

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

In the Matter of)	
)	
Development of Nationwide Broadband Data to)	
Evaluate Reasonable and Timely Deployment of)	
Advanced Services to All Americans,)	WC Docket No. 07-38
Improvement of Wireless Broadband)	
Subscribership Data, and Development of Data on)	
Interconnected Voice over Internet Protocol)	
(VoIP) Subscribership)	
)	
International Comparison and Consumer)	
Survey Requirements in the Broadband)	GN Docket No. 09-47
Data Improvement Act)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	

COMMENTS OF FREE PRESS

Ben Scott, Policy Director
Free Press
501 Third Street, NW, Suite 875
Washington, DC 20001
202-265-1490

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A. INTRODUCTION

The Commission seeks comment on “how to interpret and implement sections 106(h)(1) and 106(h)(2) of the Broadband Data Improvement Act (BDIA).”¹ The BDIA, in part, directs the National Telecommunications and Information Administration (NTIA) to establish a state level grant program with the goal of improving access to broadband and technology. To achieve this goal, one designated entity in each state will receive funding to collect data² and establish community planning and demand stimulation programs.³

The BDIA recognizes that the Commission already, or will in the future, collect data similar to that detailed in the Act. And therefore, in order to maximize the use of public funds and avoid needless duplication of data collection, section 106(h)(1) of the BDIA directs the Commission “to provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.”⁴ How exactly the Commission should go about sharing this data is the subject of the instant proceeding. But as much as the Commission should be asking “how” to share Form 477 data, it needs to ask “what” data it should be sharing, and whether or not it actually is collecting the right kind of data needed to ensure the success of the BDIA.

With access to Form 477 broadband data, state designated entities will be able to devote their limited financial resources to other purposes encompassed in the BDIA, including

¹ “Comment Sought on Providing Eligible Entities Access to Aggregate Form 477 Data as Required by the Broadband Data Improvement Act,” WC Docket No. 07-38; GN Docket Nos. 09-47, 09-51, Public Notice, 74 FR 36446 (2009) (*BDIA 477 Public Notice*). The BDIA became law on October 10, 2008. *See* Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4097 (codified at 47 U.S.C. §§ 1301-04).

² BDIA at § 106(e)(1)-(4), (8), (10).

³ BDIA at § 106(e)(5)-(7), (9).

⁴ BDIA at § 106(h)(1).

“programs to improve computer ownership and Internet access for unserved areas”.⁵ However, these efficiencies can only be realized if the FCC can provide state designated entities with the *right* kind of broadband data -- granular data on broadband deployment and availability. Unfortunately, the FCC does not currently collect such data. But if it acts with haste to conclude the 2008 Expedited Form 477 Data Collection proceeding⁶, the Commission can collect detailed availability data in a time frame that will satisfy the constraints of the BDIA -- thereby ensuring that scarce taxpayer dollars are not wasted on duplicative data collection efforts.

The BDIA also places a limitation on eligible entities, which prevents the public release of information that is “privileged or confidential”.⁷ The public availability of broadband data is critical to other federal, state and local broadband policymaking activities. BDIA grantees are required to submit “relevant information” to the NTIA for publication on centralized web page in order to ensure it is “made available to the public.” However, comprehensive nationwide information will not be available for some time, and even then, significant questions remain as to the consistency of data collected across 50 different states, as well as the accuracy and verifiability of the information. This web of complexity need not exist. The Commission, as the expert agency, with a decade of broadband data collection experience, should take the opportunity afforded to it under the BDIA to assume the role of central data collector and distributor.

⁵ BDIA at §106(e)(7).

⁶ See *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriberhip*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691 (2008) at para. 35 (*Broadband Data Order*).

⁷ BDIA at §106(h)(2).

In these comments, we begin by discussing the importance of Form 477 data to national policy goals, and discuss ways that the Commission can ensure the overall purposes of the BDIA are efficiently achieved. After this identification of the specific types of Form 477 data that are or could be relevant to the BDIA, we then proceed to discuss how the Commission should aggregate this data, and why it should strive for maximum public disclosure.

B. DISCUSSION

A. The Central Importance of Form 477 to the Broadband Data Improvement Act and Other Federal Broadband Goals

i. Congress Intended for FCC Form 477 Data to Serve as the Foundation for State-led Data Collection Efforts under the BDIA

The Commission's June 2008 decision to revamp the subscribership data collected on Form 477 information was long overdue. The data collected under the new reporting system will enable policymakers and researchers to develop an empirically based, deep understanding of the factors influencing deployment and adoption of broadband technologies in the American marketplace. However, the FCC left the job only half finished. We have on numerous occasions pleaded with the Commission to complete its Form 477 reform efforts, noting the critical importance of this data -- not only to its own ongoing policymaking activities, but also to efforts underway at the NTIA and RUS.⁸ The NTIA's recent publication of its *Notice of Funding*

⁸ See e.g. Ex Parte Letters of Free Press, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, filed on Sept. 16, 2008; Sept. 19, 2008; Nov. 17, 2008; Dec. 3, 2008; Feb. 3, 2009; Feb. 6, 2009; March 6, 2009; See also e.g. Free Press Opposition to Requests for Extension of Time, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, (2009); Comments of Free Press, In the Matter of *Comment Procedures Established Regarding the Commission's Consultative Role in the*

Availability under the BDIA has served to highlight the paramount need for the Commission to address these lingering data issues immediately.⁹

The BDIA and the Commission's efforts to reform Form 477 were born out of near universal dissatisfaction with the FCC's broadband data collection practices.¹⁰ Congress was aware of the Commission's ongoing reform efforts, and included Section 106(h) in the BDIA to

