

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
PROVIDING ELIGIBLE ENTITIES	)	WC Docket No. 07-38
ACCESS TO AGGREGATE FORM 477	)	GN Docket No. 09-47
DATA AS REQUIRED BY THE	)	GN Docket No. 09-51
BROADBAND DATA	)	
IMPROVEMENT ACT	)	

**COMMENTS OF  
PUBLIC KNOWLEDGE, MEDIA ACCESS PROJECT,  
AND THE NEW AMERICA FOUNDATION**

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PUBLIC KNOWLEDGE, MEDIA ACCESS PROJECT,  
AND THE NEW AMERICA FOUNDATION**

Public Knowledge (PK), the Media Access Project (MAP), and the New America Foundation (NAF) (collectively *PK, et al.*) submit the following comments in the above captioned proceeding.

Broad public access to Form 477 data is essential for making informed broadband infrastructure choices, in the same way that access to education and information is essential to making a democracy work. Using Form 477 data, stakeholders including concerned individuals, academics, and broadband providers will be able to perform the analysis necessary to make informed decisions about broadband access and how to efficiently allocate their resources. Disseminating this data will therefore encourage broadband deployment, particularly in unserved and underserved areas, by allowing broadband providers to effectively, efficiently, and competitively build out the nation's broadband infrastructure.

**ARGUMENT**

**I. THE COMMISSION SHOULD PROVIDE ALL OF THE INFORMATION IN FORM 477 TO “ELIGIBLE ENTITIES” AND TO THE PUBLIC**

**A. Public Policy Favors the Broadest Disclosure to Eligible Entities and the Public**

It is critical that our national broadband policy be driven by reliable, complete data and that that data be made available in an open manner. Our national broadband policy is shaped by informed opinions and analysis from many diverse stakeholders, including social science researchers, academics, state and local officials, and community stakeholders and advocates. These parties require the maximum amount of reliable data in order to provide opinions and analysis. Releasing more data to these stakeholders will make their analysis more accurate and

reliable, ultimately resulting in an effective use of resources and an efficient market. Conversely, withholding available information from these parties will result in wasted resources and inefficiency. Public policy therefore requires the maximum dissemination of reliable information to inform the debate.

Limiting access to data results in limited options and suboptimal decision-making. New business entrants cannot even attempt to provide broadband access to underserved markets if they cannot identify those markets, and will not if they are unable to make informed decisions about the customers in those markets. An academic cannot publish a study on rural communities that need access if she cannot gain access to the data she needs to perform the study. Individuals cannot effectively lobby their local government to take action on broadband access if they are unable to compare their city's quality of broadband access with that of other cities. In order for a national broadband plan to be effective, all stakeholders at all levels must be provided with an opportunity to analyze the collected data. Without such broad access for both competitors and the public, stakeholders will be prevented from making informed, rational decisions.

Broad, standardized disclosure of data also protects competition in the marketplace. Requiring an equal level of standardized disclosure from all industry participants minimizes competitive harm by putting all participants on equal footing. As long as data is confined to a single entity or cartel of such entities, potential competitors will be unable to find new customers. Transparency will enhance competition and encourage market efficiencies to emerge, by giving all competitors an equal opportunity to determine which markets provide them with the best opportunities.

**B. Form 477 Information Is Already "Aggregate Information" under Sec. 106(h)(1)**

Existing regulations require disclosure of data by census tract, which already represents an aggregation of addresses and data. The recent NOFA on mapping and the BTOP and BIP applications require information on the far more granular census *block* level, supporting the argument that information aggregated by census tract should be considered "aggregate." These regulations were designed to protect individual interest while also providing useful information to the public. NTIA has previously determined that non-carrier applicants have access to census block information. It therefore follows that census tract information is obtainable through sufficient investigation. Accordingly, census tract information has already protected the information of providers through aggregation.

**C. The Commission Should Provide The Same Level Of Information With Regard To Availability On A Census Tract Level To The Public**

The Commission now asks if it should make this information available to the public on a more granular level than it does in its current reports. For the reasons set forth in A & B above, the answer is yes, and the appropriate level of granularity is the census tract level required in Sec. 477. Any other policy would be inconsistent with the NTIA determination that Applicants (*i.e.*, any interested party) can -- with sufficient investigation and diligence -- determine whether a census *block* is unserved or underserved. If such information is already publicly discoverable at the census block level, information at the census *tract* level cannot reasonably be considered proprietary or a trade secret. Actual and potential competitors are in a far more privileged position to discover this information than generic BTOP or BIP applicants. If it is reasonable to expect BTOP and BIP applicants to produce census block data, then it must be assumed that competitors already have census block data. As such, the release of census track data can do no competitive harm.

Further, as noted in Part A, to the extent that the potential for competitive harm exists, it is mitigated by the requirement of full disclosure, which must be met by all providers, and is outweighed by the broader public interest concerns.

## CONCLUSION

In order for the national broadband plan to be effective, we must share as much data as possible with both eligible entities and the public as a whole. Sharing aggregated data will ensure that all stakeholders can contribute to the process of building our national broadband infrastructure. Broad public access to the form 477 data in its current, aggregated state will provide a level playing field where all competitors in the market can make informed decisions on how best to allocate resources in order to efficiently build out our nations broadband infrastructure.

Respectfully submitted,

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