

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

In the Matter of)
)
A National Broadband Plan for Our Future) GN Docket No. 09-51

INITIAL COMMENTS OF THE BROADBAND DIVERSITY SUPPORTERS

David Honig
Executive Director
Nicolaine M. Lazzarre
Counsel
Joseph S. Miller
Earle K. Moore Fellow
Joycelyn James
John W. Jones Fellow
Minority Media and Telecommunications
Council
3636 16th Street NW, Suite B-366
Washington, D.C. 20010
(202) 332-0500
dhonig@crosslink.net

Of Counsel:

Allen Hammond
Professor
Catherine J.K. Sandoval
Assistant Professor
Santa Clara University School of Law

Reviewers: P.J. Louis, Jacqueline Clary

June 8, 2009

Counsel for Broadband Diversity Supporters

Table of Contents

Synopsis of Major Proposals	iii
Summary and Introduction	1
Discussion	4
I. THE COMMISSION’S PLAN SHOULD PRIORITIZE MEANINGFUL, AFFORDABLE BROADBAND ACCESS AND SUSTAINABLE SERVICE OFFERINGS FOR VULNERABLE POPULATIONS	8
A. Access to Broadband Services That Are Unaffordable or Unsuitable for Potential Subscribers Is Not Meaningful Access, and Will Not Serve the Purposes of the Recovery Act	8
B. In Order to Achieve Broadband Access for All Americans, the Commission Must Pay Special Attention to Society’s Most Vulnerable Communities	10
C. Planning for Increased Broadband Availability in Low-Income Areas Will Contribute to Achievement of Recovery Act Goals to Stimulate Economic Development and Ensure U.S. Competitiveness in the Global Economy	13
D. In Conjunction With Recovery Act Programs, Existing Universal Service Programs Must Focus on Promoting Universal Broadband Availability as Well as Ensuring Meaningful Access to the Infrastructure in Place	15
II. REMOVING MARKET BARRIERS TO ENTRY FACED BY SDBS AND MBES WILL FOSTER GREATER COMPETITION AND SUPPORT THE IMPORTANT FEDERAL AND STATE POLICY GOALS ENUNCIATED IN THE <u>NOTICE</u>	18
A. Efforts Should be Targeted Toward Removing Market Entry Barriers for SDBs and MBEs because this will Facilitate Rural, Low-Income Minority Participation	18
B. Advances in Technology and Spectrum Management Require that the Commission Revisit its Rules and Policies to Ensure that they do not Hinder Growth or Market Entry for Small, Minority and Women Owned Companies	18
C. A Case Worker System Will Increase Utilization of Existing Initiatives And Reduce Overlap and Waste	22

III.	THE PLAN CAN MAXIMIZE UTILIZATION BY ENSURING AVAILABILITY OF BROADBAND SERVICES TO ALL WHILE COMMITTING SUFFICIENT RESOURCES TO PROGRAMS THAT FOSTER DEMAND AND ADOPTION	23
A.	The Commission Should Link Availability and Utilization as National Broadband Plan Priorities	23
B.	A Percentage of E-Rate Universal Service Funding Should be Allocated to Programs that Increase Availability and Awareness of Broadband in Low-Income Communities	24
C.	The Commission Should Work with Existing, Well-Respected National and Community Institutions and Creative New Entrants to Amplify their Outreach, Computing Capacity and Educational Efforts	25
D.	The Commission Should Rely on MBEs, SDBs and Nonprofit Organizations to Execute National Broadband Plan Elements	26
IV.	THE COMMISSION SHOULD ADDRESS OTHER VITAL ISSUES RAISED IN THE <u>NOTICE</u> AFTER IT HAS REFRESHED THE RECORD, COLLECTED NEW EMPIRICAL DATA, AND HELD NATIONWIDE HEARINGS	27
A.	Questions Relating to Employment and Affordability of Broadband	27
B.	Questions Relating to Delivery of Broadband Services and Infrastructure	39
C.	Questions Relating to Maximum Utilization of Broadband Services	47

APPENDIX A: Broadband Diversity Supporters

Synopsis of Major Proposals

The Commission should ensure that the first priority of a national broadband plan is to achieve maximum utilization and increased broadband adoption and telecommunications literacy for our most vulnerable populations: low-income, minority and multi-cultural communities in rural and urban America that have been particularly hard hit by the current economic recession. These communities desperately need the benefits of broadband adoption to ensure they can fully participate in the benefits of an increasingly digital society. Indeed, the adoption gap may be an even broader problem than availability.

The Commission should critically monitor broadband adoption rates for the low-income, disproportionately minority populations. Low income populations may have physical proximity to two, three, or more forms of broadband service (e.g., cable modem, DSL, wireless), but they likely will yet have no practical access to these services given their low income and the lack of tailored service offerings.

Increased broadband access and adoption in unserved and underserved areas are pivotal to multifaceted efforts by Congress and executive agencies to retool core standards and improve science, technology, engineering and mathematics (“STEM”) education and advanced skills training levels.

Accurate maps indicating broadband coverage, affordability and utilization and correlated with social metrics are essential to determining which areas are unserved or underserved, thereby ensuring that these communities have priority as deployment projects are developed.

In formulating its broadband plan, the Commission should recognize that broadband is now a baseline essential service, and accordingly should provide at minimum a subsidized broadband connection through a Lifeline/Linkup-style program available to low-income individuals and families.

Minority-owned businesses enterprises (MBEs), socially and economically disadvantaged businesses (SDBs) and new entrants need access to spectrum, access to capital, and access to opportunity. The Commission should accelerate its efforts to advance these objectives.

The Commission’s statistical data and empirical research should be made current and accurate.

Authorizing a percentage of E-Rate funds to be used for training teachers in computer and Internet literacy will improve classroom teaching and learning and heighten American students’ ability to participate in an increasingly competitive and technologically advanced global economy.

Summary and Introduction

The Broadband Diversity Supporters (collectively, “BDS”)¹ respectfully submit these Initial Comments in response to the Notice of Inquiry (“Notice”)² concerning the Commission’s development and implementation of a national broadband plan in accordance with the requirements of the American Recovery and Reinvestment Act of 2009 (“Recovery Act”).³

As aptly stated by the Commission in the Notice, “high speed ubiquitous broadband can help to restore America’s economic well-being and open the doors of opportunity for more Americans, no matter who they are, where they live, or the particular circumstances of their lives.”⁴ This technology has become increasingly central to accessing the broad array of bandwidth-intensive utilities that can improve quality of life in the areas of healthcare, education, environment, economic development, employment, energy efficiency, community building, communications, public safety and civic participation. Because broadband has become so essential to participation in the modern economy and in our democracy, BDS is concerned by the fact that broadband adoption in rural, low income, multilingual and predominantly minority communities lags behind adoption rates of other communities.⁵ This is partly as a result of gaps

¹ The Broadband Diversity Supporters are 31 national organizations and 13 minority businesses that seek to advance the interests of minority businesses and consumers in broadband policy. A description of the BDS organizations and companies is found in Appendix A. These Initial Comments and all subsequently filed supplements and reply comments reflect the institutional views of each of the Broadband Diversity Supporters, and are not intended to represent the individual views of each of the Broadband Diversity Supporters’ officers, directors and members.

² See Notice of Inquiry, In the Matter of A National Broadband Plan for Our Future, GN Docket 09-51 (released April 8, 2009) (“Notice”).

³ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“Recovery Act”). The Recovery Act was signed into law on February 17, 2009.

⁴ Notice at ¶1.

⁵ See Free Press, Broadband Reality Check II: The Truth Behind America’s Digital Decline (Aug. 2006), available at <http://www.freepress.net/library/638> (last visited June 7, 2009).

in broadband infrastructure and partly as a result of lack of affordable services in those communities.⁶ Private firms have been building “disparate and scattered” broadband networks across the nation, with clear differences in bandwidth capacity, service areas, cost structures, scalability, and reliability.”⁷

Because broadband deployment is succeeding through market forces only in certain communities, in establishing the national broadband plan the Commission should be guided by the following overarching principles:

First, accessibility should be defined as a function of deployment AND affordability;

Second, removing market entry barriers currently inhibiting SDBs and MBEs who are seeking to provide broadband services and infrastructure buildout, will foster greater competition and support the important federal and state policy goals enunciated in the Notice;

Third, deployment efforts should be accompanied by a comprehensive and extensive broadband adoption and literacy campaign to inform target communities of the availability and benefits of broadband service and how to fully utilize the technology; and

Fourth, to achieve the Recovery Act’s mandate of ubiquitous broadband adoption, locally-based SDBs, MBEs, community-based organizations and municipalities will need to play

⁶ See Horrigan, John B., Pew Internet & American Life Project, Home Broadband Adoption 2008, July 2008, at 11, available at <http://www.pewinternet.org/Reports/2008/Home-Broadband-2008.aspx> (hereinafter “Pew Study”) (last visited May 25, 2009) (“Affordability Matters: 35% of dial-up users say they would switch to broadband if the price fell”), 12 (“43% of non-internet users have household incomes under \$30,000 per year”).

⁷ See Kelly E. Clark and Paul M.A. Baker, Ph.D. (2003), Municipal Advanced Telecommunication Infrastructure Project (MuniTIP), Georgia Center for Advanced Telecommunications Technology, Office of Technology Policy & Programs, OTP Policy Study No. 50103, at 3, available at <https://www.policyarchive.org/bitstream/handle/10207/8436/mt.pdf?sequence=6> (last visited May 28, 2009).

an even-more significant role in the provision of broadband services and outreach, training and education efforts.

A national broadband plan featuring these components is good for unserved and underserved communities and good for the nation. In the U.S. and other industrialized nations, increased broadband adoption has been shown to impact employment, education, literacy and civic participation in those communities. Further, improving subscription rates in those communities can spur technological innovation, reduce unemployment, increase the nation's base of highly skilled workers and provide additional demand for infrastructure and for broadband reliant goods and services such as e commerce, software, information services, media and entertainment, and advertising.⁸

⁸

Id.

Discussion

To some extent, the emergence of the internet is a pro-investment, free market success story.⁹ However, as the Commission eloquently stated in the Rural Broadband Order, “the story of the Internet also starts with federal vision and funding.”¹⁰ In contrast, the transition to high-speed internet, led by the private sector, has sometimes resulted in patch work development which some have labeled as the “digital divide,” featuring turf wars and disagreement over tier pricing, network management, intellectual property, privacy protocols, bundled software, interoperability and technical standards. Most homes in the United States are served by a small group of investor-owned large telephone and cable television providers, with another share of the market dominated by investor-owned satellite and wireless broadband providers.¹¹

This is not to say that the transition has been a failure. Rather, BDS believes that it is important for regulators to understand and address both the benefits and the inherent limitations of profit-seeking in resolving national problems requiring coordinated, integrated strategies. Transportation presents the closest analogy: because a ubiquitous and reliable transportation infrastructure was vital to commerce, safety, connectedness and development of the nation, it

⁹ See Michael Davidson, David Santorelli, at 5, “Network Effects An Introduction to Broadband Technology and Regulation: A Study Commissioned by the Chamber of Commerce,” December 2008, available at <http://www.uschamber.com/NR/rdonlyres/ew4ahwhwxqx6rxs4vrjebfzdxqt46nw5a67qsor3pa5jcvdgiuw2mwrms4xe6kua5ce63mhjdk7ykfbx4ioliesrsa/ChamberIntroBroadbandPaperFinal121708.pdf> (last visited June 1, 2009).

¹⁰ See Bringing Broadband to Rural America, Report on a Rural Broadband Strategy, May 22, 2009, at 18 ¶41 (“Rural Broadband Report”). The internet was developed collaboratively by academic and military scientists driven primarily for scientific and defense goals and not in anticipation of its lucrative potential.

¹¹ See Peter Cowey, The Political Economy of U.S. Policy for Competition, at 12-14 (October 12, 2006) (noting that the telecom network industry still has the potential for oligopolistic behavior that could harm consumer welfare, including the pace of technological innovation).

needed a coordinated federal approach, including regulation, management and funding.¹²

Broadband technology is our 21st century equivalent to transportation because: (1) broadband skills are a bridge to employment, education, civic engagement, social integration, socioeconomic advancement, access to online commercial transactions and access to information and differing viewpoints and (2) broadband diffusion plays an important role in global competitiveness, technological innovation, national safety and security, small business development, capitalism and robust price competition, cost-effective provision of health care and government services, and a host of other public welfare concerns.

Broadband improves workforce skills and has the potential to lift our permanent underclass from chronic underemployment¹³ and heavy reliance on public services. Broadband can also facilitate important e-government and national safety and security objectives. Although ubiquitous broadband in unserved and underserved communities yields large scale benefits and opportunities across a variety of segments and industries and leads to improved services and lower prices for all income groups, nearly 60 percent of the nation's population does not subscribe to broadband service, in part because they simply don't have access to the service or they can't afford it.¹⁴

¹² Weingroff, Richard F., "Creating the Interstate System," U.S. Department of Transportation (1996), <http://www.tfsrc.gov/pubrds/summer96/p96su10.htm>; Bruce P. Mehlman, www.ta.doc.gov/Speeches/BPM_020522_Broadband.htm.

