

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
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Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	
)	
Digital Opportunity Data Collection)	WC Docket No. 19-195

COMMENTS OF THE *COMPLIANCE* GROUP

I. INTRODUCTION

The *Compliance* Group is a leading consulting firm specializing in regulatory, corporate and tax compliance management and transactional services for telecommunications, Voice over Internet Protocol (“VoIP”) and other communications and information technology companies, and media distributors. The *Compliance* Group prepares Form 477 filings for large and small broadband and VoIP companies providing services utilizing a variety of technologies. As a result, The *Compliance* Group has seen the kinds of data collection and reporting issues inherent in the current Form 477 process.

The *Compliance* Group welcomes the launch of this new chapter in the saga of the Federal Communications Commission (“Commission”) and its interaction with broadband mapping and data. Specifically, with the release of the Report and Order and Further Notice of Proposed Rulemaking¹, the Commission has a new opportunity to reset a process which has been subject to substantial criticism from the providers and users of broadband data.

¹ *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 19-79 (rel. Aug. 6, 2019) (Digital Opportunity Data Collection).

II. THE FEDERAL COMMUNICATIONS COMMISSION MUST CONSIDER THE PERSPECTIVE OF DIFFERENT TYPES OF BROADBAND DATA PROVIDERS, AND DIFFERENT TYPES OF BROADBAND DATA USERS, AS IT CRAFTS THE DIGITAL OPPORTUNITY DATA COLLECTION

To get at some of the current problems with broadband mapping, and to consider how the Digital Opportunity Data Collection might offer a solution for existing problems associated with the current Form 477 process, and the Commission's involvement with broadband mapping, the Commission must be aware of different parties reasons for and motivations to collect and publishing broadband data.² Part of the problem is that there are at least four different perspectives on collecting broadband data and maps. Each perspective calls for progressively more data to be made available:

- Some providers (such as cable companies) want to offer broadband services but generally aren't interested in obtaining Universal Service Fund subsidies.
- Rural telecommunications and wireless providers recognize the importance of the government mapping out areas that are served and unserved.
- New entrants want to bring high-capacity fiber deployments to areas that currently have lower-capacity cable or DSL or wireless service, as do economic development advocates seeking to bring better broadband to their communities.
- Academics, consumers and government oversight bodies could seek to hold broadband providers accountable for their promised levels of service.

Because each group approaches broadband mapping with a slightly different agenda, each pushes Congress and the Commission to recognize only its needs in broadband mapping.

² Portions of this section are excerpted from "Broadband Mapping Is a Mess: No One Knows What to Do About It," by Drew Clark, Broadband Communities Magazine, July 2019, pp. 18-21.

Ten years after the origins of the National Broadband Map, the nation has learned some lessons surrounding broadband data collection and mapping.

Publicly disclosing the census blocks in which each carrier operates became the hallmark of the National Broadband Map, which of course was created by the Commerce Department's National Telecommunications and Information Administration in partnership with the Commission and 56 state and territorial entities through the State Broadband Initiative.

From 2010 to 2015, these SBI-funded state initiatives played a crucial role in collecting broadband data. Some were housed at state public utilities commissions, others were within universities, and still others were nonprofit entities chartered with collecting data, standardizing it and providing it to NTIA for the creation of the National Broadband Map.

For all its faults, the National Broadband Map allowed everyday consumers and internet users to distinguish fiber, cable, DSL and wireless service. In disclosing broadband carriers' footprints, the map created a framework for public verification and crowdsourcing. But because federal funding for the SBI program ended, the map was not updated after 2015. The data quickly became stale. Although the Commission has continued to collect Form 477 data, it hasn't engaged in the verification processes undertaken by state broadband initiatives, although these and other issues are raised by the Digital Opportunity Data Collection.

The *Compliance* Group seeks to highlight the need for the Digital Opportunity Data Collection to consider not merely the position on one or two types of broadband providers – but also the position of new entrants that seek to compete against existing broadband providers.

Turn again the perspectives of the different groups of broadband providers mentioned above.

The cable industry wants to sell broadband, and it provides (advertised) speed and price data to a variety of aggregator websites that help generate leads for service. But this segment of the industry has been reluctant to support improvements for the most granular-level broadband mapping because it infrequently offers service to low-density rural areas.

