



July 25, 2019

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: WC Docket No. 19-195
WC Docket No. 11-10

Madam Secretary:

This letter provides notice of an oral ex parte presentation to the Commission in the above-captioned dockets. On July 23, 2019, undersigned counsel, along with Paul Garnett and Allen Kim (via telephone) of Microsoft Corporation, met with Randy Clarke and Matthew Tettelbach in Commissioner Starks' office; Allison Baker, Steven Rosenberg, Mike Ray, Rebecca Chambers, Spencer Reeves, and Ken Lynch in the Wireline Competition Bureau; Preston Wise in Chairman Pai's office; Arielle Roth and Christopher McGillen in Commissioner O'Rielly's office; and Travis Litman in Commissioner Rosenworcel's office, to discuss several aspects of the FCC's upcoming Report and Order and Second Further Notice of Proposed Rulemaking in the above-captioned dockets.

With respect to the Commission's Digital Opportunity Data Collection ("DODC") process, we noted that the Commission's proposed definition of where broadband is available will improve the quality of the broadband data collection for distributing universal service support in the upcoming Rural Digital Opportunity Fund. Microsoft also discussed two possible amendments to the definition, as set forth in paragraph 13 of the item, that could improve upon the Commission's proposed language. Under the Commission's draft order, service would be considered available, "if the reporting fixed provider has a current broadband connection or it could provide such a connection within ten business days of a customer request and without *an extraordinary commitment of resources* or construction costs exceeding an ordinary service activation fee" (emphasis added).

Microsoft suggests eliminating the words, "an extraordinary commitment of resources or," so that carriers depict locations where consumers can get access to broadband today or within ten business days, without the imposition of charges exceeding an ordinary service activation fee. This formulation will minimize subjective analysis of what constitutes an extraordinary commitment of resources, reduce controversies among carriers and potential

challengers, and establish a cleaner standard for where broadband service is considered to be provided.

In sum, Microsoft suggests changing the first sentence of paragraph 13 to read as follows:

For purposes of the Digital Opportunity Data Collection, service is actually available in an area if the reporting fixed provider has a current broadband connection or it could provide such a connection within ten business days of a customer request and without installation charges exceeding an ordinary service activation fee.

Should the Commission choose to not adopt the above formulation, Microsoft recommends changing the words “construction costs” to “installation charges” in paragraph 13, line 4. This correction will clarify that the Commission is referring to carrier charges assessed on a requesting customer, and not costs incurred by a carrier.

When reporting broadband data to Congress as required by Section 706, Microsoft supports using the most accurate data available. To the extent there is continued reliance on Form 477 data, the Commission will improve the data underpinning Section 706 reports by incorporating improved broadband availability language into the Form 477 instructions, as suggested above. If Form 477 is not amended, the Commission will continue to provide Congress with Section 706 reports which overstate the availability of broadband in the US (especially in rural areas), based on data that is today widely recognized as being flawed. We note that the draft Report and Order makes several other changes to the FCC Form 477’s instructions, so it stands to reason that the FCC could also make this additional conforming change to the Form 477 instructions to ensure that filers provide more accurate information on fixed broadband availability.

Microsoft also requested that the Commission make a small correction in paragraph 26, which indicates that Microsoft suggested back in August of 2018 that is not interested in moving forward with the Commission’s polygon-based approach while third-party data sources are developed. In fact, Microsoft is fully supportive of the Commission moving forward at this time and appreciates the Commission clarifying that Microsoft’s previous comment is no longer applicable.

Microsoft thanked the Commission for supporting the continuing collection and use of subscription data, which is an important tool to help verify broadband mapping and support other Commission tasks, such as analyzing transactions. Microsoft believes subscription data should continue to be collected and made publicly available in a format that allows a third party to overlay it with other data. Moreover, broadband availability and universal service funding decisions should employ both updated availability data (with the improved definitions) and

subscription/usage data. Simply increasing broadband availability is not the full measure of whether the Commission is succeeding in closing the Digital Divide.

Microsoft also strongly supports the use of crowdsourced data and believes that the public would find useful a periodic FCC report on the results of its crowdsourced data program. Microsoft's usage data, along with some machine learning and visualization tools, can help the Commission identify outliers and improve the accuracy of its broadband reports, and it renewed its willingness to continue to make those data sets available to the Commission.

Finally, Microsoft discussed possible delegations of authority to USAC and explored the roles and responsibilities of USAC versus the Commission. Microsoft also noted the movement of legislation in Congress which could impact the Commission's new DODC effort as well as its Form 477 process.

Should you have any questions, please contact the undersigned directly.

Sincerely,

MICROSOFT CORPORATION

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