Broadband Provisions of the Recovery Act, GN Docket No. 09-40, at pp. 4-5, 7-8 (April 13, 2009); Comments of Free Press, In the Matter of *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, at pp. 270-304 (2009) (*National Broadband Plan Comments of Free Press*); Ex Parte of Free Press, In the Matters of *Comment Procedures Established Regarding the Commission's Consultative Role in the Broadband Provisions of the Recovery Act, A National Broadband Plan for Our Future, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriberhip*, GN Docket No. 09-40, 09-51, WC Docket No. 07-38 (July 8, 2009) (*FCC Data Ex Parte*). See also Comments of Free Press, In the Matters of *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriberhip*, WC Docket Nos. 08-190, 07-38, Memorandum Opinion and Order and Notice of Proposed Rulemaking (2008) (*ARMIS Comments of Free Press*); Reply Comments of Free Press, In the Matters of *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriberhip*, WC Docket Nos. 08-190, 07-38, Memorandum Opinion and Order and Notice of Proposed Rulemaking (2008) (*ARMIS Reply Comments of Free Press*).

⁹ See Notice of Funds Availability (Notice) and Solicitation of Applications, Department of Commerce, National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, 74 FR 32545 (2009) (*Broadband Mapping NOFA*).

¹⁰ Congress began examining the need for better broadband data at nearly the same time as the Commission opened a proceeding into the need to overhaul Form 477. See e.g. Hearing on H.R.____, a Discussion Draft Addressing Broadband Mapping and Data Collection, House Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, May 17, 2007. The Commission's NPRM on Form 477 reform was adopted on February 26, 2007. See "FCC Begins Inquiries on Broadband Data and Deployment", FCC News Release, April 16, 2007. The Broadband Data Order was released on June 12, 2008 and the BDIA was signed into law on Oct. 10, 2008.

ensure any data collected by the Commission could be used by state entities.¹¹ The findings of the BDIA state that “[t]he Federal Government should also recognize and encourage *complementary* State efforts to improve the quality and usefulness of broadband data”.¹² It is clear from the language of the BDIA itself, as well as the legislative debate leading up to its passage, that eligible entities operating under BDIA grants were meant to complement, not replicate, Commission collection efforts.¹³ The rationale all along has been that with Commission cooperation¹⁴, BDIA eligible entities can focus their efforts on collecting a variety of other broadband metrics that go beyond availability and subscribership data.¹⁵

The BDIA gives the responsibility for building broadband availability maps to the states, but it clearly envisions that the basic underlying data for these maps will come from the Commission. One of the goals of the BDIA is the production of a nationwide broadband availability map, information that is to be used to aid both federal policymaking as well as local

¹¹ The Senate Report accompanying the bill notes the Commission’s 2007 NPRM but concludes “It is unclear when the Commission may act on these matters.” Senate Report 110-204.

¹² BDIA at § 102(4) (emphasis added).

¹³ Indeed, in releasing the details of the BDIA grant program, the NTIA specifically required semi-annual data updates for the same periods as the Commission, “so as to *coincide* with the Federal Communications Commission’s Form 477 data collections.” See *Broadband Mapping NOFA* (emphasis added).

¹⁴ During the Commission’s expedited comment period in July of 2008, state entities noted that Commission collection would permit states “to map other state resources along with broadband availability in order to support specific state initiatives”, in addition to enabling states to “add layers of data of particular interest to state policymakers.” See Further Expedited Comments of Maine Public Utilities Commission and the Connect Maine Authority, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Further Notice of Proposed Rulemaking, at p. 2 (2008).

¹⁵ See e.g. BDIA at § 106(e)(8). See also Ex Parte of New America Foundation, *Report on Rural Broadband Strategy*, GN Docket No. 09-29, pp. 2-3 (March 25, 2009).

on-the-ground efforts to stimulate broadband deployment. The only way this will be workable is if the basic underlying availability data is highly accurate, and comparable across all 50 states. Disparate collection methodologies, executed by different organizations (some better equipped to handle strict timelines than others) will render state-by-state comparisons meaningless. In fact, several state commissions expressly cited this concern, and urged the Commission to perform this collection, not states.¹⁶ Collection of availability data is best left to a uniform nationwide effort. The Commission's Form 477 is just that. As the California Public Utility Commission stated:

While California has engaged in its own data gathering and is creating its own broadband maps...the FCC's broadband data gathering and national mapping will play a valuable role in ensuring that information regarding broadband services is collected, and maintained on a consistent nationwide basis.¹⁷

State entities operating under the BDIA can certainly add to the Commission's data, but we believe the initial collection of common broadband metrics is best done in a standardized way at the federal level -- a belief we feel is shared by Congress and embodied in the BDIA. This is not to suggest that state entities have no role in collecting broadband data -- just that their intended role under the BDIA is to collect information that is not easily reported to the FCC through Form 477.¹⁸ Furthermore, unlike state designated entities, the Commission has the ability to compel reporting from providers to create a semi-annual, un-proprietary, verified and

¹⁶ "From the CPUC's perspective, one of the main benefits of a national broadband mapping program would be to provide the uniformity necessary for making state-to-state comparisons." See Further Expedited Comments of California Public Utility Commission, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriberhip*, WC Docket No. 07-38, Further Notice of Proposed Rulemaking, at p. 3.

¹⁷ *Ibid.* at 2.

