

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

In the Matter of	)	
	)	
Development of Nationwide Broadband Data to	)	WC Docket No. 07-38
Evaluate Reasonable and Timely Deployment	)	
of Advanced Services to All Americans,	)	
Improvement of Wireless Broadband	)	
Subscribership Data, and Development of Data	)	
on Interconnected Voice over Internet Protocol	)	
(VoIP) Subscribership	)	
_____	)	

**REPLY COMMENTS OF VERIZON AND VERIZON WIRELESS ON FURTHER NOTICE  
OF PROPOSED RULEMAKING CONCERNING BROADBAND MAPPING**

Michael E. Glover  
*Of Counsel*

Edward Shakin  
William H. Johnson  
Verizon  
1515 North Court House Road  
Suite 500  
Arlington, Virginia 22201  
(703) 351-3060

August 1, 2008

John T. Scott, III  
William D. Wallace  
Tamara L. Preiss  
Verizon Wireless  
1300 I Street, NW  
Suite 400 West  
Washington, DC 20005  
(202) 589-3740

*Attorneys for Verizon and Verizon Wireless*

## TABLE OF CONTENTS

	<b>Page</b>
INTRODUCTION AND SUMMARY .....	1
I.    Recent Revisions to the Form 477 Obviate Any Potential Need for New Reporting Obligations. ....	3
II.   The Commission Should Encourage and Use Broadband Availability Mapping by State-Level Public-Private Partnerships, Not Supplant It.....	5
III.  The Support for Commission-Level Broadband Availability Mapping Ignores the Complexity and Burdens of Such an Undertaking and Disregards the Benefits of Public-Private Partnerships.....	9
A.    Mapping, Done Well, Is a Complex and Burdensome Task Better Handled by Public-Private Partnerships.....	9
B.    Any Concerns About Transparency or Accuracy Can Be Addressed Through Best Practices and by Comparing Availability Maps to Subscriber Data.....	15
C.    Availability Data Is Competitively Sensitive and Should Be Protected ..	17
CONCLUSION .....	20

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

In the Matter of	)	
	)	
Development of Nationwide Broadband Data to	)	WC Docket No. 07-38
Evaluate Reasonable and Timely Deployment	)	
of Advanced Services to All Americans,	)	
Improvement of Wireless Broadband	)	
Subscribership Data, and Development of Data	)	
on Interconnected Voice over Internet Protocol	)	
(VoIP) Subscribership	)	
_____	)	

**REPLY COMMENTS OF VERIZON<sup>1</sup> AND VERIZON WIRELESS ON FURTHER  
NOTICE OF PROPOSED RULEMAKING CONCERNING BROADBAND MAPPING**

**INTRODUCTION AND SUMMARY**

In light of the Commission’s recent revisions to broadband providers’ Form 477 obligations, as well as the numerous efforts underway at the state-level to map broadband availability, the Commission should not adopt new requirements in order to create a map of broadband availability. Instead, the Commission first should assess the mountains of new data that it will receive concerning the broadband marketplace before deciding whether additional reporting obligations justify the associated burdens on the Commission and providers. Among other things, and without imposing new burdens, the Commission already will be able to map broadband subscribership – a reasonable proxy for broadband availability – down to the census tract level, including subscriber count by upload and download speed tier and by technology type

---

<sup>1</sup> The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

as well as estimates of the percentage of residential customers in the census tract area.

Additional reporting obligations are unnecessary.

To the extent that the Commission determines that it should nonetheless consider broadband availability, it should encourage and rely on the work already underway at the state-level through public-private partnerships, like ConnectKentucky, rather than mapping availability itself. The record shows wide support for state-level public-private partnerships, and recognition of the numerous benefits of these projects over federal-level reporting requirements. These partnerships promise to efficiently produce availability maps that would be more comprehensive, accurate, timely and useful than maps created from new Commission-level reporting requirements, and with less burden on the Commission and broadband providers. The Commission could encourage and take advantage of these efforts by acting as a clearinghouse for the maps they create and by collecting “best practices” that help ensure consistent and high quality mapping efforts across the country.