By contrast, rural telecommunications and wireless providers have begun to tout the need to create what they call a geospatial “broadband fabric” for understanding the ways to get broadband to even the remotest rural areas. Changes in the USF over the past decade have led the Commission to a more data-centric approach for subsidizing rural broadband.

But these two different camps don’t exhaust the list of uses to which broadband mapping can and should be put. For example, both approaches are critical of “overbuilders” and generally oppose any efforts by federal or local governments to support competitive entrance into the broadband marketplace. That’s why community fiber-building companies or municipalities see broadband mapping from an additional perspective. They also insist on collecting data about competition (the number and identity of providers within a given area) as well as (actual) speeds. This data collection allows a city or region to get a verified sense of their actual broadband performance.

Such neighborhood networks also benefit from knowing the existence and location of interconnection points and price information. This information is a necessary input into engineering-level field studies required to build new fiber networks that compete with barely broadband services.

Yet there are still more sets of information, and they involve performance-focused metrics, including actual speeds, reliability and adoption.

Interestingly, both a broadband data depository and a broadband performance dashboard originally were proposed by the Commission National Broadband Plan of March 2010. The Commission’s anticipated depository “would give researchers and the public better access to the FCC’s data. This will help the FCC serve its essential role as a source of independent data on broadband deployment, adoption and usage in America,” read the National Broadband Plan. The dashboard was designed to go even further, using the transparency on a government website to track progress and accountability, and going far beyond mere availability or adoption.

As the Commission considers the creation of the Digital Opportunity Data Collection, it should revisit the ambitions for broadband mapping and data expressed in the National Broadband Plan – and ensure that it considers the perspectives of new broadband entrants.

III. THE COLLECTION OF A GIS-BASED SYSTEM OF BROADBAND DATA NEED NOT CONFLICT WITH THE INTERESTS OF BROADBAND USERS

There is a further opportunity created by the Digital Opportunity Data Collection: Better aligning the interests of providers of broadband data with the users of broadband data.

Almost by definition, broadband data users are likely to want access to more data than broadband data providers want to provide. However, there are more common interests than may be assumed.

For example, turn to the experience of partners of the NTIA and the Commission in the creation of the National Broadband Map: The State Broadband Initiatives. One such initiative, the Partnership for a Connected Illinois, is representative of the 56 separate entities that existed between 2010 and 2015. Although these entities, including the Partnership for a Connected Illinois, engaged in more than merely mapping, that activity was foundational to its mission to collect and publish broadband data, facilitate advanced broadband networks, and promote further use and adoption of broadband internet services.

This is how the Partnership for a Connected Illinois explained it, in one of its annual reports, in a section of “Visualizing Broadband.”³

- **What We Do:**

Broadband mapping and data collection is a backbone of our organization. Our Geographic Information Systems team contacts each Illinois broadband provider and creates detailed, interactive census-block level maps of broadband speed and availability throughout the state.

- **Why We Do It**

Our regional eTeams help broadband providers identify areas that are in need of service. Our Find Broadband Tool and Request Broadband Tool allow users to enter a street address to see all available broadband carriers in their county. And economic developers, government officials and other businesses are discovering creative uses of broadband data for promoting healthy communities and regions.

- **Find Broadband**

Our data helps users get service and providers find customers. In 2012, more than 60,000 users visited our web site, viewing more than 176,000 pages. The Find Broadband Tool enables users to learn about broadband services, speeds and community broadband centers in their area.

- **Request Broadband**

- Adequate service isn’t always available. Our Request Broadband Tool can help. More than 13,000 users took advantage of these tools in 2012. Our request tool

³ Excerpted from “Partnership for a Connected Illinois: Broadband Illinois Annual Report 2012,” pages 4-

sends alerts to all the providers of broadband in the user's county. Providers are then able to identify pockets of aggregated demand and work out economical and strategic methods to reach these new customers.

Some of the functions engaged in by SBI entities like the Partnership for a Connected Illinois may be replicated by the use of "crowdsourcing" initiatives contemplated by the Commission. Other grass-roots coordination on digital infrastructure and usage cannot be managed at the federal level, and are best left to state entities, non-profit organizations, or businesses that obtain open data sets from the Commission.

But the interests of broadband providers can be better served through the provision of, and publication of, GIS-based broadband location information – particularly when there are benefits from coordinated efforts to promote broadband adoption and use.