¹⁸ Indeed, this sharing role is reciprocal, as the NTIA intends to share the data collected by state entities with the Commission. See *Broadband Mapping NOFA* at I(C).

audited dataset.¹⁹ In fact, in implementing the BDIA, the NTIA ultimately relies on the Commission to “exercise its authority to compel data production from any broadband service provider” when “awardees are unwilling or unable”.²⁰

The carrier’s initial responses to the NTIA’s Broadband Mapping NOFA seem to indicate that the Commission will indeed be asked to provide data that state-designated entities will not be able to collect.²¹ This early pushback illustrates the considerable difficulties that state designated entities will certainly face as they work to fulfill the requirements of the Broadband Mapping NOFA. Given that providers have been reluctant to provide the Commission with data, it is almost certain that an entity without the ability to compel reporting will face serious hurdles. To get around these hurdles, state designated entities may be forced to rely on so-called “data scrapes” of carrier Web sites. Availability data produced by such measures, while useful, are inherently inaccurate and incomplete when compared to data collected via Form 477.²²

¹⁹ The submission of Form 477 requires an officer of the company to sign a certification statement on the accuracy of the information contained within the form under penalty of “fine or imprisonment.” See “Instructions for Local Telephone Competition and Broadband Reporting Form (FCC Form 477),” FCC, Section IV(C), available at <http://www.fcc.gov/form477/inst.htm>.

²⁰ *Broadband Mapping NOFA* at M.

²¹ On July 29th 2009 representatives from NCTA, CTIA, USTelecom, the Independent Telephone and Telecommunications Alliance, and COMPTTEL met with Assistant Secretary for Communications and Information, Lawrence Strickling to convey their displeasure with the Mapping NOFA, indicating their unwillingness to produce such data on a voluntary basis. See Fawn Johnson, “Telecom Groups Protest US Commerce Dept Internet Data Requests”, *Dow Jones Newswires*, July 30, 2009.

²² A variety of firms are offering BTOP applicants the ability to receive a map down to the “census block level”. See e.g. Brian Webster Consulting, “Mapping and Demographic Support Services for NTIA BTOP and RUS BIP Grant-Loan Applications,” Press Release, July 15, 2009; Aspen Wireless Networks and PNWISE, “Four State Broadband Co-Op Engages Aspen Wireless Networks for Grant Preparation, Broadband Mapping and Consulting Services for Oregon, Washington, Idaho and Western Montana,” Press Release, July 15, 2009. Furthermore, the State of New York appears to have already employed this method for the map recently created through the Governor’s office. See e.g. Comments of New York Public Service Commission, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, at p. 14 (2009) (*NYPSC Comments*).

Furthermore, state designated entities that use data collected in this manner will likely look to FCC data for verification.²³

ii. The Success of the BDIA is Directly Dependent Upon the Commission Immediately Completing the Open Proceeding on Form 477 Availability Data

Since the Commission's release of the *2008 Broadband Data Order*, we have repeatedly urged the Commission to complete the open proceeding.²⁴ In June 2008 the Commission created an expedited comment cycle to resolve the specific issue of collecting broadband availability data in Form 477, promising to "issue a responsive Order within 4 months."²⁵ The tentative conclusion of that FNPRM was that availability data at the street level should be collected as a part of Form 477. However, the expedited deadline came and went in the fall of 2008.²⁶ That slippage is a big missed opportunity, as we believe that the Commission could have moved swiftly and ensured that availability data was collected during 2009.²⁷ The Commission has built an extensive record on this issue over the course of more than two years, and the docket remains low-hanging fruit for important broadband policy making.

Continued FCC inaction on this long-overdue proceeding will soon run into significant and costly consequences in the context of the NTIA's NOFA for the State Broadband Data and

²³ See e.g. NYPSA Comments at 14 ("we will be able to compare our results with the data reported on Form 477 to "ground truth" our results and determine if the methods we are using are systematically under or over - estimating the availability of broadband services").

²⁴ See e.g. FCC Data Ex Parte at 3.

²⁵ *Broadband Data Order* at para. 35.

²⁶ Similarly, the Commission's tentative conclusions regarding the collection of speed and price information (which were not part of the expedited portion of the docket) have also not been acted on.

²⁷ Expedited Reply Comments of Free Press et al., *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriber Data*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, at p. 24 (2008).

Development Grant program.²⁸ Put another way, the FCC is now presented with an opportunity to accomplish its own long-standing goals as well as maximize the efficient use of Recovery Act funds. The NTIA's \$350 million grant program, as outlined in the NOFA, seeks to provide resources to states to conduct extensive broadband data collection and mapping at a granular level. The central purpose is to identify the availability of broadband across each state at the street level -- address by address. There are a variety of other extensive data requests built into the NOFA for applicants to undertake, but the centerpiece is availability data for residential broadband service. This data set -- for which the NTIA is preparing to spend the better part of \$350 million to collect through 50 state grants -- is virtually identical to the data set the Commission tentatively concluded to collect federally in the expedited Further Notice of Proposed Rule-Making slated for a decision a year ago.

We presume that the Commission will at some point choose to return to this expedited docket and take up the matter of new changes to Form 477 to collect availability data. If the Commission intends to eventually do this, then it should proceed *immediately*. If the Commission continues to delay, it creates the strong likelihood that NTIA will spend hundreds of millions of taxpayer dollars on data collection at the state level that will subsequently be duplicated and superseded by a single superior data set collected federally by the FCC through revisions to Form 477.