Finally, the Commission should decline the entreaties of the handful of parties that favor Commission-led mapping of broadband availability. The parties that urge the Commission to engage in broadband availability mapping on its own make several erroneous assumptions and arguments. First, these commenters disregard or downplay the complexity of creating an accurate, comprehensive, and timely map of broadband availability, and seem to assume that all broadband providers have a ready list of all addresses (with associated geocoding and census block group) where broadband is available – or could create such data with little burden. Second, these parties assume that for mapping to be done well, it must be done by a regulatory agency, and they suggest that data are only valuable and accurate if submitted to the government and then disclosed in full to the public. Finally, these commenters disregard claims that

broadband availability data are commercially sensitive and entitled to confidential treatment. They are wrong on all counts. These parties provide no basis for the Commission to adopt onerous, new reporting obligations on broadband providers – beyond those it just adopted a few short months ago – or supplant the work underway by state-level public-private partnerships.

**I. Recent Revisions to the Form 477 Obviate Any Potential Need for New Reporting Obligations.**

As Verizon explained in its initial comments, before imposing additional data reporting obligations on broadband providers, the Commission should first collect and assess the flood of new data that will be collected pursuant to the recent revisions to the Form 477. With this data, the Commission could already create maps that depict, at the granular census tract level, broadband subscribership nationwide. This would provide a reasonable proxy for broadband availability that could guide consumers, policymakers and providers, without the associated complexity and burden of directly mapping availability or imposing additional reporting obligations on providers. *See Connected Nation July 14 Ex Parte, Attachment at 4.*

The record shows broad support that the Commission should first look to the new data that it will receive on the revised Form 477 before adopting additional requirements and that it must carefully consider the purpose to be served by such a requirement, the reasons why existing reporting obligations are inadequate, and the associated burden on providers and the Commission. *See CTIA Comments at 5* (noting granularity of data required for new Form 477 and stating that “[i]n the absence of a defined need for more information beyond the new reporting requirements, the Commission should wait before imposing an additional obligation on providers.”); *AT&T Comments at 4* (noting that the Commission “did not identify any specific Commission use for such a map”). Only by assessing the data that it will already receive and undertaking such a cost-benefit analysis can the Commission ensure that its requirements are

consistent with the “twin goals of collecting the most useful information while subjecting respondents to the minimum burden.”<sup>2</sup>

The record provides no justification for additional reporting requirements at this time, and, to the contrary, shows the unnecessary burdens and confusion that would result without any substantial offsetting benefit. Even without additional reporting requirements, “[t]his new Form will place significant challenges on broadband providers and the Commission alike.”

Windstream Comments at 5. Windstream notes that “[t]he revised Form 477 requires a broadband service provider to produce, at a minimum, 72 pieces of information within each census tract where it offers services,” and more “when service providers using more than one technology are considered.” *Id.* As a result of these greatly expanded reporting obligations, “the Commission has taken significant strides to elicit data that will enable it to produce maps on a census tract basis that will provide the framework for analysis that it needs.” Qwest Comments at 3; *see id.* at 4 (noting that the Commission’s “reformulated Form 477 data gathering is more than sufficient”). For example, the Commission could use this granular data to create a highly detailed map of the broadband services subscribed to by consumers nationwide. This would provide an accurate and detailed basis for policymakers as they consider policies to expand the reach of broadband, or seek to identify areas with unmet demand.

Not only do the expanded reporting requirements obviate any potential need for additional reporting, but also the burdens and complexity that broadband providers currently face in complying with these new reporting requirements show that it would be inappropriate for the Commission to adopt still more requirements at this time. For example, a cooperative of broadband providers notes that current requirements “already impose[] substantial costs upon the

---

<sup>2</sup> Report and Order, *Local Competition and Broadband Reporting*, 15 FCC Rcd 7717, ¶ 65 (2000) (“2000 Broadband Data Order”).

small rural ILECs” as they prepare for the new census tract-level reporting. Comments of Texas Statewide Telephone Cooperative Inc. (TSTCI) at 3. The process of acquiring and tracking the census tract for each customer “will be expensive in terms of time, resources, and database changes.” *Id.* This is equally true for large broadband providers, who must prepare to provide large amounts of data – including subscribership by speed tier and technology – in each census tract in which they provide service. As Verizon previously explained, providers’ systems generally do not contain information concerning census tract today, and compliance with the Commission’s recent requirement therefore will entail collecting, tracking, analyzing, and reporting large amounts of new data for each census tract in which they offer broadband service. The Commission should not add to this burdensome and complex task by layering on additional reporting obligations without a clear need to do so. *See* AT&T Comments at 4 (“The burdens posed by these new proposals would be particularly onerous insofar as broadband providers have not yet even had an opportunity to implement the latest reporting obligations.”).