¹³ Job losses have been most severe in low-income areas that already had had the highest unemployment rates. See New York Times, available at http://www.nytimes.com/interactive/2009/03/03/us/20090303_LEONHARDT.html?ref=economy

¹⁴ See Improving Internet Access to Help Small Business Compete in a Global Economy: hearing before the Committee on Small Business and Entrepreneurship, United States Senate, One Hundred Tenth Congress, first session, Opening statement of the Honorable John F. Kerry at 2 (September 26, 2007), available at <http://frwebgate.access.gpo.gov/cgi->

There is evidence of unequal broadband availability in areas with high concentrations of poor, minority, or rural households, and in some rural areas with high minority and poor populations (e.g., rural areas of the Southwest, rural areas of the South, certain U.S. territories and insular areas and Tribal lands). There are also sizeable disparities in broadband access and usage along language lines.¹⁵ For instance, broadband usage among Hispanics is lowest if Spanish is the only language spoken in the house. Thus, for many of America's most vulnerable populations, broadband networks are simply not available, and their deployment must be subsidized by government.

Broadband is also an important tool for civic engagement. With the ascent of each dominant technology, successive commissions have appreciated the importance of a literate, informed citizenry as a basic requirement for the preservation of a free society. Broadband proficiency can promote these objectives by facilitating civic engagement and discourse, increasing opportunities for online citizenship classes and training, promoting interaction with and exposure to diverse viewpoints and cultures, providing access to government information and services and serving as an increasingly important source of local and community news and information.

Broadband technology can also promote the Recovery Act efforts to address lagging performance and inequity in STEM Educational attainment, digital proficiency and technical

[bin/getdoc.cgi?dbname=110%5Fsenate%5Fhearings&docid=f:40810.pdf](http://www.fcc.gov/bureauregulatoryaffairs/competition/broadband/070801smallbusinesscompetitionhearings.pdf) ("Small Business Competition Hearings") (last visited June 1, 2009).

¹⁵ See Hiroshi Ono and Madeline Zavodny, "Immigrants, English Ability and the Digital Divide," Social Forces, v86 n4 p1455-1479 (Jun 2008), available at <http://socialforces.unc.edu/epub/folder.2007-02-09.8541500563/June-2008-86-4> (purchase required).

skills by the nation's students.¹⁶ American public school students today receive essentially the same science education offered fifty years ago, with only the addition of newly discovered scientific facts in the fields of earth science, biology, chemistry, and physics.¹⁷ While this curriculum was appropriate for a heavy industrial economy, it is inadequate for a service and knowledge-based economy: prevailing technology has changed the critical skills required for economic competitiveness by enabling many developing nations to produce sophisticated, high-quality goods at a fraction of the cost of U.S. based manufacturers. Inadequate technology and science education for increasingly large segments of the population deprives technology companies and entrepreneurs of the highly skilled workforce and tech savvy consumer base necessary to make their enterprises thrive without resorting to off-shoring and seeking other markets.¹⁸ The abundance of schools producing students who function at the highest levels in math and science nonetheless represent only a fraction of the nation's student population. America's schools are not only failing to produce a prepared, technology proficient workforce on a consistent, effective, and systematic basis, they are also disproportionately failing students in minority and rural low-income communities in this respect.

Ubiquitous, affordable broadband is also crucial to facilitating and strengthening the competitive health of the nation's vital¹⁹ small business sector, where some estimates show that

¹⁶ See Action Plan for America – Education, Benton Foundation (2008), available at http://www.benton.org/initiatives/broadband_benefits/action_plan/education (last visited June 7, 2009) (“Benton Action Plan”).

¹⁷ MMTC, “Road Map for Telecommunications Policy” (“MMTC Road Map”) (July 21, 2008), at 10, available at <http://www.mmtconline.org/filemanager/fileview/165/> (last visited May 26, 2009).

¹⁸ See Small Business Competition Hearings, *supra* n. 14 at 31-34 (testimony of Ben Scott, Policy Director, Free Press).

¹⁹ See Small Business Competition Hearings at 2 (opening statement of the Honorable John F. Kerry stating “while small business accounts for a substantial portion of the nation's

deployment of ubiquitous (and inexpensive) broadband would provide vast opportunities for technology entrepreneurs and other small businesses.²⁰

BDS respectfully submits the following proposals in response to the specific questions raised by the Commission in the Notice.

I. THE COMMISSION’S PLAN SHOULD PRIORITIZE MEANINGFUL, AFFORDABLE BROADBAND ACCESS AND SUSTAINABLE SERVICE OFFERINGS FOR VULNERABLE POPULATIONS

A. Access to Broadband Services That Are Unaffordable or Unsuitable for Potential Subscribers Is Not Meaningful Access, and Will Not Serve the Purposes of the Recovery Act

Congress mandated in the Recovery Act that, in formulating the national broadband plan, the Commission “seek to ensure that all people of the United States have access to broadband capability.”²¹ The Commission sought comment in the Notice regarding the “extent to which access hinges on affordability.”²² Individuals cannot be said to have meaningful access to services they cannot afford, and the Commission’s definition and determination of the meaning of “access to broadband capability”²³ therefore must put equal weight on “financial access.”

employment and innovation, the power of the tools that they use to compete both domestically and globally are shrinking dramatically.”)

²⁰ See id. at 10 (citing FCC Needs to Improve Its Ability to Monitor and Determine the Extent of Competition in Dedicated Access Services, Government Accountability Office, GAO-07-80 (November 2006). citing GAO-07-80 (November 2006)) (testimony of then Commissioner Michael J. Copps noting that “GAO examination of the special access market [bulk telephone and broadband services] reveals that around 94% of commercial buildings are served exclusively by the incumbent telephone company and ... that the FCC’s deregulatory policies and its approval of merger after merger have saddled small- and medium- sized businesses with increased special access prices.”)

²¹ See Notice at ¶9 (emphasis added) (citing Recovery Act §6001(k) (2)).

²² See Notice at ¶27; see also id. at ¶54 (discussing affordability in the context of questions regarding ways to maximize of broadband. For BDS’s comments regarding affordability in the context of broadband utilization and take rates, see infra Part III.

²³ See Notice at ¶23.

BDS believes that the plan should link the determination of availability to affordability at all times, and that the Commission cannot classify “broadband services . . . set at a subscription cost that is unaffordable to large swaths of residents in certain communities and rural areas” as “fully deployed.”²⁴

The Recovery Act instructs the Commission to make a plan that seeks to ensure access for all. To do so, the Commission should “include a detailed strategy for achieving affordability of [broadband] service and maximum utilization of broadband infrastructure and service by the public.”²⁵

As discussed in Section IV.A of these Comments, the Commission should table the issue of determining the precise economic measure of “affordability” in specific communities throughout the United States until such time as the Commission has gathered new empirical data and information on the subject, both through this comment process and a series of nationwide hearings on the broadband plan.²⁶ However, even in the absence of such new data, there are certain considerations and solutions that the Commission should implement in the plan for the purpose of ensuring affordable access in typically unserved and underserved low-income communities. BDS respectfully asks the Commission to carefully consider and then implement the suggestions below to ensure that all Americans have the opportunity to fully experience the benefits of new broadband deployment in unserved and underserved areas, thereby fulfilling the Recovery Act’s mandate to seek broadband access for all people of the United States.

²⁴ Id. at ¶27 (emphasis added).

²⁵ See id. at ¶9.

²⁶ See infra Part IV. MMTC has filed with the Commission, in this docket, a proposal for 15 broadband policy hearings in urban and rural communities throughout the country. MMTC, “A Proposal for National Field Hearings,” (“MMTC National Hearing Proposal”), GN Docket 09-51 (submitted June 7, 2009).

B. In Order to Achieve Broadband Access for All Americans, the Commission Must Pay Special Attention to Society's Most Vulnerable Communities

Residents of low-income and rural communities, which disproportionately include minorities and non-English speaking individuals, are the hardest hit by the current recession and the decline of the manufacturing sector, and thus are most in need of targeted outreach, training and assistance to avoid their further marginalization. They particularly need to be included in Recovery Act efforts to increase access to communication, information and advanced skills training. As we explained in our NTIA/RUS Comments, (1) the highest priority both for broadband stimulus funding and for the Commission's broadband plan should be dedicated to unserved and underserved populations within these communities, and (2) within this subset, the majority of funding should be targeted toward the most needy and structurally underserved population: low-income minority consumers.²⁷ Furthermore, the plan's absolute highest priority should be fostering new and/or sustainable service, as applicable, to those low-income communities where poverty is linked to racial discrimination in the form of credit redlining and other systemic discriminatory practices across many generations.²⁸

Racial and ethnic minorities are disproportionately represented in low-income populations and have been subjected to "a long history of being last in line to obtain the new generations of technology and communications which are the basic steppingstones to social and economic advancement in our society."²⁹ These communities, across a range of urban, suburban, or rural areas have consistently lagged behind in the nation in obtaining state-of-the-art,

²⁷ See Comments of the Broadband Diversity Supporters, In the Matter of Joint National Telecommunications and Information Administration-Rural Utilities Service Request for Information, Docket No. 090309298-9299-01, at 3 (filed April 13, 2009) ("NTIA/RUS Comments").

²⁸ Id.

²⁹ Id.

competitive broadband due to (1) lack of physical access to broadband communications infrastructure and (2) inability to afford the prices and terms of the service offerings made available to them. Lack of physical access is, obviously, a difficult problem to solve; however, it is perhaps the easier issue to explain. Service providers may have found that unsubsidized service to low-income communities and neighborhoods cannot generate sufficient return on investment, which is why providing stimulus funding and subsidies for the deployment and operation of broadband infrastructure is vitally important. The Commission also should consider alternative payment and delivery options, such as “pay-as-you-go” programs more attractive to individuals with limited incomes, and provide sufficient revenue to support sustainable private and public sector investment in broadband deployment and demand-creation programs.³⁰

Nevertheless, new construction alone will not be enough to address the inability of residents in such communities to afford prices and terms of service. The Commission’s plan should treat as underserved any geographic area in which broadband infrastructure may be in place, yet is offered at prohibitive prices or with undesirable service offerings. BDS believes the Commission should consider such communities as underserved for purposes of the plan even if the low-income segment in an area has physical access to two, three, or more forms of broadband service (e.g., cable modem, DSL, wireless).

³⁰ But see 47 U.S.C. §253. A dynamic, “best practices” approach would be optimal in this regard. Although there are legitimate anti-competitive concerns in allowing the government to deliver broadband services at greatly reduced prices, public funding to build-out of network infrastructure can be restricted to instances where there is (1) the presence of unmet demand for services by local industry (whether in the general context of facilitating business activities or with respect to a specific application such as telemedicine or other administrative configuration) or constituents, (2) buy-in from business leaders, the community-at-large and city council members and (3) funding from bonds or private, state or federal loans. Further, successful government funded networks might encourage private carriers to buildout in unserved communities and provide services on more flexible terms. See MunitIP, supra n. 7 at 21 (“Supporters of municipal ownership note that once a city begins contemplating and taking action to establish telecommunications services, existing service levels will improve and rates will decrease because someone is providing competition in the marketplace.”)

To be meaningful, any definition of “access to broadband capability,” should incorporate the following parameters: (1) access for those who have poor credit scores or no credit scores; (2) access not contingent on large deposits requirements; (3) access not contingent on large up-front payments for equipment; and (4) availability of attractive “value” packages more in sync with low-income households’ needs, discretionary income and usage patterns.³¹ Moreover, the Commission’s concept of both “underserved” and “unserved” should cut across geographic boundaries to focus on socio-economic barriers to broadband access in connection with its broadband mapping and data initiatives under the Recovery Act³² and the Broadband Data Improvement Act.³³

In this regard, the Commission should require that broadband maps be multifunctional and layered to include social metrics.³⁴ Metrics that capture public education, housing, health care, resource management, banking and credit availability, pollution,³⁵ electoral participation,³⁶

³¹ See Allen L. Hammond and C. K. Prahalad, Selling to the Poor, Foreign Policy, No. 142 (May - June, 2004) at 30-37, available at <http://www.jstor.org/stable/4147574> (last visited June 5, 2009).

³² See Notice at ¶61.

³³ See Notice at Appendix A ¶¶6-7 (citing Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4096 (codified at 47 U.S.C. §§1301-1304)).

³⁴ See id. at 34-35 (Stating “It is just as important to map and display rates of various social indicators such as poverty status, employment status, income, race and language, as it is to map and display rates of various technical indicators such as broadband availability, competitive service, speed, price, and adoption rates.”)

³⁵ See, e.g., Robert Bullard et al., Toxic Wastes and Race at Twenty: Why Race Still Matters After All of These Years, 38 *Envtl. L.* 371 (2008) (discussing the disproportionate location of environmental hazards in or near minority and low-income communities).

³⁶ See, e.g., Gomillion v. Lightfoot, 364 U.S. 339, 340-42 (1960) (where the boundaries of the town of Tuskegee, Alabama, were redrawn “from a square to an uncouth twenty-eight-sided figure” in an effort to deprive Black citizens of voting rights); see also Amanda K. Baumle, Strategic Annexation Under the Voting Rights Act: Racial Dimensions of Annexation Practices, 24 *Harv. BlackLetter J.* 81 (2008) (exploring how annexation of territories with high populations of non-minorities often results in dilution of the minority votes).

and insurance³⁷ are as crucial to an effective broadband plan as those tracking traditional penetration benchmarks such as speed, price, and adoption rates.³⁸ Further, data collected at the census tract or street level, rather than at the zip code level, will facilitate more accurate identification and analysis of these affected communities. Data should also be collected and reported in a manner that produces verifiable, auditable and useful source data for evaluation by the public and by regulators.³⁹ Finally, data should be collected on a longitudinal basis and reported on a quarterly basis,⁴⁰ to keep pace with rapidly evolving internet technology. Regulators must be able to plan dynamically and to redesign any ineffectual measures in this arena.