Moreover, as discussed above, the FCC is in a better position and is a better public policy agent to collect this baseline availability data than any applicant to the NTIA's grant program. The FCC has the legal authority to compel this data from the carriers. The grant applicants will not. Indeed, the NTIA implicitly recognizes this situation. The NOFA designates that the in the

²⁸ *Supra* note 9.

event that a grant recipient is unable or unwilling to collect a piece of required data, the FCC will be tasked with the job. The NOFA states: “Insofar as awardees are unwilling or unable to obtain requested data, NTIA reserves the right to request that the FCC exercise its authority to compel data production from any broadband service provider subject to its jurisdiction.”²⁹

The FCC also has the virtue of permanent oversight and data collection systems. By contrast, grant recipients are required by the NOFA to submit plans for the ongoing collection of this data at the state level for five years. That data collection system could be reasonably expected to end with the exhaustion of stimulus dollars. Moreover, the five-year timetable also increases the likelihood of federal duplication. Given that availability data was placed in an expedited proceeding by the FCC in 2008, it seems reasonable to expect the FCC to act within that period. If the Commission is likely to do this sometime in the next five years, it would be wise to act now and permit NTIA to direct those resources into other components of its data collection and mapping program -- such as ensuring low-income children have access to computers.

If the FCC were to indicate immediately that the agency intends to move forward with *some version* of its tentative conclusion from the expedited portion of its 2008 *Further Notice* on availability data, it would kill two birds with one stone. First, it would set in motion good public policy -- the collection of broadband availability data at the federal level using national standards and a system of Form 477 reporting that is well known to the carriers. Second, it would permit the NTIA to adjust the allocation of its grantees’ spending to focus resources on other elements of the grant program to maximize efficiency and minimize duplication.

²⁹ See *Broadband Mapping NOFA*, at M,

The NTIA's Broadband Mapping NOFA specifically anticipates, and plans for this exact situation. During the review of the grant applications, program staff are instructed to consider "the extent to which an application complements or duplicates projects previously funded or under consideration by the NTIA or other federal programs."³⁰ A finding of duplication in such a case permits the program staff to contact applicants and recommend adjustments to applications to refocus spending so as to avoid waste. This fail-safe measure was a very wise addition to the terms of the NOFA, as it allows the NTIA to maximize the efficiency of its resources in coordination with other agencies.

In addition to the collection of a federal baseline of availability data, the FCC should strongly consider acting as a data verification source for all other data collected by the NTIA grantees. Although the NTIA has admirably built quality control and verification measures into the NOFA, there is a strong need to conduct quality control and standardization on the 50 different data sets that will be submitted to the federal government. The timetable for data collection is very accelerated and there is a danger that address-by-address databases will be produced through inaccurate methods such as Web site scrapes. To meet the NOFA's very accelerated timetable, some grantees may simply purchase data from the numerous vendors claiming to offer such information -- information that is opaque as to how it was collected and produced. There is a real danger that if the FCC does not move to collect baseline availability data federally and put in place a system for strict enforcement of quality control measures, both the FCC and the NTIA will be inviting submissions of inaccurate data sets that will subsequently carry the validation of an official NTIA program data. *This could corrupt policymaking in broadband for many years.*

³⁰ *Broadband Mapping NOFA*, p. 32548.

As we detailed in our comments in the *National Broadband Plan NOI*, we recommend that the Commission complete the expedited Form 477 *Further Notice* by ordering the reporting of availability data at the Census Block level (or at the very least, the Census Block Group level, though that has substantial problems as discussed further below), rather than address-by-address.³¹ We propose that the Commission require each provider to report the Census Blocks in which they offer service, for each technology offered, by speed tier. Thus, for each technology offered, providers will simply report a list of the individual Census Blocks where they offer service, similar to how they currently report ZIP codes on Form 477.³² To avoid reporting complexities, we propose that if a provider's service area encompasses all or part of a Census Block, it would report the identification number of that Block. If the provider's service area does not encompass any portion of a Census Block, the provider would not report any information for that Block.

Though we are certainly supportive of the general idea of collecting the most granular information possible (i.e. address-by-address), the record in this proceeding³³, and our discussions with stakeholders gives us the impression that such data would likely be error-ridden and incomplete. According to several carriers, the methods of estimating address-by-address

³¹ See *National Broadband Comments of Free Press*, at pp. 276-281.

³² With one critical difference: the Census Block reporting will be based on the actual service territory, while the ZIP code method is based on the threshold of a single subscriber reporting service in a ZIP code, which could be a subscribers billing and not premise address and thus have no connection to the geographic location where the service is deployed.

³³ See e.g. Expedited Comments of AT&T, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, July 16, 2008.

availability are imprecise and difficult to standardize across multiple carriers.³⁴ Furthermore, from an analytical standpoint, Census Blocks offer a constant, unchanging metric, while addresses are constantly changing.³⁵

Collection of availability data at the Census Block level will not suffer from these shortcomings. Nor will it be administratively overly burdensome for carriers. For example, carriers will likely overlay their pre-defined (and often non-public) service area maps on top of a Census map to generate the block numbers where service is available in part or all of each respective Block. This exercise is not trivial, but it is one that becomes easier with time (once service areas are defined by Census Blocks, future reporting only involves identifying new Blocks where service was subsequently deployed, or removing Blocks where service was discontinued).