## **II. The Commission Should Encourage and Use Broadband Availability Mapping by State-Level Public-Private Partnerships, Not Supplant It.**

To the extent that the Commission believes that a broadband availability map is necessary, the record in this proceeding shows widespread support for the creation of such maps through state-level public-private partnerships, as well as recognition of the benefits of relying primarily on such organizations to map broadband availability and develop particularized solutions for addressing any gaps in broadband availability where there is unmet demand. The Commission is not in a position to do this type of ground-level work on its own. But, if it were to engage in broadband availability mapping – based primarily on new reporting obligations on providers – the Commission could well kill the momentum behind these state-level efforts, both by discouraging local-level interest in investing time and resources in these efforts and by

draining the resources of broadband providers that would otherwise be available to assist.

Instead, the Commission should encourage and coordinate with these organizations, such as by acting as a clearinghouse for their output or facilitating the collection of best practices.

Public-private partnerships are well-positioned to work collaboratively with consumers, local communities, broadband providers, and policymakers at all levels to identify areas lacking broadband services, to assess both supply-side and demand-side factors affecting broadband availability and adoption, and to develop appropriate solutions that respond to areas of unmet broadband demand. By virtue of this “on the ground” approach, such partnerships are also able to produce much more accurate, timely and useful maps than would be possible through federal reporting requirements. *See* U.S. Chamber of Commerce Comments at 2 (noting that “public-private partnerships can be more flexible and efficient than the federal government in collecting accurate data, verifying [the] data with consumers, and adjusting maps as deployment [proceeds]”).

The record here reflects the successes possible only through this type of localized, public-private effort. *See, e.g.*, Letter from Dennis Atha, Mayor of Monterey, Kentucky at 1 (July 15, 2008) (“ConnectKentucky has achieved what no one else could do – it brought together all the right players and invested significant resources to map broadband availability in a comprehensive and accurate fashion. . . . This process for cooperative mapping is a model that should not only be heralded, but should be used again and again for the rest of America.”); Letter from Jiten Shah, Executive Director of the Green River Area Development District (July 17, 2008) (“I write to urge you to consider a cooperative, public-private approach to mapping national broadband availability. . . . Chip Spann, and other staff members from ConnectKentucky, provided valuable assistance in helping us develop an RFP for network

construction and service provision.”); Notice of Ex Parte, Henry W. Bertram, Pendleton County Judge/Executive (“Judge Bertram Notice”) at 2 (July 21, 2008) (“The ConnectKentucky folks get out in the mud with locals and service providers to understand exactly which homes have broadband available and which do not – and these maps are always up-to-date on their website for everyone to use.”); U.S. Chamber of Commerce Comments at 1 (“[T]he Chamber strongly supports the public-private partnership model developed by Connected Nation for spurring broadband deployment and adoption.”).

The cooperative and solutions-focused nature of public-private mapping initiatives has encouraged broadband providers of all types – big and small, rural and urban – to actively participate, and the record here reflects a near unanimous view among providers of the benefits of such an approach.<sup>3</sup> Among other things, the cooperative and localized approach of these partnerships helps to address the limitations on the data maintained by many broadband providers – including the small and medium-sized providers that generally do not maintain address-level availability data – which could cripple any Commission-led mapping effort. *See, e.g.*, ITTA Comments at 4 (noting that “many carriers do not maintain this information [concerning address-level availability] in a database whose form would facilitate submission to the Commission for mapping purposes” and expressing support for public-private partnerships). Moreover, the opportunity to negotiate appropriate confidentiality protections with these groups