C. Planning for Increased Broadband Availability in Low-Income Areas Will Contribute to Achievement of Recovery Act Goals to Stimulate Economic Development and Ensure U.S. Competitiveness in the Global Economy

As the Notice indicated, the Recovery Act directs the Commission to include in the plan consideration of “‘other national purposes’ that could be advanced by broadband infrastructure and services.”⁴¹ The Commission sought comment on ways in which broadband infrastructure and services stimulate economic and social development, and “on the impact that ensuring access

³⁷ See e.g., Saunders v. Farmers Insurance Exchange, 440 F.3d 940, 942-43 (8th Cir. 2006) (discussing allegations that insurance companies discriminated against minorities by charging rates other than the rate filed with the regulatory agency based on geography).

³⁸ See id.

³⁹ The continuous evaluation of each social metric is critical given the highly impermanent nature of broadband statistics. For example, in just two years - between 2006 and 2008 - broadband adoption in homes increased by 15 percent, with a 24 percent increase in homes with household incomes between \$20,000 and \$40,000, between 2007 and 2008. See Pew Study at 5.

⁴⁰ See id. at 36 (“Collecting granular data ensures that broadband maps will more accurately reflect what neighborhoods are unserved and underserved.”)

⁴¹ See Notice at ¶104 (citing Recovery Act §6001(k) (2) (D)).

to broadband capability for all Americans will have with respect to America’s competitiveness in the global economy.”⁴²

Improved deployment and adoption of broadband in rural and urban low-income areas are essential to the nation’s overall recovery effort and crucial to a robust, thriving small-business sector. The United States lags behind other developed nations with respect to the supply of highly-skilled workers and educational attainment in science, technology, engineering and mathematics (“STEM”), jeopardizing our current market dominance in the technology and science sector.⁴³ MMTC has provided persuasive data demonstrating that children must receive training focused on Internet and technology skills, proficiency, and policy, and suggested that this education must begin in grade school.⁴⁴ As MMTC reported, “technology leaders agree that the United States is failing to produce the next generation of scientists who will enable the U.S. to remain technologically competitive with the rest of the world.”⁴⁵

The Commission’s plan should address the relationship of economic growth, employment and technical skills education and training – particularly training in advanced

⁴² See id.; see also id. at ¶102 (seeking comment on how the Commission should “evaluate the impact of the Recovery Act grant and loan programs addressing job creation in the process of broadband deployment” and “consider the role of broadband as an enabling infrastructure for the creation of jobs and economic growth”).

⁴³ See MMTC Road Map at 10.

⁴⁴ See id.

⁴⁵ Id. For example, the Road Map cited a May 2008 study released by the National Action Council for Minorities in Engineering (“NACME”), which reported that African Americans, Latinos and American Indians comprise 30% of the U.S. population - a number that is expected to grow to 38% by 2025 - but fewer than 12% of baccalaureate engineering degrees were awarded to minorities in 2005. Id. at 11. The percentage of engineering degrees, which were awarded to African-American students, declined from 3.3% of all bachelor’s degrees in 1995, to 2.5% in 2005. Moreover, although Latinos are expected to account for 25% of the U.S. population by mid-century, their educational attainment has dropped in all areas, not just engineering, compared to non-Latino ethnic groups. Id.

telecommunications - to the social and economic stability of historically neglected communities. It should recognize the benefit of ubiquitous broadband in low-income communities as a crucial component of supporting our global competitiveness initiatives.

D. In Conjunction With Recovery Act Programs, Existing Universal Service Programs Must Focus on Promoting Universal Broadband Availability as Well as Ensuring Meaningful Access to the Infrastructure in Place

The Notice sought comment regarding the possible need to modify existing Universal Service Fund (“USF”) programs, either to specifically recognize broadband as a supported service eligible for high-cost and low-income support, or to create new universal service programs designed specifically to promote broadband delivery.⁴⁶ BDS emphatically supports augmenting universal service programs to address broadband availability and utilization programs in unserved and underserved areas. The Commission can and should consider the Recovery Act’s broadband stimulus funding programs housed within NTIA and RUS in conjunction with the Commission’s own efforts to reform USF.⁴⁷ However, these stimulus programs are necessarily of short duration and intended to jump-start private and public investment initiatives with a longer horizon.

Accordingly, (1) the various high-cost programs under the USF should be transitioned to support buildout of network infrastructure and delivery of affordable broadband services to rural and low-income minority and multicultural communities; and (2) the low income programs (commonly known as “Lifeline/Linkup”), the rural health care program and the schools and libraries fund should be retooled to incorporate national broadband plan objectives.

⁴⁶ See Notice at ¶41.

⁴⁷ Id. at ¶62 (asking how programs in the Recovery Act should be weighed by the Commission in formulation of the national broadband plan).

Lifeline/Linkup, authorized in Section 254(b) of the Communications Act, helps eligible low-income consumers establish and maintain telephone service by discounting the service provided to them by local telephone companies. Not only has the program helped low-income consumers to remain connected in the event of an emergency, it has provided them with access to employment opportunities and reduced their marginalization and isolation from the rest of society. Lifeline/Linkup now needs to expand to address broadband issues.

The Rural Health Care Program, authorized under Section 254(c) of the Communications Act, enables physicians in urban centers to examine x-rays and provide immediate health care to rural patients from thousands of miles away, while facilitating electronic transmission of patient records and other vital data. The program has reduced health care costs and hospital visits for rural households and is particularly vital to minorities in rural areas, where their level of health care service often approximates third world levels. Despite these benefits, the rural health care program is severely underfunded and almost entirely omits two dozen rural states.⁴⁸ The Commission's broadband plan should recognize the value of improving the rural health care program and propose measures for funding it appropriately.

The schools and libraries program (commonly known as the "E-Rate" program), authorized under Section 254(h) of the Communications Act, provides affordable access to telecommunications services for schools and libraries, particularly those in rural and economically disadvantaged areas. However, additional E-Rate funding needs to be specifically earmarked for improving internet literacy. While the E-rate program has been instrumental in

⁴⁸ See MMTC Road Map at 13.

making broadband access available to nearly all of the nation's public schools,⁴⁹ teachers cannot take full advantage of the educational power of broadband because they do not have adequate training to integrate broadband technology into their classroom curriculum. A study released in 2008 by the National Education Association found that teachers do not feel fully prepared to use technology in the classroom.⁵⁰ Currently, no E-Rate funds are authorized to create or improve programs to train teachers on effective use of computer and Internet technologies in the classroom. Allocating a percentage of E-Rate funds for this purpose will improve classroom teaching and inject necessary technology and digital proficiency to curricula in economically underrepresented or geographically isolated communities. By undertaking such changes, the national broadband plan would strengthen overall Recovery Act efforts to update workforce skills and will increase employment opportunities in minority, rural and low-income communities.⁵¹

Augmenting the high-cost and E-Rate USF programs to cover broadband issues and apportioning more funds to support those objectives would also facilitate coordinated national efforts to retool our nation's approach to STEM education. In light of this, the Commission's broadband plan should include an appropriate and expedient transition of USF priorities, beginning with Recovery Act stimulus funding and continuing, in the long-term, with permanent reform to existing USF initiatives.

⁴⁹ See Universal Service Administrative Company Annual Report 2007, at 2, available at http://www.usac.org/_res/documents/about/pdf/usac-annual-report-2007.pdf (last visited June 5, 2009).

⁵⁰ See National Education Association, Access, Adequacy, and Equity in Education Technology (2008), available at <http://sc08.sc-education.org/conference/k12/sat/stem/08gainsandgapsedtech.pdf> (last visited June 6, 2009).

⁵¹ See Benton Action Plan – Education.

II. REMOVING MARKET BARRIERS TO ENTRY FACED BY SDBs AND MBEs IN THE DELIVERY OF BROADBAND SERVICES AND INFRASTRUCTURE WILL FOSTER GREATER COMPETITION AND SUPPORT THE IMPORTANT FEDERAL AND STATE POLICY GOALS ENUNCIATED IN THE NOTICE

A. Efforts Should be Targeted Toward Removing Market Entry Barriers for SDBs and MBEs because this will Facilitate Rural, Low-Income Minority Participation

Small businesses such as SDBs have historically served and been responsive to the needs of their communities, and the primary contributors to local economies. Generally these businesses proliferate at a faster rate than the national average, and are more likely to create meaningful jobs. In addition, minority owned businesses have often persevered despite substantial disadvantages due to discrimination.

The low cost of wireless broadband network entry in comparison to traditional modes of broadband distribution increase the likelihood of successful SDB entry. The availability of no cost (or low cost) spectrum, the timely establishment of industry wide standards for relatively cheap chips and equipment, and local government's facilitation of rapid market entry by small entrepreneurs and government partners makes wireless broadband a particularly attractive avenue for SDBs and MBEs.

Consistent with Congressional intent and Executive Branch policies, the Commission should determine that low cost broadband networks are an essential part of the national communications network infrastructure. Development and deployment of these networks expands the opportunities for affordable access to unserved and underserved areas and populations.

B. Advances in Technology and Spectrum Management Require that the Commission Revisit its Rules and Policies to Ensure that they do not Hinder Growth or Market Entry for Small, Minority and Women Owned Companies

In the FCC's recently issued Bringing Broadband to Rural America, Report on a Rural

Broadband Strategy, the Commission recognized the importance of encouraging broadband deployment in rural areas by providing rural carriers with the flexibility “to deploy the technologies and services that best fit their business plan and meet the needs of consumers.”⁵² By way of example, the Commission points to its secondary markets rules as a viable mechanism intended to provide flexibility for a “wide variety of wireless licensees to enter into spectrum leasing arrangements with other providers that seek access to spectrum in rural areas.”⁵³

However, the Commission fails to acknowledge in the Rural Broadband Report that its 2006 revisions to the Designated Entity (“DE”) rules adopted just weeks prior to the auction for Advanced Wireless Services, Auction 66 (“New DE Rules”)⁵⁴ have made it more difficult for DEs to raise capital or compete for spectrum at auction.⁵⁵ Sections 1.2110(b) (3) (iv) (A) and (B) of the FCC’s rules define the lease, resale or wholesale of more than 50 percent of spectrum capacity to be an “impermissible material relationship” and more than 25 percent of such

⁵² Rural Broadband Report at 65 ¶146.

⁵³ Id. (citing generally to Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 20604 (2003); Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 17503 (2004); 47 C.F.R. §§1.9001 et seq.)

⁵⁴ Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, Second Report and Order and Second Further Notice of Proposed Rulemaking, 21 FCC Rcd. 4753 (2006) (“2006 Second R&O”).

⁵⁵ See e.g., Comments of the Office of Advocacy, United States Small Business Administration, May 21, 2007 (WT Docket 06-150), at 5 (“the Commission’s restrictions on wholesale arrangements and leasing will limit the ability for DEs to structure their business models The severe restrictions on a DE’s ability to participate in dynamic business partnerships . . . presents an insurmountable obstacle to small entities interested in obtaining spectrum”); Frontline Wireless Petition for Reconsideration, October 23, 2007 (WT Docket 06-150) at 2 (stating that “wholesaling is the only realistic way for new entrants to participate in the broadband wireless industry”); Letter from National Telecommunications Cooperative Association, May 25, 2006 (WT Docket 05-211) at 1 (“the broad limitations on leasing, reselling and wholesaling may dramatically impact NTCA’s members’ business plans for the spectrum and opportunities for auction financing”).

capacity to be an “attributable material relationship.”⁵⁶ Because DE status depends on whether an applicant’s attributable gross revenues fall below prescribed thresholds, where an “attributable material relationship” is found to exist in the lease/resale/wholesale context, the resulting attribution to the DE of the additional revenues of the business partner can be enough to nullify a bidding credit. These 25 and 50 percent restrictions are referred to collectively herein as the “Lease/Resale Restriction.” The 50 percent rule is referred to herein as the “50 Percent Retail Rule,” because it forces a DE to use 50 percent of its spectrum capacity to provide retail service directly to the public. The 50 Percent Retail Rule is a subset of the Lease/Resale Restriction. The new DE Rules are currently being challenged in the United States Court of Appeals for the Third Circuit⁵⁷ by Council Tree Communications, Inc., Bethel Native Corp., and MMTC (collectively “Joint Petitioners”) because they have effectively rendered the FCC’s secondary markets rules meaningless for those DEs that have recently participated in the FCC’s Auctions.⁵⁸

The Commission further tipped the scales in favor of incumbents to the detriment of DEs, by imposing a ten-year holding period for DE ownership stakes and imposing onerous leasing, resale and wholesale restrictions on DEs use of their licenses preventing them from leveraging vertical assets to achieve competitive pricing. Consequently DEs, unlike their large and incumbent counterparts, do not have the flexibility to adopt the most productive business plan or

⁵⁶ See 47 C.F.R. §§1.2110(b) (3) (iv) (A) and (B), respectively.

