NCTA also explained that additional questions would be helpful in determining how the Commission should distribute funding to unserved census blocks in the first stage of the RDOF. In particular, the “unserved” blocks in that stage will include both areas where price cap LECs already have received billions of dollars of CAF money pursuant to the right-of-first refusal and areas that have never received broadband funding and where existing processes have been insufficient to attract investment. The draft item should explicitly ask what steps should be taken to ensure that the Commission does not spend more than necessary on this first set of “slow service” blocks and that it finally delivers support to this second set of “no service” blocks. On a related note, the Commission should ask whether the existing cost model accurately estimates the cost in either type of area, and if not, how that might affect the Commission’s ability to rely upon it as a method for setting reserve prices for bids.

The Commission also should solicit comment on whether there are alternatives to the proposal in the item that would better achieve the Commission’s goals. In particular, the Commission should explicitly ask whether conducting a series of auctions, rather than just two, and using a shorter funding term, rather than 10 years, might be more effective at delivering better broadband to more people.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris

cc: R. Clarke
M. Tettelbach