

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	
Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip)	WC Docket No. 07-38
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Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering)	WC Docket No. 08-190
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Review of Wireline Competition Bureau Data Practices)	WC Docket No. 10-132
)	

To: The Commission

COMMENTS OF THE INDEPENDENT TELEPHONE AND
TELECOMMUNICATIONS ALLIANCE (ITTA)

The Independent Telephone and Telecommunications Alliance (ITTA) offers these comments in response to the Commission’s above-captioned notice seeking comment on potential changes to the Form 477 local competition and broadband data collection process.¹

ITTA agrees that “streamlining the process where appropriate must be a top priority for the Commission.”² Indeed, on January 18, 2011, President Obama issued an Executive Order that directs executive branch agencies to “tailor [their] regulations to impose the least burden on

¹ *Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Review of Wireline Competition Bureau Data Practices*, WC Docket Nos. 11-10, 07-38, 08-190, 10-132, Notice of Proposed Rulemaking, FCC 11-14 (rel. Feb. 8, 2011) (“NPRM”).

² NPRM ¶ 38.

society” and to consider whether a regulation’s “benefits justify its costs.”³ Chairman Genachowski subsequently directed the Commission to “perform its responsibilities consistent with the principles in the executive order.”⁴ To that end, ITTA offers the following suggestions for improving the Form 477 data collection process system consistent with President Obama’s directive to minimize regulatory burdens on industry participants.

I. THE FORM 477 IS ALREADY SUFFICIENTLY GRANULAR AND FREQUENT

ITTA believes that the data gathered on Form 477 is already sufficiently granular, and that the current semi-annual report is frequent enough for all reasonable purposes. Accordingly, the Commission should not require more granular data, or increase the frequency of the report.

Granularity. ITTA believes that the current Form 477 collects information about voice telephony and broadband service at appropriate levels of granularity. LECs are currently required to list the ZIP codes in which they provide local telephone service,⁵ and broadband subscribership data is collected at the census tract level as a proxy for deployment.⁶ This provides the Commission with geographically specific information about the availability and use of voice and broadband services. ITTA particularly objects to the proposal to collect any data at the individual address level.⁷ Requiring address-level data would significantly increase the

³ Executive Order, *Improving Regulation and Regulatory Review* (Jan. 18, 2011), available at <http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order>.

⁴ Prepared Remarks of Chairman Julius Genachowski, Federal Communications Commission, Broadband Acceleration Conference, Washington, D.C. (Feb. 9, 2011) at 4, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-304571A1.pdf.

⁵ FCC Form 477, Part V.

⁶ NPRM ¶ 56.

⁷ NPRM ¶¶ 39, 56-58, 80-83.

burden of completing the Form 477, despite what the Commission has heard from other parties.⁸ Zip codes and Census Tracts are pre-defined data sets with known boundaries and parameters. Addresses, by contrast, are not uniform, and different providers may record the same address (or adjacent addresses) in a different way. The names of streets and cities may be abbreviated or spelled differently. Apartment numbers may be included or excluded. Some of these disparities may be simple artifacts of the data input process, while others may be necessary due to field limitations in providers' billing and/or provisioning systems. As a result, any attempt to require address-level data could result in substantially less useful information being provided to the Commission. Efforts to standardize the recording of addresses would only increase the burden of the collection (and, as noted above, may be precluded by carrier system limitations).

In any event, if address-level data (or other granular data) is required, adequate provisions must be taken to protect the confidentiality of such data.⁹ The local telephony and broadband markets are highly competitive, and deployment and subscribership data are competitively sensitive in both markets. The current Form 477 recognizes this reality and allows filers to request confidentiality through a simple check-box option.¹⁰ The information collected in Form 477 should continue to be protected in this manner – particularly if more granular information is required to be submitted.

Frequency. The frequency of Form 477 reporting should not be increased above the current semi-annual level and, in particular, should not be increased to quarterly.¹¹ Increasing

⁸ See NPRM ¶ 39 & n.115.

⁹ See NPRM ¶ 109.

¹⁰ FCC Form 477, Filer Information, Item 9.

¹¹ NPRM ¶ 46.

the frequency of the filing obligation would add substantially to the burden of responding to the requirement, particularly for smaller service providers. In the experience of ITTA's members, preparation of each report requires considerable resources. A quarterly collection would be twice as burdensome as the current semi-annual collection.

Moreover, the added burden of more frequent reports would not be outweighed by any particular benefit. There is no evidence that broadband deployment information changes significantly in just three months. Thus, the current semi-annual collection is sufficient to capture up-to-date data and should not be increased.