---

<sup>3</sup> *See* Independent Telephone and Telecommunications Alliance Comments (ITTA) at 4 (“ITTA submits that . . . efforts intended to complement carriers’ knowledge of where deployment has occurred (or where it is yet to occur) are best left to regional entities with specialized local knowledge and expertise.”); National Cable & Telecommunications Association (NCTA) Comments at 5-6 (supporting public-private partnership approach); Windstream Comments at 4 (“Windstream has found that the best entities to map broadband data are regional public-private partnerships that are closest to the service areas mapped.”); TSTCI Comments at 4 (“The need for broadband service in a given area and the most effective way to provide the service would be best handled through state initiatives.”); Frontier Comments at 1 (endorsing mapping by “a joint public/private entity such as Connected Nation”); AT&T Comments at 5-6 (supporting public-private partnership approach).

also helps to relieve some of the concerns shared by providers of all sizes and types about protecting competitively sensitive information. *See, e.g.*, Frontier Comments at 2 (“Use of a public/private entity will allow for the protection of highly confidential competitive data by contract, avoiding many of the problems of Freedom of Information legislation.”).

The momentum behind public-private broadband initiatives would be undermined, however, if the Commission were to engage in its own broadband availability mapping, both because of the resultant reluctance of state and local entities to expend resources if the Commission were engaging in its own mapping and because of the resistance or inability of broadband providers to engage in duplicative mapping efforts. *See, e.g.*, Judge Bertram Notice at 2 (“An FCC mapping program could very well squash these efforts.”); U.S. Chamber of Commerce Comments at 1 (“[T]he Chamber urges the Commission not to adopt any rules that would hinder the success of this initiative.”); AT&T Comments at 6 (noting that “a new Commission-initiated mapping program to this mapping milieu risks confusing the public, fatiguing broadband providers and putting the Commission at cross-purposes with Congress”); NCTA Comments at 6 (noting the “significant risk that a Commission mapping program . . . would ‘hamper the progress that is being [made] through public-private partnerships’”).

Rather than upsetting or supplanting these localized, cooperative efforts that promise more accurate, timely and useful maps – coupled with their solutions-based focus on satisfying unmet broadband demand – the Commission should carefully avoid any steps that would disrupt public-private partnership, and instead should encourage these initiatives by acting as a clearinghouse for their output, as well as facilitating and collecting “best practices” concerning broadband availability mapping. *See* Verizon Comments at 11; *see also* Windstream Comments at 4 (“the Commission should leverage success at the local level by facilitating discussion of best

practices and serving as a clearinghouse for maps produced by regional public-private partnerships”); NCTA Comments at 6 (noting that a “coordination role” for the Commission could be appropriate). This approach would provide a win-win-win situation for the public, policymakers, and broadband providers.

### **III. The Support for Commission-Level Broadband Availability Mapping Ignores the Complexity and Burdens of Such an Undertaking and Disregards the Benefits of Public-Private Partnerships.**

Notwithstanding the proven track record of public-private partnerships in mapping broadband availability and spurring broadband deployment – and the Commission’s recent expansion of reporting obligations on providers – certain commenters urge the Commission to again increase reporting obligations on broadband providers and to federalize, and enshrine in regulation, broadband availability mapping. These parties exhibit an unfounded mistrust of public-private partnerships and a lack of appreciation for the complexity and burdens of creating a comprehensive, useful and timely map. They also fail to appreciate the competitive sensitivity of the broadband availability data that goes into these maps – a point on which broadband providers of all types and sizes agree. These arguments provide no basis for the Commission to expand reporting obligations, to undermine the work of public-private partnerships, or to backtrack on the confidentiality protections that the Commission consistently has extended to broadband providers’ data.

#### **A. Mapping, Done Well, Is a Complex and Burdensome Task Better Handled by Public-Private Partnerships.**

Notwithstanding the successes of – and strong public and bipartisan political support for – the public-private partnership model, a handful of parties are unwilling to concede that federal

regulation would be neither necessary nor useful in this context.<sup>4</sup> The Commission should reject this government-first, pro-regulation view that is antithetical to the Commission’s traditional, and successful, approach to encouraging broadband. For all of the numerous reasons discussed above and in Verizon’s opening comments, the Commission is not well-positioned to create broadband availability maps – or at least availability maps that would be comprehensive, accurate, timely and useful.