⁵⁷ See Council Tree Communications, Inc. et al. v. FCC and the United States, Case No. 08-2036. As of the date of these Comments, this case remains pending.

⁵⁸ See Bennet & Bennet PLLC Ex Parte Letter, May 26 2006 (WT Docket 05-211), at 1 (noting that “... new material relationship rules are overbroad and unduly restrictive. . . [and] have the effect of rescinding the secondary markets rules for all DEs.”); see also Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP Petition for Partial Reconsideration and/or Clarification, June 2, 2006 (WT Docket 05-211) at 6; Joint Petitioners’ Supplement to Motion for Expedited Stay Pending Reconsideration or Judicial Review and Petition for Expedited Reconsideration, May 17, 2006 (WT Docket 05-211) at 10-11.

capitalize on market or industry efficiencies. The FCC’s Lease/Resale Restriction is unduly restrictive and unreasonably limits the potential for full broadband deployment in rural and urban areas by an entire class of wireless providers. Auctions, moreover, require startup capital, and a ten-year holding period (far in excess of traditional exit horizons for most private equity and venture firms) exacerbates minority and women-owned businesses’ lack of access to start-up capital. Thus, the new provisions have hampered DEs with arbitrary limits on synergistic business partnering and financing arrangements formerly permitted under the FCC’s secondary markets rules.⁵⁹

The Rural Broadband Report also acknowledges that bidding credits provide smaller companies with “an opportunity to compete successfully against large, well-financed entities at auction, and in some cases to subsequently deploy wireless service in rural areas.”⁶⁰ But the value of today’s bidding credits (which are now the only incentive provided by the FCC pursuant to the statutory mandate of Section 309(j) to promote participation by DEs), has been vitiated by the New DE Rules’ unreasonable restrictions. Unfortunately, as a consequence of the Commission’s de-regulatory interpretations of its Section 309(j) mandate, DEs secured only 4% (\$551 Million) and 2.6% (\$501 Million), respectively, of the licenses allocated in the two largest

⁵⁹ In its 2003 Section 257 Triennial Report, the Commission reported to Congress that its secondary markets rules helped to relieve market entry barriers; that the changes in that proceeding which concerned spectrum leasing arrangements helped “further the ability of licensees and entities that seek to gain access to spectrum, including entrepreneurs and small businesses, to enter into arrangements best suited [to] the parties’ respective needs and business models.” Section 257 Triennial Report to Congress; Identifying and Eliminating Market Entry Barriers for Entrepreneurs and Other Small Businesses, Report, 19 FCC Rcd 3034, 3081 (2003) (citing to Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 20,604 (2003) (emphasis added)).

⁶⁰ Rural Broadband Report at ¶147 (emphasis added).

spectrum auctions in FCC history, Auctions 66 and 73.⁶¹ Virtually no licenses were awarded to minorities or women. Further in Auction 73, of the 250 most valuable licenses won (which yielded 95% of the total auction revenue (\$18 billion)), DEs won only 1% of the value (\$176 Million).⁶² In contrast, AT&T and Verizon Wireless collectively won a staggering 84.4% of the value of licenses, a total of \$16 Billion.⁶³ The results of either Auction are examples of “successful” participation by DEs, certainly not in the metric that counts the most.

As MMTC stated in the AWS Auction 66 rulemaking, the Commission’s New DE Rules are inconsistent with its statutory obligation under the Communications Act to encourage the rapid and efficient deployment of broadband to rural and underserved areas.⁶⁴ In order to fulfill the promise of the national broadband plan and the development of a diverse and competitive wireless industry, the FCC must first repeal the New DE Rules.

C. A Case Worker System Will Increase Utilization of Existing Initiatives and Reduce Overlap and Waste

With the advent of BTOP, the continuation of RUS and the existence of state and local efforts to address the broadband needs of unserved and underserved areas and populations,

⁶¹ See Auction 66, Advanced Wireless Services, available at http://wireless.fcc.gov/auctions/default.htm?job=auction_summary&id=66 (follow link to “Spreadsheet -- All Markets”) (“Auction 66 Spreadsheet”) and Auction 73 Round Results, Round 61, available at http://wireless.fcc.gov/auctions/auction_results_files.htm?id=73&type=full&setSize=0 (follow link to “File--“73_261_pwb.txt” found within “73_261_all_files.zip”) (“Auction 73 Results”) (both last visited June 5, 2009).

⁶² The “most valuable licenses” include the licenses in rank order from the Highest Net License Cost per License until and including the license that reaches 95% of total auction proceeds. See Auction 66 Spreadsheet and Auction 73 Results, *supra* n. 61; see also Auction 73: 700 MHz Band Licenses, All Licenses Summary, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-07-4171A2.pdf (last visited June 5, 2009).

⁶³ See Auction 73 Results, *supra* n. 61.

⁶⁴ See Joint Petitioners’ Supplement to Petition for Expedited Reconsideration at 11.

applicants will need sophisticated help identifying their needs and applying to the appropriate mix of entities for assistance. This help could take the form of a “case worker” system in which trained information specialists “case workers” use an automated, highly integrated application management tool (that includes information about most existing funding and support initiatives) to help develop and support the applications of eligible areas and populations. Such a system and role can be funneled through the BTOP program by ensuring that at least one grant recipient in a geographic area is performing in this capacity, and has access to the application tool.

III. THE PLAN CAN MAXIMIZE UTILIZATION BY ENSURING AVAILABILITY OF BROADBAND SERVICES TO ALL WHILE COMMITTING SUFFICIENT RESOURCES TO PROGRAMS THAT FOSTER DEMAND AND ADOPTION

A. The Commission Should Link Availability and Utilization as National Broadband Plan Priorities

The Commission sought comment on how improving the digital literacy skills of Americans could create additional demand for broadband, thereby improving utilization of new and existing broadband infrastructure.⁶⁵ It asked how lack of a computer or other broadband access devices affect broadband utilization and, if lack of broadband access device ownership is an obstacle to maximum utilization, how that obstacle could be reduced.⁶⁶ It also sought comment on media literacy skills that could educate children to better understand and use all of the information available to them over broadband technology.⁶⁷

As discussed in Parts I.A and I.B of these Comments, availability and utilization go hand in hand, and the Commission should link the two concepts in the national broadband plan.

⁶⁵ See Notice at ¶55.

⁶⁶ Id.

⁶⁷ Id.

Success requires thoughtful, comprehensive, and well-executed initiatives, featuring significant reliance on locally-based community institutions.

B. A Percentage of E-Rate Universal Service Funding Should Be Allocated To Programs That Increase Availability and Awareness of Broadband in Low-Income Communities

BDS agrees that “[a] full understanding of the value of broadband networks and the Internet may not be grasped by all Americans.”⁶⁸ Fully funding programs to increase awareness of the value of broadband in low-income communities is essential for improving adoption rates. Toward that end, the role of schools in training our children to use the technology should not go unappreciated. As detailed in Part I.D above, BDS believes that a percentage of E-Rate universal service funding needs to be allocated to improve professional development or training programs for teachers. BDS also would advocate coordinated federal funding - including through the E-Rate fund, BTOP and under BDIA - for school-provided portable computers for students in low-income communities. Computers (and broadband) in the home promote work habits and digital proficiency skills that are necessary for success in higher education and the workplace.⁶⁹ While individuals that do not own a computer can use the devices provided at schools, work, or libraries — and funding to support public access to computers is vital - lack of a computer in the home restricts access to distance learning opportunities, job search services, digital information, specialized content, computer specific skills and other benefits derived from broadband.

There is substantial evidence that broadband has become a vital component for success in educational attainment. Applied wisely, broadband provides access to high-bandwidth educational applications including online learning, collaborative work, and video conferencing; it

⁶⁸ Id.

⁶⁹ See Benton Action Plan (citing Ed Tech Action Network, Why Technology in Schools?, available at www.edtechactionnetwork.org/technology_schools.html.)

connects geographically or economically isolated communities with the latest curricula and teaching methods; it improves English literacy; it fosters digital proficiency; it improves work force skills and facilitates increased parent involvement.⁷⁰ Yet many schools are still using dial-up Internet access and do not have access to the latest broadband technology.

With these general principles established, BDS puts forth the following specific proposals to produce an effective plan for maximizing broadband utilization in racial and ethnic minority communities as well as other low-income areas. The suggestions below echo our NTIA/RUS Comments, although we recognize that the Commission's national broadband plan is broader in scope and tenure than the short-term stimulus funding programs to be administered by those two agencies. While cognizant of those differences, BDS suggests that the Commission take the following steps.

C. The Commission Should Work With Existing, Well-Respected National and Community Institutions and Creative New Entrants To Amplify Their Outreach, Computing Capacity and Educational Efforts

The Commission should deploy national intermediary nonprofit organizations and community institutions, including creative new entrants, to build awareness and foster demand for broadband. It should also give special consideration and priority to HBCUs, HSIs, NASIs, AASIs, and similarly convened learning institutions that have experienced great success despite the fact that they continue to be hampered by the effects of past segregation.⁷¹ With the support

⁷⁰ Id.

⁷¹ See, e.g., 20 U.S.C. §1060 (2)-(4) (“States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 [7 U.S.C. 301 et seq.] and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this chapter and other Federal programs which benefit institutions of higher education; the current state of Black colleges and universities is partially attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to

and weight of the Commission, these seasoned and well-respected community institutions can amplify their outreach, and training and education efforts.

D. The Commission Should Rely on MBEs, SDBs, and Nonprofit Organizations To Execute National Broadband Plan Elements

The plan should likewise feature substantial involvement of locally-based MBEs, SDBs and nonprofit organizations that with demonstrated commitment, ability and experience to meet the needs in applicable communities. We recommend tapping into already existing networks of local and national nonprofit organizations that are engaged with the communities in which they operate and have expertise with creating culturally specific niche content that appeals to various ethnicities and non-English speakers. Reliance on these organizations is an effective way to design adoption policies and benchmarks. Attendant benefits include stimulating job creation in areas of high unemployment, facilitating digital literacy through the creation of culturally relevant and multilingual content, facilitating computer ownership and training, and otherwise enhancing community access to technology. Recovery Act funding for broadband outreach efforts should be considered as a “floor” for such initiatives, not a ceiling.

Even when broadband is available and affordable for members of their communities, lack of vision as to broadband’s benefits, lack of technical knowledge and training (i.e., digital literacy), language barriers, lack of relevant content, suspicion and privacy concerns, and other cultural barriers discourage household subscription and frustrate efforts to gather data. To convince non-adopters, policymakers need to “paint a vision” regarding the range of savings,

ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private resources.”)

services, information and opportunities contingent on access to broadband. Participants also noted that outreach should be extended to local elected officials and civic leaders, many of whom do not understand the importance of broadband adoption to the well-being of their constituents.

IV. THE COMMISSION SHOULD ADDRESS OTHER VITAL ISSUES RAISED IN THE NOTICE AFTER IT HAS REFRESHED THE RECORD, COLLECTED NEW EMPIRICAL DATA, AND HELD NATIONWIDE HEARINGS

A. Questions Relating to Deployment and Affordability of Broadband

The Commission should further develop its understanding of (1) the impact of affordability on broadband deployment standards, (2) the role traditional market analysis should play in developing the plan, (3) the level of granularity to apply in data collection efforts, (4) designing and evaluating the success of policies to improve broadband availability, (5) integration of the plan with existing Commission statutes and initiatives, and (6) paradigms for engaging locally-based resources to render plan objectives.⁷² BDS strongly believes that these questions cannot be addressed unless the Commission explores regional nuances affecting these priorities through testimony presented at hearings hosted by the Commission throughout the nation.

As stated in MMTC's National Broadband Field Hearings Proposal, the Commission should hold fifteen local hearings to be held during the summer and fall of 2009 to obtain updated data from interested stakeholders, experts from different sectors of the industry, and representatives from business, civic groups, non-profit organizations and local legislators.⁷³ Eight of the hearings would be in urban areas and seven are in rural areas; three would be associated with Tribal lands and one would be in Puerto Rico. By proceeding in this manner, the Commission would (1) avoid building into the national broadband plan any components that

⁷² See Notice at ¶¶112-22.

⁷³ See MMTC National Hearing Proposal at 1-2.

produce worse results than pre-existing public and private initiatives would produce, (2) establish a basis of comparison for the relative merits of competing proposals and objectives, (3) ensure that it has weighed all relevant considerations for a specific region, (4) develop more targeted, less burdensome, and more cost-efficient approaches, (5) avoid jurisdictional overlaps and duplication of efforts, and (6) avoid reliance on outdated and inadequate data collected on forms not yet revised to reflect current Commission aims. BDS believes that it will otherwise be difficult for the Commission to formulate overarching policies relating to the questions set-forth below without soliciting such local input. Nonetheless, where relevant, to ensure issues vital for underserved and unserved communities are not overlooked at this juncture, BDS offers the following brief comments on those questions.

1) How should the Commission consider price or marketplace competition for broadband as it considers whether people have access to broadband capability?⁷⁴

Low income consumers -- disproportionately racial and ethnic minorities, new immigrants and non-English speakers -- have long been overrepresented in the run of losses in manufacturing and low-skills jobs and have a long history of being last in line to obtain new technology.⁷⁵ Thus, the overriding priority of a national broadband plan should be broadband connectivity for both undeserved and underserved communities.⁷⁶ To achieve these objectives, MBEs and SDBs, local government, regional-based organizations and public funding need to play a significant role in the plan. Participation of MBEs and SDBs is especially vital because these firms tend to hire more minorities – thereby reinforcing Recovery Act objectives.