II. PROVIDERS SHOULD NOT BE REQUIRED TO ATTEMPT TO REPORT ACTUAL SPEEDS

The Commission should not attempt to collect data on the “actual” speeds of broadband service delivered to customers¹² as there is no way for providers to report this information in a meaningful way. Speed varies from subscriber to subscriber – even on the same network – based on a variety of factors. On the provider side, relevant factors include the length and quality of the loop, the availability of backhaul capacity, and the volume of traffic on the network at any given moment. On the customer side, relevant factors include the quality and length of inside wiring, and the quality and capabilities of customer equipment such as modems and computer processors. All of these factors can affect the speed experienced by a given customer at a given time.

In light of this variability, ITTA members and other broadband providers make available to customers the best practicable information about the speeds they provide, but make clear actual performance will be “up to” the advertised speed and that “speeds and availability vary.” As a result of this variability, actual speeds will vary by customer (and may even vary from

¹² NPRM ¶ 59.

connection to connection within the same residential or business premises). This makes it impossible to provide meaningful “actual” speed data on the Form 477. Accordingly, the Commission should not require Form 477 filers to attempt to report “actual” broadband speeds.

III. PRICING DATA SHOULD NOT BE REPORTED ON FORM 477

The Form 477 does not currently collect price information, and the addition of pricing data would substantially increase the burden of completing the Form 477. Filers should not be required to report pricing information on Form 477.

Pricing information is readily available to the Commission from other sources. For example, carriers are already required to provide average price per company for purposes of broadband stimulus reporting, and ITTA members’ experience with that process demonstrates that it creates a substantial burden. Nevertheless, the Commission should avail itself of the information provided to NTIA rather than undertaking its own duplicative collection. In addition, pricing information is also available in tariffs filed with the FCC and state commissions, as well as on carrier websites.

Meaningful pricing information is highly variable and difficult for carriers to provide. In today’s competitive marketplace, carriers’ pricing varies by market, and changes frequently. Reporting of pricing information is also complicated by the prevalence of bundled offerings. Many providers offer packages that may include some combination of local telephone service, long distance telephone service, broadband, video services, or all of these services.

To mitigate both the burden and the variability of the data, to the extent that any price data is required, it should be collected at the operating company or state level. That is, filers should be permitted to report average price information by operating company or by state.¹³ To

¹³ NPRM ¶ 74.

require any more granular data would be overly burdensome, and would not be meaningful because of the variances discussed above.

In addition, if any price data is collected, the Commission must also carefully guard its confidentiality. Like deployment and subscription data, pricing information is highly competitively sensitive. As noted above, both local service and broadband are competitive marketplaces, so the Commission must protect the confidentiality of pricing data. Even at the state/company level, pricing data can be still be highly competitively sensitive – particularly for smaller carriers operating a single study area in a state.

IV. THE COMMISSION SHOULD NOT REQUIRE REPORTING ON SERVICE QUALITY OR CUSTOMER SATISFACTION

As the NPRM correctly notes, the Commission has only ever collected service quality and customer satisfaction data from ILECs that were transitioning from rate-of-return regulation to price cap regulation, and it forbore from that requirement in 2008.¹⁴

The data of this type that carriers ordinarily collect, such as statistics on numbers of customer complaints or trouble tickets, provide an incomplete picture of service quality or customer satisfaction. Most significantly, such data do not capture any information from customers that are satisfied with their service. That said, the Commission should not require carriers to collect additional data. Realistic data on service quality or customer satisfaction could only be obtained using some sort of customer satisfaction surveys, which would impose substantial costs on service providers. In addition, carriers are not best situated to perform such surveys. To the extent that the Commission wishes to compile this type of data, it should turn to third-party sources with experience in polling consumers on their satisfaction.

¹⁴ NPRM ¶ 94.

V. THERE IS NO NEED TO COLLECT OWNERSHIP OR CONTACT INFORMATION ON FORM 477

ITTA does not believe that adding ownership information to the Form 477 would “help inform the Commission’s overall understanding of the broadband ecosystem.”¹⁵ First, such information is likely to be duplicative, given that the FCC already collects ownership and contact information on FCC Form 499-A. The Form 499-A information includes affiliate and parent company information. Second, it is unclear what value would be derived from such information. No additional ownership information is needed for the Commission to perform its functions; thus none should be required.

CONCLUSION

ITTA urges the Commission to reform the Form 477 data collection process consistent with these comments.

Respectfully submitted,

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¹⁵ NPRM ¶ 102.