

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

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

REPLY COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint Nextel”) hereby submits its Reply Comments in response to the Commission’s July 17, 2009 Public Notice¹ in which it requests comments on how Sections 106(h)(1) and 106(h)(2) of the Broadband Data Improvement Act² should be interpreted and implemented. Specifically, the Commission seeks comments on how data that are collected using the FCC’s Form 477 should be aggregated and shared with “eligible entities” that are tasked with mapping broadband availability.

Sprint has consistently expressed its concerns about maintaining the security, integrity and confidentiality of the broadband deployment and subscribership data provided to the

¹ *Public Notice of Pleading Cycle Established for Comments on Providing Eligible Entities Access to Aggregate Form 477 Data As Required by the Broadband Data Improvement Act*, DA 09-1550, 74 Fed. Reg. 36446 (July 23, 2009) (“Public Notice”).

² Broadband Data Improvement Act of 2008 (“BDIA”), Pub. L. No. 110-385, 122 Stat. 4097, §§ 106(h)(1), 106(h)(2), codified at 47 U.S.C. §§ 1304(h)(1), 1304(h)(2).

Commission on the Form 477.³ In response to the Public Notice, other broadband providers discussed similar concerns about the need to protect their competitively sensitive and highly proprietary data and urged the Commission to adopt appropriate safeguards.⁴ Providers of broadband services vigorously compete with each other in this rapidly expanding and evolving market in which new products and services are being introduced at substantial cost to the providers. Clearly, information related to their networks, number of subscribers and revenue per subscriber is highly proprietary. If a provider were to gain access to a competitor's data, it could possibly discern its competitor's future marketing strategies and plans for network expansion. Such information could be used to foil the competitor's initiatives that have been carefully crafted and critical to the competitor's future business plans. Historical data must also be protected because such data could be used to analyze the success or failure of past competitive activities. Thus, confidentiality of the Form 477 data is extremely important to all broadband service providers.

In order to mitigate the risk of disclosure of the data provided on the Form 477, Sprint urges the Commission to adopt additional safeguards. Sprint agrees with those broadband providers who seek confidentiality or non-disclosure agreements with the eligible entities that will be provided data in order to produce the broadband inventory maps and with any other

³ See Sprint Nextel Reply Comments filed on July 16, 2007, Comments filed on July 17, 2008, and Comments filed on November 14, 2008 in WC Docket No. 07-38.

⁴ See, e.g., Comments of the Independent Telephone & Telecommunications Alliance and the Organization for the Promotion & Advancement of Small Telecommunications Companies ("OPATSCO and ITTA"), pp 3-6; United States Telecom Association ("USTelecom"), p. 5-6; and Verizon and Verizon Wireless, p. 3.

entities that may seek access to such data.⁵ Sprint Nextel believes that such agreements would afford broadband service providers further protection from disclosure of their proprietary data.⁶

Aggregation of the data, if done properly, also helps to protect the confidentiality of the data provided by individual broadband service providers. The Commission has historically aggregated the Form 477 data it collected, and thereby has protected the identity of the providers. Aggregation along the same lines will be increasingly important as the data requested on the Form 477 becomes more detailed, and consequently more competitively sensitive.

Sprint agrees with USTelecom that there should be at least 3 carriers in each category of aggregated data that is provided to eligible entities in order to protect the identity of the providers.⁷ If there are only two providers of service in a category, each will be able to derive its competitor's data by subtracting its own from the total; and in areas where there is only one provider of broadband service, the data will be readily attributable to that one provider. Therefore, if there are less than 3 service providers in a category, the Commission should consider further aggregation of categories to protect the carriers' confidential information.

Sprint opposes requests for access to raw or granular data.⁸ Such requests are inconsistent with § 106(h)(1), which 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." Furthermore, the purpose of collecting broadband

⁵ See, e.g., Comments of National Telecommunications Cooperative Association ("NTCA") at 7; Time Warner Telecom at 9; USTelecom at 7; and Verizon at 9.

⁶ Sprint also agrees with ITTA and OPASTCO (p. 9-10) that there should be penalties to guard against disclosure.

⁷ See Comments of USTelecom at 5.

⁸ See, e.g., Comments of the California Public Utilities Commission and the People of the State of California at 4-6; Comments of the Nebraska Public Service Commission at 1-2; Comments of the District of Columbia Public Service Commission and the New Jersey Board of Public Utilities at 3-4; Comments of Free Press at 22-23; and Comments of the National Association of State Utility Consumer Advocates at 5-6.

data is to identify underserved and unserved areas of the country. This requires aggregation of data from all of the service providers to identify such areas. Eligible entities will be able to produce broadband maps which show the availability -- or lack thereof -- of broadband service based on aggregated data. Thus, in order to comply with § 106(h)(1), the Commission must provide only aggregated data, and such data should properly mask the identity of the individual broadband service providers.

Sprint Nextel understands that access to information about the availability of high-capacity broadband services is critical to the Nation's broadband future and to achieving the goal of expansion to unserved and underserved areas. However, because the information is highly proprietary and competitively sensitive, Sprint Nextel urges the Commission to protect the confidential information it receives from broadband service providers through aggregation of the data and confidentiality and non-disclosure agreements.

Respectfully submitted,

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