⁷⁴ See Notice at ¶25.

⁷⁵ See Paul Ong and Anastasia Loukaitou Sideris, Jobs and Employment Opportunities in Minority Communities, at 3, available at http://www.temple.edu/tempres/chapters_1800/1807_ch1.pdf (last visited June 5, 2009).

⁷⁶ See id.

Thus, in our previous discussions, filings and public statements regarding the Recovery Act, BDS, along with members of the legislative and executive branches,⁷⁷ have expressed the importance of the following principles:

First, significant, genuine and substantial measures that seek to eliminate all market entry barriers must be implemented to ensure equal opportunity in government procurement.⁷⁸

⁷⁷ When the Recovery Act was in conference, the leaders of the Congressional Black Caucus, Congressional Hispanic Caucus, and Congressional Asian Pacific American Caucus indicated in a letter to the Speaker of the House that they supported the House version of the Bill, which ensured that all qualified businesses would be qualified for grants, rather than limiting business qualification through the discretion of the states. See Letter from Congressional Black Caucus et al. to Nancy Pelosi (Feb. 10, 2009) at Appendix C. During a March 26, 2009 Town Hall Meeting, President Obama made clear that his administration is working to unbundle services to promote competition and give all businesses a chance to compete for government purchases. See President Obama March 26, 2009 Town Hall Meeting Transcript, available at http://www.realclearpolitics.com/articles/2009/03/obama_online_townhall_transcript.html (last visited May 18, 2009).

⁷⁸ See NTIA/RUS Comments at 12 (stating the need to remove market entry barriers that are inherent in competing against large, established businesses), available at <http://www.mmtconline.org/filemanager/fileview/206/> (last visited May 22, 2009); MMTC, “Legislative Recommendations to Advance Diversity in the Media and Telecommunications Industries” (January 21, 2009) (“MMTC’s Legislative Recommendations”) (discussing several proposals for advancing diversity in media and telecommunications in the new administration), available at <http://www.mmtconline.org/filemanager/fileview/189/> (last visited May 22, 2009); Joint Letter from David Honig, Executive Director and President, MMTC, and Marc Morial, President and Chief Executive Officer, National Urban League to President Barack H. Obama (January 21, 2009) (“MMTC/NUL Joint Letter”) (discussing the need to remove market entry barriers from procurement”), available at <http://www.mmtconline.org/filemanager/fileview/191/> (last visited May 22, 2009); Letter from David Honig, Executive Director and President, MMTC, to Senator John D. Rockefeller, Congressman Henry A. Waxman, and Congressman Rick Boucher (January 21, 2009) (discussing the need to remove market entry barriers”), available at <http://www.mmtconline.org/filemanager/fileview/190/> (last visited May 22, 2009); Letter from David Honig, Executive Director and President, MMTC, to President Barack H. Obama (Jan. 21, 2009) (“MMTC’s Request to the President to Reauthorize Executive Order 13170”) (requesting reauthorization of Executive Order 13170, which required the federal government to ensure nondiscrimination in federal procurement opportunities for businesses in the Small Disadvantaged Business Program (SDBs), businesses in the Section 8(a) Business Development program of the Small Business Administration, and Minority Business Enterprises (MBEs), and to take affirmative action to ensure inclusion of these businesses in federal contracting), available at <http://www.mmtconline.org/filemanager/fileview/188/> (last visited May 22, 2009); MMTC Road Map.

Second, government agencies should not penalize SDBs and MBEs by imposing excessive years-in-business, bonding, or large project experience requirements, or by “bundling” programs without a compelling need to do so.⁷⁹

Third, the highest priority should be assigned to funding contracting and subcontracting SDBs and MBEs, including those with established connections to low-income and other vulnerable communities to be served, as well as Historically Black Colleges and Universities, Hispanic Serving Institutions, Native American Serving Institutions, and Asian American Serving Institutions.⁸⁰ Apportionments on this basis would be consistent with the purposes of the Recovery Act.⁸¹ By incorporating these principles, the Commission’s national broadband plan will foster genuine price competition in markets that were previously neglected.

⁷⁹ See NTIA/RUS Comments at 11, 16 (stating that priority should not be given to grant proposals that address several purposes because it would encourage “bundling”—a significant market entry barrier); see also MMTC’s Legislative Recommendations at 2 (Discussing several proposals for advancing diversity in media and telecommunications in the new administration and that project bundling is a practice that should be avoided); MMTC/NUL Joint Letter at 2 (stating that requirements and procurement practices should be designed to avoid disqualifying entry barriers such as needlessly short deadlines, very large project experience, bundling, excessive bonding requirements and number of years in business”), available at <http://www.mmtconline.org/filemanager/fileview/191/> (last visited May 22, 2009); Statement of the Minority Media and Telecommunications Council on Congressional Oversight of the Broadband Section of the American Recovery and Reinvestment Act (March 31, 2009) (“MMTC’s Congressional Oversight Recommendation”) at 2 (in administering the grants, SDBs and non-SDB partnerships with SDBs, should be given “especially high priority,” that priority should be given to prime contractors that facilitate genuine MBE participation, and that project bundling should be avoided), available at <http://www.mmtconline.org/filemanager/fileview/202/> (last visited May 22, 2009). See also Letter from David Honig, Executive Director and President, MMTC, to President Barack H. Obama (January 21, 2009) (“MMTC’s Request to the President to Reauthorize Executive Order 13170”) (requesting reauthorization of Executive Order 13170, which required the federal government to ensure nondiscrimination in federal procurement opportunities for businesses in the Small Disadvantaged Business Program (SDBs), businesses in the Section 8(a) Business Development program of the Small Business Administration, and Minority Business Enterprises (MBEs), and to take affirmative action to ensure inclusion of these businesses in federal contracting), available at <http://www.mmtconline.org/filemanager/fileview/188/> (last visited May 22, 2009).

⁸⁰ See NTIA/RUS Comments at 5-6.

⁸¹ See Recovery Act §6001(b) (3) (A-B), and §6001(b) (5).

- 2) **How can the Commission ensure that any and all data collected in furtherance of the creation of and execution of the national broadband plan is accurate, complete, and appropriately balances sometimes competing confidentiality interests? How should the Commission use Census Tract data to report on the status of broadband deployment in all areas, including tribal lands and rural areas? What other data might the Commission use to supplement Census Tract data? How can existing and potential data collection methods be used to obtain ongoing measurements on the progress of the national plan?**

See Comments, Section I.B, supra.

- 3) **In addition to the particular inquiries outlined in the Recovery Act, to what extent should traditional market analysis be a factor with respect to any broadband-relevant market?**

Traditional market forces are not sufficient to resolve the digital divide. Private firms must choose where to make their technology and infrastructure investments based primarily on a desire for positive returns on investment, notwithstanding externalities that cannot be captured as profits (a better-educated public, more business opportunities, skilled workers, reduced health care costs, etc.) and notwithstanding the fact that selling to the poor can be be “very lucrative.”⁸² In contrast, MBEs and SDBs have the incentives, though not the capital, to serve untapped minority and low-income markets, and have expertise in understanding and producing culturally-specific service options and content. Local governments are also particularly effective vehicles for deployment of sustainable broadband offerings because they can factor in “intangible” benefits such as increasing employment skills for their constituents and enticing businesses to the area into their infrastructure calculations and investment horizons.

- 4) **How should the term “affordability,” in the context of broadband access, be defined, measured, and assessed in light of service provider pricing structures, publically-sponsored programs that are designed to make broadband more affordable, and the principle that “[q]uality services should be available at just, reasonable, and *affordable* rates?”**

⁸² See Hammond, supra n. 31 at 33.

In our Section I.B supra, we discussed several subjective, socioeconomic factors that should be considered in assessing whether the broadband access that is being provided is actually affordable. The Commission can use the platform of the nationwide broadband field hearings to solicit input on how these factors can be incorporated into a working definition of “affordable.”

5) How should the Plan establish priorities for unserved areas versus areas with limited competition and capability?

Within unserved and underserved communities, the highest priority of all should be building infrastructure and providing affordable service in low income communities where racial discrimination in the form of credit redlining has lingered persistently across many generations. As discussed supra, BDS believes strongly that these questions cannot be addressed until the Commission explores regional nuances affecting these priorities through testimony presented at local hearings hosted by the Commission in communities across the nation.

6) How should the Commission encourage consumers to more fully utilize broadband access already available to them? How should particular communities of interest be evaluated in programs that are designed to make broadband more affordable?⁸³

According to the Pew Internet and American Life Project, African Americans and Hispanics lag significantly behind the national averages for broadband subscription rates.⁸⁴ In some communities, this gap reflects social and “digital literacy” issues, which are less costly to resolve than buildout issues. As discussed in Section II.B, supra, providing broadband in previously neglected markets, particularly by addressing digital literacy, would stimulate economic development in these areas. However, the Commission should postpone finalizing a plan in this area until nationwide hearings are completed.

⁸³ See Notice at ¶54.

⁸⁴ See Pew Study at 13.

7) What quantifiable measures should the Commission order to assess the effectiveness of the national broadband plan, compared to the progress that would have occurred in the absence of the national broadband plan?⁸⁵

The national broadband plan should measure:

- participation by qualified socially and economically disadvantaged small business concerns as provided by Section 6001(h) (3) of the Recovery Act,⁸⁶ and
- success in attaining the statutory objectives of (a) increasing the affordability and subscribers to broadband in the area addressed, (b) providing the fastest broadband speed possible to subscribers, and (c) enhancing health care delivery and education as provided by Section 6001(h) (2) of the Recovery Act.⁸⁷

SDBs are often excluded from contracting opportunities because they have limited resources with which to comply with reporting requirements and timelines that have been designed with large incumbents in mind. As such, current data sets are almost completely wanting of information on SDBs. A national broadband plan that permits SDBs additional flexibility with respect to reporting requirements and timelines would facilitate a more complete data set than that which is currently available.⁸⁸

As we suggested in our NTIA/RUS Comments, an independent National Minority and Broadband Training and Technical Council (NMBTT Council) or similar body should be established to provide guidance and project evaluations.⁸⁹

8) How effective and efficient would mechanisms external to the Commission—including programs that provide training and assistance to potential broadband users—be at informing the Commission’s analysis and development of a national broadband plan and at serving the goals of the Recovery Act?⁹⁰

⁸⁵ See Notice at ¶34.

⁸⁶ See id.

⁸⁷ See id.

⁸⁸ NTIA/RUS Comments at 46.

⁸⁹ Id.

⁹⁰ See Notice at ¶36.

As discussed supra, BDS supports any mechanism, such as a case worker system, that is subject to independent audit and relies on regional-based groups with genuine ties to unserved and underserved communities, such as those recommended to assist with the BTOP program: locally-based SDBs, Historically Black Colleges and Universities, Hispanic Serving Institutions, Native American Serving Institutions, and Asian American Serving Institutions.⁹¹ We also identified specific organizations that would be equally well suited to assist with national broadband efforts.⁹²

The Commission should ensure that community-based organizations that have their “fingers on the pulse” of the communities they serve and that are in touch with the real needs of these communities are afforded the opportunity to provide the maximum amount of broadband service possible in their communities. These organizations tend to culturally reflect the communities in which they are based, and they are often minority-owned or minority-managed and focused on increasing disadvantaged workers participation and training in the local community.

These entities would especially include community-based for-profit and non-profit organizations, community technology centers, community economic development centers, workforce training centers, faith-based non-profits, social service organizations, or collaborative networks of these entities. These organizations are key in efforts to bridge the broadband divide by 1) stimulating job creation in hard-hit areas of high unemployment, particularly urban and rural communities of color that are often most dramatically affected by the economic crisis, 2)

⁹¹ Id. at ¶¶5-6.

⁹² See NTIA/RUS Comments at 31. These included the National Urban League, NCLR and One Economy.

facilitating digital literacy through the creation of culturally relevant content, 3) facilitating computer ownership and training, and, 4) enhancing community access to technology.

9) How does broadband affect current Universal Service Fund initiatives and what enhancements would be necessary to ensure that these programs are updated to promote broadband availability?⁹³

As discussed supra, because the future of telecommunications in America depends upon ubiquitous access to broadband Internet services, BDS strongly recommends that the Universal Service Fund initiatives be upgraded to keep pace with broadband.⁹⁴ BDS respectfully requests that the forum provided by the National Broadband Field Hearings be used to further inform and develop comprehensive policies related to these issues.

10) How should the Commission interpret its Recovery Act mandate to formulate “a detailed strategy for achieving affordability of such [broadband] service and maximum utilization of broadband infrastructure and service by the public?”⁹⁵ How should the Commission incorporate into the national broadband plan existing FCC and other statutory provisions, in addition to the Recovery Act, which seek to promote broadband availability?⁹⁶

We have previously recommended that the Commission develop effective means of working with the Department of Agriculture (“USDA”) to fulfill the objectives of Section 6112 of the Food and Conservation and Energy Act of 2008 (“2008 Farm Bill”).⁹⁷ BDS also reiterates

⁹³ See Notice at ¶39 and ¶41.

⁹⁴ See MMTC Road Map at 11-13.