We are well aware of carrier discomfort with reporting data at the Census Block level, due in part to the large number of Blocks (there are approximately 8 million Census Blocks in the U.S. and Puerto Rico). However, in rural counties as many as two-thirds of Blocks are unoccupied geographic areas, while in dense urban counties as many as one-quarter of blocks are unoccupied. This means nationwide, the number of occupied blocks is far fewer than the total number, perhaps less than 4 million. While this is a much larger number than the over 80,000 Census Tracts (or over 200,000 Census Block Groups), the amount of data entered for each

³⁴ For example, Comcast's database might indicate that they can or do serve "1234 Smith Ln." while AT&T's database might indicate that service is potentially available at "1234 Smith Lane". It is a non-trivial process to resolve such issues when considering the nearly 130 million residential housing units in the United States. Furthermore, the use of carrier billing address databases will not serve as a perfect proxy of availability in homes where broadband is deployed, but not subscribed to -- nearly 40 percent of all occupied U.S. housing units.

³⁵ Street names, ZIP codes and even address numbers are by no means stable, and new housing units are routinely built. Census Blocks (and other Census geographies) are fixed geographic boundaries that do not change over time.

Block will be far less than what is currently reported at the Census Tract level. And as noted above, the ongoing reporting burden is low. Furthermore, even if there are as many as 4 million occupied Census Blocks, this is still far lower than the nearly 130 million residential addresses in the U.S., and doesn't suffer from the inherent practical and methodological limitations associated with address databases.

Our recommendation to have availability data (broken down by technology and speed) collected at the Census Block level is one rooted in pragmatic considerations as well as a basic recognition of the core reasons for gathering availability data in the first place. In the 2008 *Report and Order* the Commission did make clear that ZIP codes as the basic unit of reporting geography (for subscribership data) “are less useful for [its] purposes” and that “census-based units provide more useful information for [its] policy purposes.”³⁶ We agree with the Commission's conclusion that the use of the Census Tracts is superior to the use of 5-digit ZIP codes as the geographic unit for the reporting of subscribership information. However, the central goal of the Commission's initial efforts to reform Form 477 was to improve upon the much-maligned ZIP code availability data -- data that now absurdly indicates that universal broadband deployment was achieved by June of 2008.³⁷ The only practical way to improve upon this obviously flawed availability metric, especially in rural areas, is for the Commission to make Census Blocks the geographic unit of reporting for availability data. Adopting a Tract availability-reporting requirement would actually compound the current problems endemic to the ZIP code methodology in rural areas. This is because Census Tracts in rural areas typically encompass much larger geographic areas than ZIP codes. For example, consider the rural state

³⁶ 2008 *Form 477 Report and Order and FNPRM*, para. 12.

³⁷ See “High-Speed Services for Internet Access as of June 30, 2008,” Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Table 5 (*June 2008 FCC Form 477 Data*).

of Montana (see Figure 1).³⁸ As Figure 1 shows, Census Tracts only offer an improvement over ZIP codes (approximated in this table by ZCTAs) in Montana's most populated county (results shown at the bottom for the District of Columbia indicate this is especially the case in more dense urban areas). As figure 1 indicates, in rural areas, Census Tracts and even Census Block Groups are much less precise than ZIP codes, encompassing larger geographic areas and populations. Thus, requiring reporting of availability information at the Census Tract level will lead to less detailed information concerning deployment in rural areas.

Put another way, if we as a nation wish to collect reasonably accurate data that identifies the unserved areas of the country, then Census Blocks *absolutely* have to be the measured geography. If the Commission chooses Tracts (or uses its current still unreleased Tract subscribership data as a proxy for availability), it will almost certainly result in data showing 100 percent availability. This overstatement of deployment is also likely if Census Block Groups are chosen (though it would be less than the level of overstatement resulting from the use of Tracts). And if the Commission chooses to move forward with its original tentative conclusion to collect address-by-address availability data, it will likely result in a database that is error-ridden and unreliable.

³⁸ A less detailed version of this figure appeared in our June 2009 Broadband NOI comments, as Figure 49. That figure contained two errors that are corrected here (formatting caused two number ranges to appear as "18-Jan" and "Jan-84").

**Figure 1: Census Tracts, Block Groups, Blocks and ZIP Codes:
Population Coverage and Geographic Area**

Geographic Unit	Yellowstone County, MT (most populated county in MT)					
	Number of Populated Geographic Units in County	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	15	63 - 44,391	8,623	129,352	160	15 - 511
Census Tracts	27	380 - 9,976	4,791	129,352	2.2	0.68 - 1,285
Census Block Groups	96	380 - 4,430	1,347	129,352	0.48	0.09 - 1,101
Census Blocks	2933	1 - 699	44	129,352	0.01	0.001 - 267

Geographic Unit	Big Horn County, MT (14th most populated county in MT, out of 56 total)					
	Number of Populated Geographic Units in County	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	10	96 - 4,726	1,267	12,671	480	41 - 841
Census Tracts	6	145 - 4,358	2,112	12,671	735	318 - 1,491
Census Block Groups	13	145 - 2,477	975	12,671	478	0.23 - 946
Census Blocks	694	1 - 213	18	12,671	0.25	0.001 - 226

Geographic Unit	Blaine County, MT (28th most populated county in MT, out of 56 total)					
	Number of Populated Geographic Units in County	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	7	40 - 2,595	1,001	7,009	613	28 - 1,531
Census Tracts	4	1,353 - 2,733	1,752	7,009	877	339 - 2,133
Census Block Groups	8	426 - 1,448	876	7,009	275	0.4 - 2,133
Census Blocks	510	1 - 466	14	7,009	0.46	0.001 - 178