1. First, creating broadband availability maps requires intensive, ground-level effort to determine accurately where broadband is and is not available, as well as the various supply- and demand-side factors that contribute to availability and the local opportunities to encourage additional broadband availability. It would be unrealistic to expect that the Commission would have the resources or ability to engage in this type of localized, hands-on effort nationwide.

2. Second, the parties urging the Commission to perform mapping minimize the task by assuming that all of the necessary information could be readily provided to the Commission through additional reporting requirements on broadband providers. But that is not so. As the record here confirms, many broadband providers simply do not have databases showing address-level availability of broadband. Indeed, most of the small and medium-sized providers who focus on rural areas – some of the areas of most concern in ascertaining availability – lack such data. *See, e.g.*, ITTA Comments at 4. And even for the large broadband providers that do have some capability to predict whether broadband may be available at particular addresses, there is no standard approach or format for making such predictions, and the systems and assumptions that underlie these predictions vary from provider to provider. Reporting such information,

---

<sup>4</sup> *See* Further Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge (July 17, 2008) (“Consumers Union Comments”); NATOA Comments; Comments of APPA, KMUA, et al. (“APPA Comments”).

therefore, would be of a monumental task, with questionable value and accuracy. Moreover, “creating such deployment information from scratch” – as many providers would have to do – or “producing such data in a different format will be extremely costly” and difficult. *See* Sprint Nextel Comments at 2. The complexity of this task – particularly in the context of the many providers who do *not* maintain databases reflecting address-level availability – strongly militates in favor of the public-private approach, where a single entity can work with providers of all types and apply a relatively uniform approach to predicting broadband availability.

Even less feasible than assuming that providers maintain or could reasonably provide databases showing address-level availability is the suggestion by Consumers Union that broadband providers report availability information at the census block group level. Consumers Union Comments at 12-16. Whereas at least some providers may have address-level databases, few, if any, are likely to maintain the information that Consumers Union would now have them report to the Commission. As compared to the roughly 40,000 zip code areas or 61,000 census tract areas, there are approximately 200,000 different census block groups in the country. *See* BroadbandCensus.com Comments at 11.

To comply with Consumer Union’s proposal, a provider would first have to determine the addresses where broadband is available – something that already would be a difficult task for most providers – and then take those addresses and find, track, analyze, and report which of the hundreds of thousands of census block groups to which those addresses belong. Such an effort would be a monumental – and monumentally wasteful – task that would divert tremendous amounts of resources better spent in deploying more broadband.

In support of this proposal, Consumer Union erroneously asserts that broadband providers have already engaged in such reporting in the State of California, and then takes the

even less credible assertion that they did so with “ease,” thus demonstrating “that this requirement is feasible and not in any way overly burdensome.” Consumers Union Comments at 16. Aside from the fallacy of assuming that just because something can be done, it can be done easily, Consumers Union’s premise is simply inaccurate. In fact, just last month the California Public Utilities Commission considered and expressly *rejected* arguments for broadband reporting below the census tract level, noting the “real costs” that would result for broadband providers. *See* Decision Amending General Order 169, *Order Instituting Rulemaking to Consider the Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006*, Rulemaking 06-10-005, at 21-22 (Decision 08-07-007, July 10, 2008). While providers have been required to list, as part of the California statewide franchise application, census block groups where they anticipate offering *video* services, that exercise is far different and less burdensome than the new availability reporting obligations that Consumers Union proposes adopting for all broadband providers and services nationwide. Yet even in the more limited context of new video services being offered in California, notwithstanding Consumers Union’s assertion concerning the “ease” of complying with that application requirement, the exercise of identifying and listing census block groups proved extremely complex and difficult to manage. Any broadband availability reporting requirement at that granular level nationwide would prove a nightmare for both broadband providers and the Commission alike.