⁹⁵ See Notice at ¶55.

⁹⁶ See id. at ¶107.

⁹⁷ See Comments of the Minority Media and Telecommunications Council, In the Matter of Rural Broadband Strategy, GN Docket No. 09-29 (filed March 25, 2009), available at <http://www.mmtconline.org/filemanager/fileview/201/> (last visited May 26, 2009) (citing Pub. L. 110-246, 122 Stat. 1651, 6112 (2008)) (“Rural Broadband Comments”).

our suggestions in the NTIA/RUS Comments⁹⁸ that there be substantial coordination between the agencies:

First, a mechanism should be established that would permit each agency to track and report to the public and Congress the success of SDBs with respect to number of and dollar amount of grant awards. This will provide the data necessary to ensure that SDBs are achieving the very substantial level of grant success envisioned by Congress.

Second, all agencies should robustly enforce P.L. 95-507, where the SBA Act states that it is the federal government's policy to facilitate "the maximum practicable opportunity for the development of small business concerns owned by members of socially and economically disadvantaged groups."⁹⁹

Third, Section 15(k) of the SBA Act,¹⁰⁰ which requires each federal agency with procurement power to establish an Office of Small and Disadvantaged Business Utilization ("OSBDU") and to appoint an OSBDU Director to report directly to the Agency head, or deputy, regarding the fulfillment of the purposes of the SBA Act¹⁰¹ must be enforced; and,

Fourth, recommendations should be made to the White House to establish a Blue Ribbon Commission to investigate the possibility of creating a Cabinet-level Telecommunications

⁹⁸ See NTIA/RUS Comments at 41.

⁹⁹ See *id.* at 42 (citing 15 U.S.C. §631(f) (1) (E) (2009); see also 92 Stat. at 1760)).

¹⁰⁰ See *id.* at 42-43 (citing 15 U.S.C. §644(k) (2009)).

¹⁰¹ See *id.* (citing Office of Federal Procurement Policy (OFPP) Letter No. 79-1, March 7, 1979 (interpreting Section 15(k)) ("OFPP Letter")).

official who would oversee the inter-agency coordination of the entire national broadband plan.¹⁰²

Finally, to avoid repeating the mistakes of the New Deal, which bypassed African Americans and other ethnic minorities in its economic recovery programs, a careful, coordinated effort among government agencies is required to promote SDB success.¹⁰³

11) How should the Commission’s comprehensive Rural Broadband strategy, and the Farm Bill of 2008, influence the design of the national broadband plan?¹⁰⁴

The Commission should incorporate MMTC’s recommendations in its Rural Broadband Comments as components of the national broadband plan. These include:

- Deploying broadband services to communities that are not situated along major highways.¹⁰⁵

¹⁰² See Road Map at 27-29.

¹⁰³ See NTIA/RUS Comments at 42-43 (citing Ira Katznelson, “When Affirmative Action Was White” (2005) (illustrating the degree to which New Deal programs were implemented in deliberately discriminatory ways “forever altering the economic arena in America” and stating that “laws like the Social Security Act were worded to deny benefits to entire categories of people, many of them minorities working as maids, farmers, and migrant workers); see also Michael Dawson, “The Real Deal on the New Deal,” Washington Post (March 9, 2009) (stating that “the New Deal reinforced structural black economic disadvantage in many ways”), available at <http://www.theroot.com/views/real-deal-new-deal> (last visited April 3, 2009).

¹⁰⁴ See Notice at ¶109.

¹⁰⁵ See Rural Broadband Comments at 2 (“Generally, when deploying rural broadband, the norm has been to construct a backbone along main highways and then to branch out broadband service from that backbone to communities adjacent to these major thoroughfares. For decades, this approach has neglected rural minority communities which, because of historic racial segregation, are situated further from major highways and to which the major highways are not easily accessible.” *Id.*, citing Daniel T. Lichter et al., Racial Segregation in Rural & Small Town America: Does New York State Fit the National Pattern?, Community and Rural Development Institute, Cornell University, (2007), available at <http://devsoc.cals.cornell.edu/cals/devsoc/outreach/cardi/publications/upload/10-2007-RPB.pdf> (last visited May 26, 2009) (“Many parts of rural America (e.g. blacks in the Mississippi Delta region or Native Americans on Indian reservations) have been home historically to large concentrations of racial and ethnic minorities. Non-metropolitan blacks are America’s most highly segregated racial minority - roughly 30 to 40 percent higher than indices observed for rural Hispanic and Native Americans”); see Rural Broadband Report, *supra* n. 10 at ¶31

- Working with USDA to provide rural communities that have been victimized by race-based redlining, with top priority and special funding for broadband access and adoption.¹⁰⁶
- Designating funds to equip residences with adequate electrical outlets and wiring that are needed to use broadband services safely.¹⁰⁷

12) How should the Commission coordinate, by both formal and informal means, collaboration between all stakeholders, including federal departments and agencies, tribal, state, and local governments, and other interested groups and individuals?¹⁰⁸

As discussed in the MMTC Roadmap, the best way to ensure collaboration between different stakeholders is to ensure that compliance and other personnel at the Commission reflect the differing perspectives and cultural backgrounds of the nation.¹⁰⁹ Further, as discussed supra,

(discussing Weirwood, VA, an all-Black community on the Virginia Eastern Shore, which gives broadband availability a “public face,” and noting that the town has no funds to draw a fiber node from the trunk line that parallels U.S. Rt. 13 just a mile and a half away.)

¹⁰⁶ See Rural Broadband Comments at 3 (citing Christian E. Weller, Access Denied: Low-Income and Minority Families Face More Credit Constraints and Higher Borrowing Cost, Center for American Progress (2007), available at http://www.americanprogress.org/issues/2007/08/pdf/credit_access.pdf (last visited May 26, 2009); Gregory D. Squires and Ruthanne DeWolfe, “Insurance Redlining in Minority Communities,” *The Review of Black Political Economy*, at 347-364 (2007); see generally Institute of Medicine, *Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care*, Brian Smedley et al., eds. (2003), available at http://www.nap.edu/openbook.php?record_id=10260&page (last visited May 26, 2009).

¹⁰⁷ See *id.* at 6 (citing Leslie A. Whitener, *Rural America: Housing Poverty in Rural Areas Greater for Racial and Ethnic Minorities*, United States Department of Agriculture (2000), available at <http://www.ers.usda.gov/publications/ruralamerica/ra152/ra152c.pdf> (last visited March 24, 2009). Higher proportions of rural minority households were classified as housing poor compared with white households One of the U.S. Department of Housing and Urban Development’s measures of housing poverty is “having no electricity, or all of the following three electric problems: exposed wiring, a room with no working wall outlet, and three blown fuses or tripped circuit breakers in the last 90 days.”)

¹⁰⁸ See Notice at 37 ¶112.

¹⁰⁹ See MMTC Road Map at 26 (stating “The FCC oversees industries representing a sixth of our economy – industries that are the stewards of the First Amendment and the custodians of our culture and our democratic values. Thus the FCC, perhaps more than any other federal agency, should look like America.”)

we recommend the establishment of a National Minority Broadband Training and Technical Council to evaluate projects and provide guidance.

The Commission also solicited comments regarding data collection and analysis;¹¹⁰ interaction between Commission policies and SBA or Recovery Act objectives;¹¹¹ inter-agency cooperation and coordination;¹¹² federal-state coordination of efforts¹¹³; public-private initiatives; and market-based solutions to increasing deployment and utilization.¹¹⁴ Aspects of these topics should be discussed at nationwide broadband field hearings.

B. Questions Relating to Delivery of Broadband Services and Infrastructure

- 1) What is the relationship between the Commission’s development of a national broadband plan and the requirements Congress set forth in the BDIA?¹¹⁵ What is the best way to attract risk capital to broadband infrastructure projects?¹¹⁶ What factors should we consider as we evaluate how government funds for broadband development are distributed, in light of the market’s current patchwork of broadband build-out?¹¹⁷**

Data collection is fundamental to the entire national broadband plan architecture, providing as it does, the factual predicates informing specific plan elements. Inaccurate data has elicited findings that, in many cases, contradicted the empirical observations of seasoned community groups and minority and poverty advocates.¹¹⁸ As then-Commissioner Michael

¹¹⁰ See Notice at ¶108.

¹¹¹ See id. at ¶¶37, 100 and 107.

¹¹² See id. at ¶¶106, 109, 112.

¹¹³ See id. at ¶95.

¹¹⁴ See id. at ¶37.

¹¹⁵ Id. at ¶108.

¹¹⁶ Id. at ¶37.

¹¹⁷ Id.

¹¹⁸ See Networked Nation: Broadband in America 2007, Department of Commerce (the Department of Commerce found that 36.4% of black households and 35.2% of Hispanic

Copps stated with respect to the findings in the Fifth Report and Order, prior data “lacked a plausible definition of broadband, employed stunningly meaningless zip code measurements concerning its geographic distribution, ignored the prices people paid for broadband completely, and for years failed to look at what other countries were doing to get broadband to their people.”¹¹⁹ Over-reliance on zip code data, in particular, failed to capture the extent of broadband deployment to low income and disproportionately minority populations, leading to a skewed emphasis on competition and de-regulatory approaches. As noted supra, a significant gap exists in both physical access and availability of sustainable service offerings in low-income minority households in urban and rural communities. Further, traditional market forces as embodied in the competitive de-regulatory framework embraced by the Commission have not closed this gap. Thus, an effective national broadband plan must harmonize universal service goals, deregulatory goals and competition goals.

The best way for the national broadband plan to reconcile competition, deregulatory and universal service goals in crafting the national broadband plan is through the elimination of market-entry barriers faced by MBEs and SDBs delivering broadband infrastructure and services. This approach would spur deployment and drive down prices in unserved and underserved regions while injecting necessary competition in the telecommunications industry

households had broadband, compared to 54.9% of White households and 38.8% of households in rural areas had broadband, compared to 53.7% of households in urban areas); see also Pew Internet and American Life Project, Home Broadband Adoption 2007, June 2007, available at: <http://www.pewinternet.org/Reports/2007/Home-Broadband-Adoption-2007.aspx> (last visited June 7, 2009) (showing gaps in broadband subscription rates based on race, ethnicity, income and education level). In the same year as the Commission’s findings that broadband adoption was “reasonable and timely,” only 30% of households with income under \$30,000 had access to broadband. Id. at 4.

¹¹⁹ See Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Fifth Report and Order, 23 FCC Rcd 11 (2008) (Fifth Report and Order) (dissenting statement of Commissioner Michael J. Copps).

and the general economy.¹²⁰ This tenet has been well supported in advanced telecommunications and diversity proceedings and in comments filed with the Commission by BDS and others.¹²¹

There are five steps the Commission can take to advance these objectives:

- (1) Simple and efficient SDB standards and self-certification eligibility.¹²²
- (2) Modification of DE rules.¹²³

¹²⁰ Citations re link how broadband deployment would impact e-commerce, job-creation, tele-health, security and global competitiveness goals. Americans in general, and minorities who attend poorly financed schools need to have advanced training in science, technology, engineering and mathematics (STEM). The U.S. has lagged in training in technology-related programs.

¹²¹ See NTIA/RUS Comments, *supra* n. 27; MMTTC/NUL Joint Letter at 2; MMTTC Road Map at 3; MMTTC Comments in MB Docket No. 05-311 (noting that “[a] multiplicity of service providers, each committed to serving subscribers at all socio-economic levels in a local community, holds out the promise of lower prices, better service quality, and more diversity in terms of programming content and programming ownership”). The elimination of market entry barriers was also supported by the leadership of Congressional Minority Group Caucuses at the time the Recovery Act was in conference. See Letter from Congressional Black Caucus et al. to Nancy Pelosi (Feb. 10, 2009); see also President Obama March 26, 2009 Town Hall Meeting Transcript, available at http://www.realclearpolitics.com/articles/2009/03/obama_online_townhall_transcript.html (last visited, April 1, 2009).

¹²² As stated in the NTIA/RUS proceedings, the Commission can rely on standards set forth in FCC’s Designated Entity (or “DE”) rules (47 CFR 24.321) to allow firms to confirm SDB status as a “socially and economically disadvantaged small business” by certifying to the following requirement Applicant’s governance is 51 percent or more controlled by: (i) one or more individuals meeting the requirements of 13 CFR 124.103(b) (1) or (c), and the applicant’s average gross revenues are less than \$40 million per year for the past three years, or (ii) an Indian Tribe, Native Hawaiian organization or Alaska Native Corporation or subsidiaries thereof. See NTIA/RUS Comments at 15.

¹²³ See discussion, *supra* Section II.B. Necessary reforms include redefining the types of relationships that constitute fraud, pre-auction review of applicants’ qualifications, increased weights for bidding credits, restoration of the Five-Year Hold Rule, and relaxation on lease and resale and wholesale restrictions on designated entities. See MMTTC Road Map at 21. The Commission should reinstate the prior CMRS spectrum aggregation limit attribution rules and the equity plus debt broadcast attribution rule, in defining when a DE has entered into a “material relationship” with a large in-region incumbent wireless service provider.” *Id.* The Commission should (1) create a pre-clearance process for applicants interested in participating as DEs in spectrum auctions and (2) conduct random audits of DEs after they have been awarded licenses

(3) Coordination, management and preemption, where relevant, of spectrum policies across the various national, state and municipal authorities to achieve substantial participation by MBEs and SDBs including, in particular, elimination of those eligibility requirements that have fostered underutilization or exclusion SDBs and MBEs.¹²⁴ These include contracting, subcontracting and procurement guidelines requiring large project experience, bonding, or bundling, onerous project completion deadlines, excessive years-in-business requirements and eligibility requirements, preferential treatment for incumbents and prior grant recipients and other programmatic elements that thwart the Small Business Administration’s diversity objectives.¹²⁵

(4) Use of spectrum management policy to prompt deployment of sustainable broadband service in unserved or underserved communities, with expedited, favorable treatment given to applicants planning to provide affordable service offerings to all households, including low-income households, in the relevant community.