Geographic Unit	Granite County, MT (42nd most populated county in MT, out of 56 total)					
	Number of Populated Geographic Units in County	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	3	211 - 1,533	943	2,830	234	97 - 866
Census Tracts	1	2,830	2,830	2,830	1,733	1,733
Census Block Groups	3	908 - 967	943	2,830	252	6 - 1,469
Census Blocks	243	1 - 84	12	2,830	0.14	0.001 - 152

Geographic Unit	Petroleum County, MT (least populated county in MT)					
	Number of Populated Geographic Units in County	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	1	493	493	493	1,654	1,654
Census Tracts	1	493	493	493	1,654	1,654
Census Block Groups	1	493	493	493	1,654	1,654
Census Blocks	111	1 - 18	4	493	0.89	0.001 - 146

Geographic Unit	District of Columbia					
	Number of Populated Geographic Units in DC	Population Range	Average Population	Total Population	Median Land Area Size (sqmi)	Land Area Range (sqmi)
ZIP Code Tabulation Areas (ZCTA)	25	57 - 57,444	22,882	572,059	2.5	0.1 - 6.1
Census Tracts	188	1 - 7,278	3,059	572,059	0.22	0.06 - 2.6
Census Block Groups	432	1 - 5,234	1,324	572,059	0.09	0.01 - 2.6
Census Blocks	4,323	1 - 4,557	132	572,059	0.006	0.001 - 0.82

Source: US Census Bureau, 2000 Census Data

The use of Census Blocks as the geographic unit for availability will mitigate these various problems without increasing the reporting requirement burden in any significant manner. In fact, a single unified nationwide Form 477 reporting system is far less burdensome to carriers than that envisioned by the NTIA's Broadband Mapping NOFA. The fact that broadband providers of all sizes have already provided the state of California information at the Census Block Group level illustrates the feasibility of this approach. As does the fact carriers are now reporting highly detailed information on Form 477 at the Tract level. Reporting mere availability, even at the more granular Block level, is certainly not an impossible task, and is one that only needs to be repeated when service territories change.

Collecting availability data (broken down by technology type and speed) at the Census Block level will ensure an ongoing standard of measure for broadband data collection that is consistent with the Census Tract data collected for subscribership numbers. And it will avoid the extreme difficulty of maintaining an accurate street-level dataset of availability for the entire country -- a task that the e-911 experience suggests is fraught with challenges. We are not convinced that an address level database of availability is a realistic collection level for the FCC. It is possible that this level of granularity could be a value-added feature of state level mapping organizations once a baseline federal standard is created, but should not be the foundation upon which a national inventory map is built. Block-level data reporting will be more accurate, more stable over time, and is of a fine enough granularity to essentially approximate the level of useful detail obtained from an address-level reporting system.

Separate from its data sharing obligations, the BDIA also requires the Commission to issue an annual Section 706 report, with (as mentioned above) a list of geographical areas that

are not served.”³⁹ The first of these reports is due in February of 2010. It is clear -- with its current ZIP code and even the new Census Tract data, the Commission *does not* possess the data needed to produce this list. The Commission must recognize this shortcoming, and move quickly to adopt a Census Block-level availability reporting requirement, so it will be able to meet Congress’ requirement within an acceptable timeframe.

The BDIA was meant to encourage and foster improvements in the Commission’s broadband data collection efforts, not merely create state level broadband programs. An expressly stated goal of the BDIA is “[t]o improve the quality of Federal and State data regarding the availability and quality of broadband services.”⁴⁰ If the Commission fails to immediately reach a conclusion on the issue of availability data reporting, then it will be in the unfortunate position of having to issue flawed reports to Congress and the public concerning the state of the U.S. broadband market. Without highly accurate and granular availability data, consistent across all 50 states, the data-driven policy analysis and policymaking promised by Chairman Genachowski will be impossible.⁴¹

The American public needs the Commission to act with the same sense of urgency present in the American Recovery and Reinvestment Act. We’ve already lost too much time, and without a shift in the way the Commission approaches this issue, it is possible that it will reduce

³⁹ Section 103(a) of the Broadband Data Improvement Act requires the Commission to “compile a list of geographical areas that are not served” and to use data from the Census Bureau to determine for each of these areas metrics such as population, population density and average per capita income. While this section of the BDIA does not specify what Geography to choose, it is clear from the evidence discussed above that if this list is compiled using ZIP Codes or Census Tracts, that it will be an *empty list*, since these methods will show 100 percent availability in rural areas.

⁴⁰ BDIA at § 102(3).

⁴¹ See e.g. Statement of Julius Genachowski, Nominee to Serve as Chairman of the Federal Communications Commission, Before the U.S. Senate Committee on Commerce, Science, and Transportation, June 16, 2009, p. 3.

its ability to be a maximally effective policymaking agency. In the past, Commission analysis and distribution of Form 477 data has been extremely slow. The most recent Form 477 data was released over a year after it was collected.⁴² A delay of this length for the most recent reporting period (data reported in March) would be simply unacceptable.

iii. Public Disclosure of Current Form 477 Data is Needed to Ensure the Success of the American Recovery and Reinvestment Act's Broadband Stimulus Programs

The collection of comprehensive, nationwide broadband data further increased in importance when Congress moved to appropriate \$7.2 billion for broadband deployment projects.⁴³ The NTIA's \$4.7 billion Broadband Technology Opportunities Program (BTOP) requires applicants to make an empirical showing that the proposed service area in which they seek funding to offer broadband qualifies as an unserved or underserved area.⁴⁴ These terms are defined carefully in the guidelines. To qualify, the applicant must demonstrate that the proposed funded service area is one or more contiguous Census Blocks and meets one or more of the following criteria:

- “i) no more than 50 percent of the households in the proposed funded service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed of 768 kbps downstream and 200 kbps upstream;
- ii) no fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second (“mbps”) downstream in the proposed funded service area; or

⁴² See e.g. *Federal Communications Commission Releases Final Data on High-Speed Services Collected Under the Previous Form 477*, Press Release, July 23, 2009.