Notwithstanding the suggestions of some of these commenters, there is simply no easy database of broadband availability information that providers could report for purposes of Commission mapping. The complexity of such determinations and the variation between

providers are among the significant reasons that public—private partnerships are well-positioned to engage in such mapping, while the Commission is not.<sup>5</sup>

3. Third, some parties seem philosophically opposed to anyone other than a governmental, regulatory body taking a leadership role in mapping broadband availability. These commenters argue that “broadband data gathering, synthesizing and mapping should be a government function.” APPA Comments at 7. Accordingly, they argue that “any and all broadband data collected by the FCC should be obtained directly from broadband providers,” and that any “translation and synthesis of that data into a national broadband mapping program . . . should likewise be performed by government.” *Id.* at 6.<sup>6</sup> Still other parties argue that data collection should be handled by state regulatory authorities, with the Commission subsequently “compil[ing] the geographic data from the fifty states.” *See* Comments of Christopher J. White, New Jersey Division of Rate Counsel at 4 (“New Jersey Rate Counsel Comments”).

These parties are wrong to discount the benefits of a localized and cooperative approach to mapping broadband availability and to suggest that for mapping to be done well or accurately, it must be handled by the government. The record in this proceeding demonstrates, and the proven track record of Connected Nation confirms, exactly the opposite. If for no other reason than that most providers lack readily available data concerning the addresses where broadband is available, any map that the Commission would create relying on additional broadband

---

<sup>5</sup> If the Commission were to pursue mapping of broadband availability, it should not include mobile broadband services on those maps. As Verizon explained in its opening comments, most wireless providers already offer consumers access to more meaningful coverage maps, and the mobile nature of these services would make address-level reporting largely meaningless. *See* Verizon Comments at 13. Indeed, even some proponents of Commission-level mapping suggest that any maps should be limited to “wireline and fixed terrestrial wireless services.” *See* Consumers Union Comments at 18.

<sup>6</sup> *See also* NATOA Comments at 4 (arguing that the “the Commission, itself, should at last step forward and assume responsibility for gathering, and assuring the reliability of, the data addressed in these comments”); Consumers Union Comments at 9 (suggesting that public-private partnerships “cannot surpass the authority and efficiency of the availability mapping that the Commission, as the expert agency, is capable of conducting”).

availability reporting requirements would be far less comprehensive and less accurate than those possible through localized, on-the-ground public-private partnerships. While the incompleteness of the resulting maps may serve the policy agendas of some groups – for example, by suggesting substantial gaps in broadband availability as a result of missing data even where no actual gap exists – they would not provide an accurate or timely picture of broadband availability, nor would they provide a sound resource for policymakers. *See generally* Connected Nation July 14 Ex Parte, Attachment at 1.

Nor is it realistic to expect that the Commission could devote the time and resources that would be required to remedy the deficiencies of the central-planning approach preferred by these commenters by working in individual communities with particular providers to get an accurate assessment of broadband availability. Not surprisingly, strong bi-partisan support by members of Congress has suggested that they do not expect the Commission to engage in that difficult and burdensome exercise; they instead have endorsed and sought to further encourage the public-private model that has already proven effective.<sup>7</sup>

While the Commission’s goals in seeking a broadband availability map are laudable, it should realize that the most efficient and effective method for achieving those goals is not by saddling providers with still more burdensome reporting requirements or by supplanting the good work underway by public-private partnerships at the state level. Instead, it should encourage and

---

<sup>7</sup> As Verizon noted in its initial comments, legislation aimed at encouraging and funding state-level mapping initiatives has already been passed by House of Representatives and awaits a floor vote in the Senate following the approval of the Committee on Commerce, Science, and Transportation. *See* Broadband Census of America Act of 2007, H.R. 3919, 110<sup>th</sup> Cong. §§ 4-5 (2007) (adopted by House of Representatives on Nov. 13, 2007); “Broadband Data Improvement Act,” S.1492, 110th Cong. § 6 (2007) (establishing a grant program for state broadband initiatives) (reported out of Committee on July 19, 2007). The House bill passed with unanimous consent, and the Senate legislation was voted out of Committee by voice vote and without objection.

work with those efforts in order to improve the Commission's and other stakeholders' understanding of the broadband marketplace.