For example, during the semi-annual data collection processes of the Partnership for a Connected Illinois and other State Broadband Initiative entities, providers frequently complained about the inherent burdens and duplication involved in producing both a GIS-based broadband data set as well as the information for Form 477. Many commented on their hope that the two data collection efforts could ultimately be combined.

With the fading of the NTIA State Broadband Initiative, the FCC has the opportunity to create a system that leverages the strengths of a "born GIS" system of broadband data. Rather than require broadband providers to duplicate or replicated information-collection efforts, the Digital Opportunity Data Collection ultimately presents a new opportunity to minimize burdens *and* enhance public disclosure.

IV. THE EXPERIENCE OF THE COMPLIANCE GROUP SUGGEST THAT THE UNIVERSAL SERVICE ADMINISTRATIVE CORPORATION WILL NEED CLOSE SUPERVISION FROM THE FEDERAL COMMUNICATION COMMISSION TO IMPLEMENT A GIS-BASED BROADBAND SYSTEM

The Universal Service Administrative Corporation was created to manage the collection and disbursement of Universal Service Funds. It does not have experience in broadband data collection or broadband mapping.

Indeed, there is ample precedent for caution in entrusting USAC with responsibilities beyond its core purview. As reflected in the numerous filings by The *Compliance* Group in Docket No. 06-122 over the years⁴, USAC experienced significant growing pains administering the Universal Service Fund program. These growing pains materially impacted industry stakeholders, and took many years of effort by USAC to overcome. The *Compliance* Group understands that growing pains are to be expected when a pseudo-governmental body is tasked with administering a highly complex public interest program.

But growing pains can be minimized or even eliminated by ensuring the FCC does not merely delegate administration of the new broadband data reporting regime to USAC, but instead charges with USAC with identifying and then overseeing an existing private sector body that has the experience, technology, management, personnel, and processes necessary to implement and administer the new broadband data reporting regime.

⁴ See Request for Clarification of Telecommunications Relay Service Registration and Fund Contribution Requirements for Non-Interconnected VoIP Service Providers, Docket Nos. 11-47 and 06-122 (Letter from Christopher A. Canter, The *Compliance* Group, to Sharon Gillett, Wireline Competition Bureau, December 16, 2011); Petition of The *Compliance* Group, Inc. for a Declaratory Ruling that the Systems Integrator Exemption Applies to the Resale or Provision of Interconnected VoIP-Based Communications Services by Systems Integrators, WC Docket No. 06-122, CC Docket No. 96-45 (January 27, 2015); Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45; and Universal Service Contribution Methodology, WC Docket No. 06-122 (Ex Parte Letter from Jonathan S. Marshlian, The *Compliance* Group, February 5, 2015); Petition of The *Compliance* Group, Inc. for a Declaratory Ruling that the Systems Integrator Exemption Applies to the Resale or Provision of Interconnected VoIP-Based Communications Services by Systems Integrators, WC Docket No. 06-122, CC Docket No. 96-45 (March 17, 2015); Petition of The *Compliance* Group, Inc. for a Declaratory Ruling that the FCC's "Adjunct-to-Basic" Precedent does not Apply to I-VoIP Services and Ancillary Features, WC Docket No. 06-122; CC Docket No. 96-45 (March 26, 2015); Re: Request for Clarification of FCC Form 499 Reporting of Revenue Derived from Private Carrier Services, Docket No. 06-122 (Ex Parte Letter from Jonathan S. Marshlian, The *Compliance* Group, April 27, 2018).

V. CONCLUSION

As the Commission develops the Digital Opportunity Data Collection, it must remain cognizant of the perspectives of multiple sorts of broadband data providers and broadband data users. In particular, the Commission needs to remember that it must also consider the interests of would-be broadband providers and new entrants seeking to compete with existing incumbent broadband providers. With this new opportunity to reset old controversies surrounding broadband mapping and data, the Commission should carefully consider how the example of State Broadband Initiatives served to better align the interests of broadband data providers and broadband data users. And finally, the Commission should not delegate to USAC any substantive aspect of the new GIS-based broadband system encompassed by the Digital Opportunity Data Collection. It should instead consider charging USAC with identifying and then overseeing an existing private sector body capable of administering the new broadband data reporting regime crafted by the Commission.

Respectfully submitted,

/s/

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Dated: September 23, 2019