⁴³ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009).

⁴⁴ Notice of Funds Available (NOFA) and solicitation of applications for the Broadband Initiatives Program and Broadband Technology Opportunities Program, July 2, 2009 (NOFA).

iii) the rate of broadband subscribership for the proposed funded service area is 40 percent of households or less.”⁴⁵

The BTOP guidelines stipulate that applicants must identify the Census Blocks within each proposed funded service area and document that the area qualifies under one or more of these criteria.⁴⁶ Applicants attempting to accomplish this task through a household survey face considerable challenges.⁴⁷ Furthermore, such surveys inevitably increase the cost of applying for funding and thereby reduce the pool of applicants.

To make the data showing feasible, uniform and accurate for all applicants, the BTOP program would greatly benefit from access to subscribership data from the Form 477 data reported in March of 2009. We recommend that the Commission immediately explore the feasibility of quickly publishing the raw subscriber counts for all Census Tracts broken down by technology, speed tier, and residential versus business line -- or produce a list of Census Tracts and their associated household level fixed broadband penetration levels.⁴⁸ In doing so, the Commission will certainly increase the number of applicants and thus the potential success of the

⁴⁵ See NOFA, 109.

⁴⁶ See NOFA, 112-113.

⁴⁷ For example, if a particular Block contains 20 households, a sampling of 10 of those households (with a full response from each) would produce a result that has a margin of error of plus or minus 22 percent. So if the survey produces a result of 40 percent of households subscribing to broadband, this would have a margin of error of plus or minus 9 percentage points. In other words, even after surveying half of the homes in the area, there is still no certainty as to whether or not the area qualifies as underserved.

⁴⁸ If the Commission is unwilling or unable at this time to publish the raw line counts, it instead should publish its own estimate of household fixed-broadband penetration for each Census Tract. If this estimate is done due to provider’s claims of competitive harm, the Commission must require the filing of a non-disclosure request that includes a detailed explanation of the “substantial competitive harm” resulting from public disclosure.

program. The 2008 *Order* that created this dataset explicitly recognized that the new data would allow for “pinpointing areas that are currently...underserved.”⁴⁹

B. The BDIA Gives the Commission Considerable Latitude on Defining the Appropriate Level of Data Aggregation

The BDIA simply directs the Commission to provide eligible entities with access to “aggregate data”.⁵⁰ In the instant proceeding, the Commission seeks comment on how to interpret the term “aggregate”.⁵¹ We suggest that the term be interpreted in a way that maximizes the benefits to the public. Aggregation can take a number of forms, and most have limitations of one sort or another. For instance, the Commission could aggregate the raw Census Tract-level subscribership data into line counts for each type of technology, reported by speed tier. Or it could simply report the names of ISPs who report at least one subscriber in a given Census Block. The former level of aggregation is useful for gauging adoption levels, but useless for gauging the level of intra-modal deployment. The latter is useful for knowing the number of providers who have deployed, but useless for estimating the level of adoption.

It is unclear why the Commission would want or need to aggregate at all, given the requirement of Section 106(h)(2) of the BDIA that state designated entities must “treat any matter that is a trade secret, commercial or financial information, or privileged or confidential, as a record not subject to public disclosure except as otherwise mutually agreed to by the broadband

⁴⁹ Para 32. (“The new information gathered by Form 477 will enable the Commission, the industry, and other parties to realize many benefits, including forming a more detailed understanding of the scope of broadband adoption, connecting data on broadband services to demographic data collected by the Census Bureau, and pinpointing areas that are currently unserved or underserved.”) Of course, as we discussed above, due to their geographic scope in rural areas, the Tract data most certainly is not useful for directly pinpointing areas that are currently unserved.

⁵⁰ 47 U.S.C. §§1304(h)(1).

⁵¹ BDIA 477 Public Notice at 2.

service provider and the eligible entity.” Viewed in this light, aggregation of any type seems to just hobble the ability of designated entities to best decide how to make use of Commission data. This obvious aspect aside, any determination (either by the Commission or by the designated entities) about how to aggregate should include a detailed justification as to why releasing more granular information was not in the public interest.

An expressly stated goal of the BDIA is “to promote the deployment of affordable broadband services to all parts of the Nation.”⁵² The Commission can advance this goal through minimizing the resources needed by grantees to accomplish the data collection components of the BDIA. Thus, the Commission should offer standardized 477 data at as granular a level as possible. We strongly urge the Commission to dismiss the inevitable calls for the data to be highly aggregated. As we explain below, such a determination would break with Commission precedent for maximizing public access to Commission datasets.

C. The Commission Retains Full Discretion Over the Public Release of Form 477 Data

As the Commission alluded to in the instant *Public Notice*⁵³, the *Further Broadband Data Gathering Notice* requested comment on “ways in which we can preserve confidentiality when sharing the information collected on Form 477....for example by sharing the data in a less granular or aggregated form than the level at which it is collected.”⁵⁴ The Commission expressly stated a goal of “providing a rich resource for use by other federal agencies, states, localities and public-private partnerships”.⁵⁵ We, along side other Consumer advocates, have provided the

⁵² BDIA.

⁵³ BDIA 477 Public Notice at 2.

⁵⁴ *Broadband Data Order*, at para. 39.