B. Any Concerns About Transparency or Accuracy Can Be Addressed Through Best Practices and by Comparing Availability Maps to Subscribership Data.

Some commenters favoring Commission-initiated mapping also question the transparency and accuracy of the work performed by public-private partnerships, suggesting that the voluntary nature of these efforts, and the agreement by these groups to protect competitively sensitive information, means that they may be incomplete or inaccurate. *See* APPA Comments at 4-5. Similarly, some parties argue that to address this concern, states should have access to any "raw data" used to map broadband availability in order to increase transparency and ensure accuracy. *See* Kentucky Public Service Commission Comments at 2-3; New Jersey Rate Counsel Comments at 8-9. Here too, the concerns of those favoring additional regulatory and reporting requirements are misplaced. Furthermore, by cooperating with these partnerships and comparing their output to the data received by the Commission on the Form 477, the Commission could satisfy itself and the public concerning the accuracy of the maps created through such partnerships.

As an initial matter, the record in this proceeding shows the willingness of a wide range of broadband providers to participate actively in public-private mapping initiatives, thus increasing the accuracy and completeness of their output. In fact, the non-regulatory and solutions-focused approach of these partnerships encourages such cooperation. The incentive for any such partnership – or the local stakeholders or broadband providers who work with them – is to create an accurate assessment of broadband deployment. In fact, as Connected Nation explains, it employs a robust set of practices to constantly assess and correct the accuracy of its availability maps, including through labor intensive feedback mechanisms that would be

impractical for the Commission or another government entity to replicate. *See* Connected Nation July 14 Ex Parte, Attachment at 4. And even if these partnerships did occasionally lack certain data from one or more broadband providers – thus overstating the existence of gaps in broadband availability – for the reasons explained above, those inaccuracies would pale in comparison to maps created strictly from a federal-level reporting requirement concerning broadband availability.

Of course, the interest in ensuring an accurate and reasonably transparent process associated with broadband availability mapping is legitimate. But the Commission could address such concerns without putting these public-private partnerships out of business, as some commenters would prefer. The Commission can do so in two ways. First, as discussed in Verizon’s opening comments, the Commission could work with public-private partnerships to collect a set of “best practices” concerning broadband availability mapping. These “best practices” could include steps to add a level of transparency to the mapping process and to ensure accurate, consistent and high quality results.

Second, by using the census tract-level subscribership data that it will receive pursuant to the revised Form 477, the Commission will be able to check the reasonableness of the results depicted on the public-private partnership-created maps. This subscribership data at the granular census tract level is a reasonable proxy for availability. If an availability map indicates a greater or lesser level of broadband availability than would be expected in light of the area’s subscribership data, then the Commission could work with the local providers and the particular partnership to ensure the accuracy of each data set. The existence of this data would act as an effective check on the accuracy of any broadband availability maps created by public-private partnerships.

These reasonable steps should satisfy the public and policymakers concerning the accuracy of availability maps created by public-private partnerships, and should address any legitimate concern about transparency.

C. Availability Data Is Competitively Sensitive and Should Be Protected.

Finally, the Commission should reject the arguments of those commenters who argue that broadband providers' availability data is not competitively sensitive or entitled to confidentiality protections. The same groups that favor a Commission-led broadband availability mapping effort and heightened reporting obligations on providers also argue that the providers' deployment and availability information should not be treated as confidential, and instead that all such underlying data should be publicly disclosed.<sup>8</sup> As the Commission has repeatedly concluded – and every provider filing in this docket has emphasized – such data is of significant value to a provider's competitors, and disclosing this type of information publicly would harm competition and consumers.