(5) Oversight to ensure that national broadband plan elements are rendered by representatives from the widest range of social and economic backgrounds, including representatives from the civil rights community (e.g., One Economy, the National Urban League,

to ensure compliance. The Commission should impose a \$5 billion revenue threshold or level of CMRS subscribership to determine which non-DEs would be defined as “large incumbent wireless services providers.”

¹²⁴ See NTIA/RUS Comments at 11.

¹²⁵ See NTIA/RUS Comments at 44 (citing Small Business Administration Act, 15 U.S.C. §631(f) (1) (E) (2009), 92 Stat. at 1760 (“SBA Act”). The SBA Act states that it is the federal government’s policy to facilitate “the maximum practicable opportunity for the development of small business concerns owned by members of socially and economically disadvantaged groups.” See SBA Act §644(k); see also OFPP Letter (requiring each federal agency with procurement power to establish an OSBDU and to appoint an OSBDU director to report directly to the Agency head, or deputy, regarding the fulfillment of the purposes of the SBA Act).

the Asian American Justice Center, NCLR, etc).¹²⁶ BDS has proposed that the Secretary of Commerce establish a Diversity Advisory Committee (“DAC”) to undertake such oversight with respect to the BTOP program. The Commission should also delegate oversight to its Diversity Advisory Committee or another dedicated, independent, ombudsman. As such, NTIA’s BTOP grant program, USDA’s Broadband Grant Program, the Universal Service Fund programs, the Rural Broadband Access Loan and Loan Guarantee Program, the Community Connect Program, the National Science Foundation advanced information and communications technologies grant program and other federal funding measures should feature protocols that maximize MBE and SDB participation and ownership. As we discussed in our NTIA/RUS Comments, contract requirements and procurement practices that can increase participation by MBEs and SDBs, include dispersal of grants and loan funds at or prior to the start of projects instead of staggered or post-completion payment schedules;¹²⁷ providing technical assistance with the government contracting process to SDBs and MBEs; and creating a mechanism for mediation of good faith non-compliance issues through a new telecommunications mediation firm. Possible models for developing inclusive standards include programs created by the states of Tennessee, Kentucky, Arkansas and Illinois.

The Commission’s employment and procurement practices for national broadband plan efforts should reflect the ethnic, racial and gender makeup of unserved and underserved individuals to foster trust in those communities, provide the agency with a range of diverse viewpoints to draw from and reduce the incidence of unconscious bias in grant review and funding allocation. As we stated in our NTIA/RUS Comments, four approaches are possible:

¹²⁶ See NTIA/RUS Comments, at 30-31.

¹²⁷ Id. at 19.

(1) A regional-based strategy with significant reliance on: community institutions, social networks, minority-owned businesses, churches, civic organizations, economic development centers, workforce training centers and the like to render plan elements within the target (unserved or underserved) communities.¹²⁸

(2) Building incentives into the rules to reward licensees for trading with, selling to, or incubating SDBs, including expedited and favorable (at least tie-breaker) treatment for prime contractors that voluntarily include in their bids genuine and substantial first tier MBE or SDB participation beyond the minimum federal Section 8(a) guidelines for MBE or SDB.¹²⁹

(3) Making the Commission's anti-discrimination standards enunciated in the Broadcast Diversity Order and in the broadcast EEO and cable procurement rules apply across all platforms that are subject to the Commission's jurisdiction, including advanced telecommunications.¹³⁰

(4) Providing dedicated Commission personnel to monitor compliance with these policies.

Bearing in mind these principles, BDS generally agrees with the data collection reforms mandated by the BDIA.¹³¹ A comprehensive, consistent and transparent data collection system will: (1) help foster transparency, cohesiveness and interoperability across different federal

¹²⁸ See Letter from the National Urban League, the Minority Media & Telecommunications Council, the Council of LaRaza, the Asian American Justice Center, and the Joint Center for Political and Economic Studies (the "Summit Hosts"), to FCC Chairman Copps (March 31, 2009) (hereinafter "Copps Letter").

¹²⁹ First tier participation should be in the specific technical areas of the contract, rather than the company's overall record of MBE or SDB utilization, which may include janitorial and related services dominated by MBEs but having nothing to do with broadband and wireless technical services.

¹³⁰ See MMTC Road Map at 20, 24.

¹³¹ See Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4097 (codified at 47 U.S.C. §§1301-04) ("BDIA").

agencies and different initiatives; (2) provide consistent and comparable metrics throughout the country; (3) confirm what aspects of deployment should be targeted and ensure that any race-conscious measures are narrowly tailored; (4) identify geographic and social gaps in broadband deployment; (5) facilitate compliance and accountability standards; (6) provide ways to accurately measure the efficacy of initiatives and (7) inform any new policy directions.

By expanding speed tiers for reporting purposes, requiring collection of more granular data beyond previous zip codes ranges, requiring comparative analysis of successful international initiatives, involving the census bureau in data gathering, requiring publication of surveys, evaluating the impact of availability on small businesses and structuring other inter-agency and federal-state coordination, and collecting data on computer ownership, BDIA takes a step in the right direction. However, by focusing solely on availability and requiring data on an annual basis, the BDIA reforms will fall short of generating sufficient data to support national broadband plan objectives. In Section I.B supra, we addressed socio-economic factors that needed to be tracked in the Commission's data collection process.¹³² To address market barriers to entry, the Commission data collection practices should also feature:

- A uniform format and elements within each report to facilitate coordination and interoperability with other federal, state and municipal mapping and data collection initiatives (one possibility is to reconstitute the Federal-State Joint Conference on Advanced Services).¹³³
- Data collection on the availability of broadband services in educational institutions, health facilities, public service and safety agencies, libraries, community centers, senior centers and facilities.
- Data collection on the availability of broadband in multiple-occupant dwellings, particularly low-income dwellings subsidized with federal funds.

¹³² The Commission already has extensive general authority to collect evidence needed to support its civil rights agenda through Sections 257, 303(g) and 403 of the Communications Act.

¹³³ See BDIA at §1304.

- Revising and expanding Form 477 to collect information from commercial carriers regarding their tier pricing, credit and deposit requirements across various communities.
- Quarterly reporting obligations for SDB and MBE pursuant to Section 6001(i) (1) of the Recovery Act to measure success in the grant process and to establish public accountability standards.
- Quarterly reporting by fund recipients on new subscribership and technology training efforts.
- Requiring compliance with EEO and SBA objectives with respect to data gathering grant awards.¹³⁴
- Establishing procurement “best-practices” for data collection, with significant mobilization of community-based institutions that are trusted and experienced within low-income, minority and multilingual communities to collect and report data.¹³⁵
- Coordination with state and municipal initiatives to map broadband deployment and utilization.

2) What is the role of spectrum policy, tax incentives, and other initiatives in promoting market-based delivery of the goals of a national broadband plan?

In analyzing the comments submitted, the Commission should not lose sight of its ultimate responsibility to promote economic opportunity and competition, avoid the concentration of licenses and disseminate licenses among a wide variety of applicants.¹³⁶ In this regard, we reiterate that it is our intent, and the intent of Congress, that women, minorities and small businesses be given the opportunity to participate in delivery of broadband infrastructure and services as active entrepreneurs.¹³⁷ BDS’ recommendations in this regard are as follows:

(1) Development of a substantial and accessible line of credit to finance SDB broadband ventures. Such a line of credit could be assembled with the cooperation of a syndicate of minority banks.

¹³⁴ See BDIA, 47 U.S.C. §1304(b) (2), (c) – (d).

¹³⁵ See BDIA §1304(e).

¹³⁶ See 47 USC §309(j) (3) (B).

¹³⁷ See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, Fifth Report & Order, 9 FCC Rcd 5532, 5605-06 ¶168 (1994).

(2) Direct loans for investment in fiber, wireless, satellite or other appropriate technologies in unserved or underserved low income, minority and multilingual urban and rural communities.

(3) Refinancing of the Telecommunications Development Fund (TDF), to be capitalized with the interest from all spectrum auction proceeds (rather than the interest from just down payments).¹³⁸

(4) Stimulation of MBE and DBE participation in telecommunications with tax incentives: reinstatement of the Commission's tax certificate policy, 25% incremental tax credits for transfer of telecommunications businesses by MBEs and DBEs and additional 25% tax credit for MBEs and DBEs disproportionately serving minority and disadvantaged customer segments.

(5) Stimulating the demand for broadband through telecom literacy for low-income, minority and multilingual consumers and technical training of minority unemployed and underemployed workers in unserved or underserved areas.¹³⁹

(6) The creation of a broadband fund within the Federal Universal Service to allocate funds to states to issue grants for the construction of broadband facilities in unserved areas.

C. Questions Relating to Maximum Utilization of Broadband Services

The Commission also seeks suggestions on maximizing utilization of broadband services¹⁴⁰, identifying areas for which broadband deployment is critical including e-

¹³⁸ See MMTC Road Map at 7.

¹³⁹ To achieve these objectives, MMTC recommended the reinstatement of Telecommunications Opportunity Program ("TOP"), reinstatement of the FCC's Tax Certificate Policy, aggressive involvement of Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) and Native American Servicing Institutions (NASIs) in training and education. See MMTC Road Map at 8, 14-16.

¹⁴⁰ Who is (and is not) using broadband? See Notice at ¶53. How can the Commission factor in the broadband metrics study by the Government Accountability Office (GAO) that is

commerce¹⁴¹, employment¹⁴², public safety, education,¹⁴³ universal service,¹⁴⁴ and health care¹⁴⁵, and strategies to promote those critical objectives.¹⁴⁶ As stated, supra, these important questions

scheduled to be submitted to Congress by October 10, 2009? Additionally, should statistics relevant to this inquiry be collected by other governmental or non-governmental entities? E.g. are there appropriate quantifiable measures for the utilization of broadband in various aspects of American lives, such as home life, work, innovation, education, telecommuting, medical care, public safety and first response? How can the Commission monitor or measure affordability and maximum utilization of infrastructure, and how can it address any problems, including changes or additions to regulatory requirements that need to be made to better address affordability and maximum utilization? How can the Commission establish benchmarks or measure progress toward this goal? Are there existing data sources the Commission could draw upon, or are there specific data the Commission should collect itself? See Notice at ¶33.

¹⁴¹ How can improving the digital literacy skills of Americans create additional demand for broadband, thus more fully utilizing the broadband infrastructure? Along these lines, how does lack of a computer or other broadband access device affect broadband utilization and, if lack of broadband access device ownership is an obstacle to maximum utilization, how can that obstacle be reduced? Further, are there media literacy skills that could educate our children, e.g. to better understand and use all of the information available to them over this technology? How do content protections, like copyright, affect how broadband networks are deployed and used? How do such protections affect what individuals can do with broadband services and how should FCC consider these questions in the formulation of a national broadband plan? See Notice at ¶55.

¹⁴² How can the national broadband plan advance worker training? See Notice at ¶94. How can access to broadband be utilized by citizens; state, local, tribal, and federal governmental agencies; and educational institutions, among others, to enable worker training in preparation for employment, including when workers are laid off, between jobs, or preparing to re-enter the workforce after a number of years? Id. How can we work with the Department of Labor to maximize the positive impact that a national broadband plan would have on the Department of Labor's initiatives? Id.

¹⁴³ Questions included:

1) In recent years, broadband access has allowed schools, parents, teachers and students to communicate and share valuable information online. How many parents, teachers and students are missing out on these benefits because of a lack of computers, computer literacy, or access to broadband? What other barriers are there to bringing the benefits of broadband into the classroom, and what can be done about them? See Notice at ¶91.

2) Does the Commission need additional data on the broadband needs of schools and libraries or on the services currently being supported in order to best determine how E-rate would fit into a national plan? If so, how should these data be collected? See Notice at ¶92.

3) How should the Commission incorporate the analysis and recommendations of the Government Accountability Office regarding additional metrics for broadband cost, capability, deployment, and penetration? Are there other programs or policies adopted by other nations or

international organizations aimed at achieving affordability for broadband services that may be useful to the Commission in this proceeding? See Notice at ¶53.

4) How can broadband be used for developing local communities as proposed in the Recovery Act? How can broadband be used as a resource for economic development in communities across America? How could broadband be used to provide communities with local news and information? How can the universal service High-Cost, Low-Income, Rural Health Care, and Schools and Libraries programs be modified to encourage community broadband development? What other local social goals may be impacted positively by broadband, and how could broadband access be used to further those goals? See Notice at ¶80.

5) What role can broadband play in boosting the quality of American schools? Can the availability of broadband be used to encourage more technology partnerships between schools and businesses? In what ways does broadband access allow children and adults with disabilities to participate more fully in school and other educational activities? What is the role of this country's libraries in marshaling broadband access to advance education? See Notice at ¶89.