⁵⁵ *Broadband Data Order* at para. 35.

Commission with extensive comment on improving Form 477 data.⁵⁶ We have consistently encouraged the Commission to maximize the amount of granular data made publicly available.⁵⁷

⁵⁶ See e.g. *supra* note 8; Comments of Consumers Union, Consumer Federation of America and Free Press, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Notice of Proposed Rulemaking (2007) (*Comments of Free Press et al.*); Reply Comments of Consumers Union, Consumer Federation of America and Free Press, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Notice of Proposed Rulemaking (2007) (*Reply Comments of Free Press et al.*); Ex Parte of Free Press, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Notice of Proposed Rulemaking (Feb. 7, 2008); Expedited Further Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking (2008) (*Expedited Further Comments of Free Press et al.*); Expedited Further Reply Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking (2008) (*Expedited Further Reply Comments of Free Press et al.*); Further Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking (2008) (*Further Comments of Free Press et al.*); Further Reply Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking (2008) (*Further Reply Comments of Free Press et al.*);

The BDIA further recognizes the utility of publicly available data by directing the Department of Commerce to create a Web page to house the information collected across states.⁵⁸ In fact, nothing in the BDIA prevents the Commission from offering the data to the public. The law simply provides basic guidelines for providing data to eligible entities of the state broadband grant program, guidelines that offer the Commission substantial flexibility.

Given the history and impetus behind the 2007-2008 efforts to reform Form 477 data -- and the fact that this is the first time the Commission will collect subscribership data at the Census Tract level -- the decision to offer providers blanket non-disclosure of information should be revisited. The *2008 Broadband Data Order* amended rule 47 § 43.11 Reports of Local Exchange Competition Data to state that “[t]he Commission shall make all decisions regarding non-disclosure of provider-specific information”.⁵⁹

Based on the history of the various Form 477 proceedings, we certainly expect carriers to tell the Commission that any shared data must be highly aggregated, based solely on unsupported and vague claims of competitive harm. Ever since the Commission established Form 477, providers have sought to prevent the public and the Commission itself from gaining access to a comprehensive nationwide dataset. We have consistently told the Commission that absent a *specific* showing of competitive harm, data collected by the Commission should be made

⁵⁷ See e.g. Comments of Free Press et al. at 28, Reply Comments of Free Press et al. at 7-8, Expedited Further Comments of Free Press et al. at 6-8, 18-23, Expedited Further Reply Comments of Free Press et al. at 13-15; Further Comments of Free Press et al. at 7-9, Further Reply Comments of Free Press et al. at 9-12, National Broadband Plan Comments of Free Press at 289-304. See also ARMIS Comments of Free Press at 10-11, ARMIS Reply Comments of Free Press at 8-10; Comments of Free Press, In the Matter of *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 07-269, at pp. 7-8 (2009).

⁵⁸ BDIA at § 106(g)(2).

⁵⁹ Broadband Data Order at Appendix A.

publicly available.⁶⁰ In fact, the law clearly states that a presumption in favor of disclosure exists.⁶¹ Outside of a few specific pieces of information⁶², providers must submit a request for non-disclosure. The request must address nine specific conditions⁶³ including an “explanation of how disclosure of the information could result in *substantial* competitive harm.”⁶⁴ This was reiterated in the 2008 *Broadband Data Order* which states “[r]espondents may make *requests* for Commission non-disclosure of provider-specific data contained in the Form 477 under § 0.459 of this chapter”.⁶⁵ The Commission has a long history of public disclosure.⁶⁶ The extremely restrictive disclosure policy of Form 477 was an abrupt departure from precedent.⁶⁷ The result has been providers offering nothing more than a vague sentence on the dangers of public availability.⁶⁸ This is all the more frustrating given the clear availability of this information from

⁶⁰ See *supra* notes 8 and 36.

⁶¹ 47 U.S.C. § 0.459(a).

⁶² 47 U.S.C. § 0.457.

⁶³ 47 U.S.C. § 0.459(b). The Commission added this language, due largely to “reduce the number of unsubstantiated requests.” The Commission also rejected requests to “automatically accord confidential treatment to any non-public information that can offer a competitor an advantage over the submitting party.” *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998), paras. 12, 60.

⁶⁴ 47 U.S.C. § 0.459(b)(5) (emphasis added).

⁶⁵ See *Broadband Data Order* at Appendix A. (emphasis added)

⁶⁶ See Comments of Free Press, In the Matter of *A National Broadband Plan For Our Future*, GN Docket No. 09-51, Notice of Inquiry, at (2001), pp. 291-294 (*Free Press National Broadband Plan Comments*).

⁶⁷ *Id.* at 294-296.

⁶⁸ For instance, “if such information were made public, it undoubtedly would be used by competitors in developing their own strategies to compete with other broadband providers”. Comments of the National Cable and Telecommunications Association, In the Matter of *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Service to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnection Voice over Internet Protocol (VoIP) Subscriber Data*, WC Docket No. 07-38, Further Notice of Proposed Rulemaking, at p. 6 (2008).

other entities including providers themselves.⁶⁹ The Commission should correct this deviation from public interest-minded policymaking. To start, the Commission should provide eligible entities with a granular broadband subscribership dataset.

Respectfully submitted,

FREE PRESS

By:

S. Derek Turner, Research Director, Free Press
Adam Lynn, Policy Coordinator, Free Press

501 Third Street, NW
Suite 875
Washington, DC 20001
202-265-1490
dturner@freepress.net

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⁶⁹ See Free Press National Broadband Plan Comments at 296-301.