The competitively sensitive nature of broadband deployment and adoption data is not new, and the Commission has previously recognized the risks to competition, and consequently the public interest, from overly broad disclosures. The Commission repeatedly has recognized that competitors with access to even much less granular information than would be required to map broadband availability could “tailor market strategies to quash nascent competition, protect areas that are being subjected to increased competition, or deploy facilities to defend strongholds.” *2000 Data Gathering Order* ¶ 88. And the risks of harm to competition – and the sensitivity of data – have only increased as the Commission has required more and more granular

---

<sup>8</sup> See Consumers Union Comments at 8; NATOA Comments at 8-9; BroadbandCensus.com Comments at 9-11; APPA Comments at 6-7; New Jersey Rate Counsel Comments at 13; cf. Comments of the State of Illinois at 10-11 (questioning bases for confidentiality, but noting that it would be “unnecessary to identify the carrier whose service is offered if the carrier does not want to be identified”).

reporting of broadband data and as competition has intensified. The types of data used to create broadband availability maps is just such data, and could well inform competitors in considerable detail of a provider's competitive offerings, deployment strategy, and financial and competition position, thus permitting the competitor to take targeted counter-measures in order to slow an emerging competitive threat or deploy its own facilities selectively in order to protect a stronghold. The raw data underlying these maps may also include detailed information concerning the location of a provider's facilities, thus raising additional concerns regarding network security and integrity. *See* AT&T Comments at 11 (noting that raw data used to map availability would include "highly confidential and proprietary AT&T databases that, among other things, contain information about loop lengths and availability of broadband network equipment").

The Commission's consistent recognition of the competitive sensitivity and confidentiality of this type of broadband data – and rejection of arguments in favor of broad disclosure of such data – has been confirmed by the courts. Just last year, a federal district court rejected a Freedom of Information Act request for the Form 477 data filed by broadband providers, and upheld the Commission's determination that such data are competitively sensitive. *See Center for Public Integrity v. FCC*, 505 F. Supp. 2d 106 (D.D.C. 2007). The court noted that even public disclosure of the list of 5-digit zip codes where a provider offers broadband service – something much less granular than the data that would be required to produce an address-level availability map – was "likely to cause substantial competitive harm," noting:

Such information could allow competitors already serving particular markets to respond to new entry or allow other competitors to free ride on the efforts of the first new entrants to identify areas where competition is more likely to be successful. It could also provide valuable information about where [a] filer is focusing its efforts to acquire customers and [about] the overall financial health of the filer. . . . Such information is

significantly more revealing than whether [a] filer is merely advertising in [a] ZIP code or surrounding area(s), since it could improve a competitor's ability to draw inferences about a filer's overall financial and competitive position and assist competitors in designing specific competing offers to target [the identified] customer.

*Id.* at 116 (quotations omitted).

Not surprisingly, every broadband provider on record in this proceeding – whether big or small, urban or rural – recognizes the competitive sensitivity and confidentiality of this type of information and urges the Commission's vigilance in protecting such competitively sensitive information. *See, e.g.*, ITTA Comments at 5 (noting that “distribution would undermine carrier efforts to deploy broadband by laying open proprietary strategies and plans”); Qwest Comments at 5-6 (noting that data “essentially becomes a map of which areas the carrier is targeting and with which services”); TSTCI Comments at 4-5; Sprint Nextel Comments at 4-5; Frontier at 3; Windstream at 6-7; CTIA Comments at 6-7; NCTA Comments at 6-7; AT&T Comments at 11-12. These parties are in the best position to judge competitive sensitivity and are the ones likely to suffer the harm from overly broad disclosures.

The Commission should not backtrack from its consistent recognition of the competitive sensitivity and confidentiality of broadband providers' deployment and subscriber data.

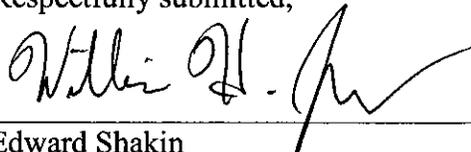
**CONCLUSION**

The Commission should decline to adopt additional reporting requirements on broadband providers, and instead should encourage the work of state-level public-private partnerships that map broadband availability.

Michael E. Glover  
*Of Counsel*

August 1, 2008

Respectfully submitted,



---

Edward Shakin  
William H. Johnson  
Verizon  
1515 North Court House Road  
Suite 500  
Arlington, Virginia 22201  
(703) 351-3060

John T. Scott, III  
William D. Wallace  
Tamara L. Preiss  
Verizon Wireless  
1300 I Street, NW  
Suite 400 West  
Washington, DC 20005  
(202) 589-3740

*Attorneys for Verizon and Verizon Wireless*