6) How can a broadband plan maximize the benefits that our nation can derive from distance learning? Are the potential benefits greater in, and should our attention be focused more on, any particular scholastic level, such as grade school, middle school, high school or college? Should resources be directed more toward institutions or student locations? Does the potential to take online courses and earn a degree from a remote location increase the chances that people will earn a degree? What are the benefits of teaching media literacy to students of all ages so they can better utilize the information they receive? See Notice at ¶90.

¹⁴⁴ What are the ways in which section 254 of the Act defines broadband-related terms in the context of universal service and how can the Commission relate these definitions and obligations to creation of the national broadband plan? E.g. the Commission is tasked with basing its universal service policies on, among other things, a policy that “[c]onsumers in all regions of the Nation . . . should have access to . . . advanced telecommunications and information services.” Section 254 of the Act also requires the Commission to “establish competitively neutral rules . . . to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries.” See Notice at ¶111. How can the E-Rate program fit into a national broadband plan? See Notice at ¶92.

¹⁴⁵ How can improved broadband infrastructure and services increase the quality of medical care available to unserved and underserved parts of the country through tele-health initiatives. E.g. how effective have existing efforts been and how can they be improved? To what extent would potential regulations impede or enhance development of a vibrant nationwide tele-health network? What effect would this network have on our economy and jobs? What are ways in which Rural Health Care Pilot Program projects are advancing implementation of a national interoperable health information technology infrastructure? What lessons can we learn from the pilot program? See Notice at ¶84.

¹⁴⁶ How should programs that address consumer training and education about broadband play a role in a national broadband plan? E.g. the Recovery Act directs NTIA to provide grants to “provide broadband education, awareness, training, access, equipment, and support to . . . organizations and agencies that provide outreach, access, equipment, and support services to

merit further exploration through the forum provided by the nationwide field hearings, since the merits turn on how citizens express their relative understanding of, needs for, and uses of broadband for a wide variety of purposes.

Respectfully submitted,

David Honig

David Honig
Executive Director
Nicolaine M. Lazarre
Counsel

Joseph S. Miller

Earle K. Moore Fellow

Joycelyn James

John W. Jones Fellow

Minority Media and Telecommunications
Council

3636 16th Street NW, Suite B-366

Washington, D.C. 20010

(202) 332-0500

dhonig@crosslink.net

Of Counsel:

Allen Hammond

Professor

Catherine J.K. Sandoval

Assistant Professor

Santa Clara University School of Law

Reviewers: P.J. Louis, Jacqueline Clary

June 8, 2009

Counsel for Broadband Diversity Supporters

facilitate greater use of broadband service by low-income, unemployed, aged, and otherwise vulnerable populations.” Are there ways to encourage maximum utilization of broadband infrastructure and services via the universal service programs, through federal, tribal, state, and local government initiatives, or through private and public/private initiatives? Are there specific communities that such policies should focus more heavily on, such as rural, low-income, tribal, insular, persons of color, senior citizens, or persons with disabilities? What opportunities are there to leverage federal, tribal, state, and local initiatives unrelated to broadband in an effort to increase broadband utilization? E.g. are there “smart housing” initiatives that promote the connection of broadband to affordable housing? See Notice at ¶56. To what extent should a centralized clearinghouse for outreach and computer and broadband training initiatives be a component of the national broadband plan? What can the Commission learn from prior outreach campaigns for the execution of its broadband utilization plans? See Notice at ¶57. What specific steps should federal departments, agencies, and others take to cooperate with each other? How, in particular, can the heads of broadband-related programs ensure that the programs are consistent with each other? What other ways are there that government at all levels can utilize broadband capabilities for coordination and service provision? See Notice at ¶113. Are there “best practices” models that we should be aware of while crafting the national broadband plan? See Notice at ¶114.

APPENDIX A

BROADBAND DIVERSITY SUPPORTERS

Organizations and Nonprofit Corporations:

1. American Indians in Film and Television
2. Asian American Justice Center
3. Black College Communication Association
4. Black Entertainment and Sports Lawyers Association
5. Black Leadership Forum, Inc.
6. Hispanic Institute
7. Hispanic Technology and Telecommunications Partnership
8. Joint Center for Political and Economic Studies
9. Independent Spanish Broadcasters Association
10. International Black Broadcasters Association, Inc.
11. International Business Kids Foundation
12. Latinos in Information Sciences and Technology Association
13. Latino Public Broadcasting
14. Lawyers' Committee for Civil Rights Under Law
15. League of United Latin American Citizens
16. Minority Media and Telecommunications Council
17. National Association for the Advancement of Colored People
18. National Association of Black Telecommunications Professionals
19. National Association of Hispanic Journalists
20. National Association of Investment Companies
21. National Association of Neighborhoods
22. National Bar Association
23. National Conference of Black Mayors
24. National Congress of Black Women, Inc.
25. National Council of La Raza
26. National Indian Telecommunications Institute
27. National Urban League
28. One Economy Corp.
29. Organization of Chinese Americans
30. Rainbow PUSH Coalition
31. UNITY: Journalists of Color, Inc.

MBEs and SDBs:

1. AlphaStar America, Inc.
2. Applied Wireless Local Area Network, Inc.
3. Council Tree Communications, Inc.
4. Digital Coast Advisors

(continued)

MBEs and SDBs (continued)

5. Eezinet Corporation
6. iClick2 Media
7. Litera Corp.
8. Massachusetts Local Telephone Company, Inc.
9. M2Z Networks
10. Neatt Wireless, LLC
11. Ronson Network Services Corp.
12. ThinkSmartNow
13. Wilco Electronic Systems, Inc.

Descriptions of the Broadband Diversity Supporters

Organizations and Nonprofit Corporations:

American Indians in Film and Television is devoted to promoting broadband to the grossly underserved communities on Indian reservations.

The **Asian American Justice Center (AAJC)** works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education and litigation.

The **Black College Communication Association (BCCA)** is comprised of faculty, administrators and publications advisers at Historically Black Colleges and Universities (HBCUs) who work to identify resources necessary for strengthening communications programs at HBCUs.

The **Black Entertainment and Sports Lawyers Association (BESLA)** is an international organization of lawyers and other entertainment and sports industry executives that supports a more diversified, expert and informed group of entertainment and sports industry professionals.

The **Black Leadership Forum, Inc.**, comprised of the nation's leading African American organizations, links leadership to legislation.

The **Hispanic Institute** is a Washington DC based nonprofit organization that provides an effective education forum for an informed and empowered Hispanic America.

The **Hispanic Technology and Telecommunications Partnership (HTTP)** is a coalition of twenty national and regional U.S. Hispanic organizations that works to increase awareness of the impact of technology and telecommunications policy on the Hispanic community.

The **Joint Center for Political and Economic Studies** is one of the nation's leading research and public policy organizations, and the only one that focuses primarily on the concerns of African Americans and other people of color.

The **Independent Spanish Broadcasters Association** (ISBA) is an association of Hispanic-owned broadcasters that is a participant in FCC proceedings aimed at promoting minority ownership and employment in the media.

The **International Black Broadcasters Association, Inc.** (IBBA) is a network of radio, television, and record executives that brings decision-makers and trendsetters together to exchange powerful information and ideas necessary for future growth.

The **International Business Kids Foundation** teaches financial literacy and entrepreneurship to children and youth with in-school, after-school and summer camp training components.

The **Latinos in Information Sciences and Technology Association** (LISTA) has offered workshops on computers, software and Internet use, English as a Second Language and after-school activities to 250 clients, and has helped more than 1,500 households in applying for their DTV converter box coupons.

Latino Public Broadcasting supports the creation of non-commercial television programming that is representative of Latino people, or addresses issues of interest to Latino Americans.

The **Lawyers' Committee for Civil Rights Under Law**, a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy, leverages the skills and resources of the bar to obtain equal opportunity for minorities by addressing factors that contribute to racial justice and economic opportunity.

The **League of United Latin American Citizens** (LULAC) is the largest and oldest Hispanic organization in the United States, with a mission to advance the education, employment, housing and civil rights of Latinos.

The **Minority Media and Telecommunications Council** (MMTC) is the nation's principal advocate for diversity in the media and telecommunications industries.

The **National Association for the Advancement of Colored People** (NAACP) works to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination.

The **National Association of Black Telecommunications Professionals** (NABTP) provides venues for positive professional dialogue, leadership development and collaboration with stakeholders who have the desire to translate good public policy into opportunities for all communities.

The **National Association of Hispanic Journalists** (NAHJ) is dedicated to increasing the number and enhancing the professional development of Hispanics in the news industry, and advocating for improved coverage of the Latino community by the news media.

Founded in 1971, the **National Association of Investment Companies (NAIC)** is the trade association for funds that invest in the emerging domestic market, including women and minority owned businesses as well as businesses in underserved communities.

The **National Association of Neighborhoods**, one of America's largest and oldest grassroots multi-issue membership organizations, focuses on bringing together its 2,500 members to improve the quality of life in the nation's most important communities - its neighborhoods.

The **National Bar Association**, founded in 1925, is the oldest and largest national association of African American lawyers and judges.

The **National Conference of Black Mayors (NCBM)** represents more than 650 African American Mayors across the United States; collectively its membership represents over 48 million citizens. NCBM is a leader in the redevelopment of our most vulnerable communities and works toward the empowerment of leadership.

The **National Congress of Black Women, Inc.** is a non-profit organization organized to provide activities for lifting the horizons of young people by providing them with mentors and positive role models, introducing them to traditional and non-traditional professions, and teaching them life skills.

The **National Council of La Raza (NCLR)** is the largest national Hispanic civil rights and advocacy organization in the United States.

The principal mission of the **National Indian Telecommunications Institute (NITI)** is to deploy broadband to rural Native Americans.

The mission of the **National Urban League** is to enable African Americans to secure economic self-reliance, parity, power and civil rights.

One Economy Corp. is a global nonprofit organization that uses innovative approaches to deliver the power of technology and information to low-income people, giving them valuable tools for building better lives. It helps bring broadband into the homes of low-income people and employs youth to train their community members to use technology effectively.

The **Organization of Chinese Americans**, with over 80 chapters and college affiliates, is dedicated to advancing the social, political, and economic well being of Asian Pacific Americans in the United States.

The **Rainbow PUSH Coalition** is a progressive organization protecting, defending and expanding civil rights to improve economic and educational opportunity.

UNITY: Journalists of Color, Inc. is a strategic alliance of the Asian American Journalists Association, National Association of Black Journalists, National Association of Hispanic Journalists and the Native American Journalists Association, together with an outreach to nearly 10,000 journalists advocating for fair news coverage about people of color, and challenging news organizations to reflect the nation's diversity at all levels.

MBEs and SDBs:

AlphaStar America, Inc. is an FCC licensed domestic fixed satellite company authorized to uplink and downlink in the Ku-band, and downlink in C-band. The company was one of the few original direct-to-home satellite services to serve rural parts of America, including Alaska, Hawaii and Puerto Rico. AlphaStar is preparing to launch a hybrid satellite/terrestrial broadband wireless service aimed at the unserved areas of the country.

Applied Wireless Local Area Network, Inc. (AWLAN) is an information technology company with a focus on research and development (R&D), design, installation, and maintenance of medium/large scale wireless local area networks - Wi-Fi hotspots, WiMax, and municipal wireless.

Council Tree Communications, Inc. invests private equity in communications businesses that have meaningful sponsorship from members of minority groups or have business plans offering services tailored to the interests and needs of minority communities.

Digital Coast Advisors is an internationally recognized business accelerator that helps emerging companies by establishing strategic partnerships and securing capital investments.

The **Eezinet Corporation** is a start-up wireless communications service provider that has acquired PCS broadband spectrum in six underserved rural markets: Bend, OR; Boise/Nampa, ID; Scottsbluff, NE; Grand Island/Kearney, NE; Oklahoma City, OK; and Greenwood, SC.

iClick2 Media is a small African-American owned media production and distribution company that specializes in making content available on various digital formats and mediums. iClick2Media is prepared to address underserved low income households in Oakland, California and other parts of the country.

Litera Corp. is a technology leader in document change management and collaboration.

Massachusetts Local Telephone Company, Inc. is a provider of ULEC services, including wireline and wireless, in Boston.

M2Z Networks is a Silicon Valley venture backed broadband wireless company with significant minority ownership and management that is planning to provide an innovative and free nationwide broadband service throughout the United States.

Neatt Wireless, LLC is an African American owned, managed, controlled and operated facilities-based wireless telecommunications company with spectrum licenses covering twenty-five urban and rural counties in northeastern Arkansas.

Ronson Network Services Corp. is a certified small minority-owned business that provides facility engineering, installation, surveys and studies to the telecommunication companies and government entities, and consulting services to emerging technology companies.

ThinkSmartNow is a minority, woman and veteran owned business providing systems engineering, network architecture, ANSI/ISO security integration services to the commercial market and government industries within the Department of Defense (DoD), Intelligence Community (IC) and the National Security Agency (NSA).

Wilco Electronic Systems, Inc. is a minority and family-owned Private Cable Operator in Philadelphia, Pennsylvania, where it serves as a Multiple Dwelling Unit telecommunication services provider and a cable service provider, and community cable channel owner and operator for low income residential communities.

* * * * *