

December 19, 2019

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: WC Docket No. 11-10, *Modernizing the FCC Form 477 Data Program*; WC Docket No. 19-195, *Establishing the Digital Opportunity Data Collection*; GN Docket No. 19-285, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*; WC Docket No. 06-122, *Universal Service Contribution Methodology*; WC Docket No. 17-287, *Bridging the Digital Divide for Low-Income Consumers*

Dear Ms. Dortch:

The undersigned groups—Access Now, Benton Institute for Broadband & Society,¹ Common Cause, MediaJustice, National Hispanic Media Coalition, New America’s Open Technology Institute, and Public Knowledge—agree that equitable access to broadband is a core tenet of the fight for civil rights in the 21st Century. From education to health care to participation in our democracy, there is virtually no aspect of modern life that does not rely on internet connectivity. Accordingly, the Commission has both a legal and a moral obligation to ensure that every American has equitable access to the internet.² To achieve this objective, we urge the Commission to implement critical reforms addressing (1) broadband mapping and digital redlining, (2) broadband pricing and affordability, and (3) the Universal Service Fund.

1. The Commission’s Broadband Mapping Reforms Must Address Access Disparities Including Digital Redlining

Broadband availability data must be improved to ensure equitable access to broadband services. The Commission recently updated its broadband data collection regime in the *Digital*

¹ Benton, a non-profit, operating foundation, believes that communication policy – rooted in the values of access, equity, and diversity - has the power to deliver new opportunities and strengthen communities to bridge our divides. Our goal is to bring open, affordable, high-capacity and competitive broadband to all people in the U.S. to ensure a thriving democracy. These comments reflect the institutional view of the Benton Institute for Broadband & Society, and, unless obvious from the text, is not intended to reflect the views of its individual officers, directors, or advisors.

² 47 U.S.C. §151; *id.* § 1302 (a).

Opportunity Data Collection Order and Second FNPRM this past August.³ This update was long overdue, but the Commission must make more robust changes to accurately understand the state of broadband access and adoption across the country. This will necessitate requiring internet service providers (ISPs) to report more information about their services.

The Commission must:

- Collect address-level broadband deployment data of where ISPs have actually deployed service (and not where it is merely feasible).
- Collect usage, subscription, and churn data from ISPs and make this information available to third-party researchers.
- Analyze and compare broadband deployment data with Census Bureau data on demographics such as race, age, and disability.
- Analyze information detailing network vulnerability and resilience.
- Analyze information about the actual upload and download speeds experienced by consumers, as it compares to offered speeds.
- Ensure accurate broadband data collection in Tribal areas in particular, where the Government Accountability Office has reported the Commission’s data overstates availability.⁴

Moreover, the Commission must acknowledge that the digital divide is both a rural *and* an urban problem. This is particularly crucial in the context of digital redlining. In many cities, ISPs appear to be investing heavily in network upgrades to wealthy neighborhoods while ignoring historically marginalized neighborhoods in the same city. This discriminatory pattern has been documented in Cleveland, Ohio,⁵ Detroit, Michigan,⁶ and Los Angeles County, California.⁷ The

³ Report and Order and Second Further Notice of Proposed Rulemaking, WC Docket No. 19-195, WC Docket No. 11-10 (Rel. Aug. 6, 2019), <https://docs.fcc.gov/public/attachments/FCC-19-79A1.pdf>.

⁴ Government Accountability Office, “FCC’s Data Overstate Access on Tribal Lands” (Sept. 2018), <https://www.gao.gov/assets/700/694386.pdf>.

⁵ Bill Callahan, “AT&T’s Digital Redlining Of Cleveland,” National Digital Inclusion Alliance blog (Mar. 10, 2017), <https://www.digitalinclusion.org/blog/2017/03/10/atts-digital-redlining-of-cleveland/>.

⁶ Harper Neidig, “AT&T hit with second complaint of discrimination against low-income neighborhoods,” *The Hill* (Sept. 25, 2017), <https://thehill.com/policy/technology/352267-att-hit-with-second-complaint-of-discrimination-against-low-income>.

⁷ Hernan Galperin *et al.*, “Who Gets Access to Fast Broadband? Evidence from Los Angeles County,” University of Southern California Annenberg Research Network for International Communication (Sept. 2019), <http://arnicusc.org/wp-content/uploads/2019/10/Policy-Brief-4-final.pdf> (“The findings indicate that competition and fiber-based services are less likely in low-income areas and communities of color, with the most severe deficits observed in census block groups that combine poverty and a large percentage of Black residents.”).

Commission must study this phenomenon of digital redlining and combat it wherever it is identified.

2. The Commission Must Collect Data on the Price and Affordability of Broadband Service

The Commission must collect data on the cost and affordability of broadband service.⁸ Cost is one of the biggest barriers to broadband adoption and price is a primary reason why millions of Americans do not have high-speed broadband access.⁹ Only 42 percent of households that earn less than \$20,000 per year have fixed wired internet service at home, while 83 percent of households earning more than \$100,000 annually do.¹⁰ Of the households with annual incomes of less than \$25,000 that lack broadband access, 51 percent cited cost as the most important reason they lack that access.¹¹ Despite the importance of pricing data, no government agency collects this information. That must change, and the Commission is ideally situated to collect this data through its existing reporting requirements for broadband providers.

3. The Commission Must Strengthen the Lifeline Program and Reject Proposals to Ration the Universal Service Fund

The Lifeline program is one of the Commission's most important tools to combat the digital divide. By offering a direct monthly subsidy to low-income households, this program directly addresses the affordability barrier. The Commission must continue to support this program and the inclusion of broadband service. Moreover, the Commission must work to fully implement the National Verifier as soon as possible to streamline the process of signing up eligible Americans

⁸ 47 U.S.C. § 1302(b).

⁹ Monica Anderson, Pew Research Center, "Mobile Technology and Home Broadband 2019" (2019), <https://www.pewinternet.org/2019/06/13/mobile-technology-and-home-broadband-2019/> (the study found that more than one-in-five who do not have broadband at home cited the cost of service as the most important reason for not adopting broadband).

¹⁰ Written Testimony of Dana J. Floberg Before the Congress of the United States House of Representatives Committee on Energy and Commerce Subcommittee on Communications and Technology, "Legislating to Connect America: Improving the Nation's Broadband Maps," at 12 (Sept. 11, 2019), https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/Floberg_Testimony.pdf.

¹¹ Rafi Goldberg, National Telecommunications and Information Administration, "Unplugged: NTIA Survey Finds Some Americans Still Avoid Home Internet Use" (2019), <https://www.ntia.gov/blog/2019/unplugged-ntia-survey-finds-some-americans-still-avoid-home-internet-use>.

for this subsidy. Lifeline’s participation rates are low among eligible households—28 percent as of the most recent measurement—and the Commission must work to increase this number.¹²

Further, the Commission should close its proceedings that would impose an overall cap on the Universal Service Fund as well as harmful and wide-sweeping cuts to the Lifeline program. The Commission’s proposal to implement a USF cap would force the four USF programs—the Connect America Fund, Lifeline, E-Rate, and Rural Health Care—to fight amongst each other for funding. This would contradict the purpose of the USF and Congressional intent.¹³ It would also inject significant uncertainty into each USF program, thereby discouraging providers from participating in the programs.¹⁴ The Commission should close this proceeding immediately.

The Commission should also close the 2017 Lifeline item, which requested comment on a series of damaging proposals including the elimination of wireless resellers from the program, a lifetime benefits cap for consumers, and a hard budget cap on the program.¹⁵ These changes would seriously jeopardize the stability of the program. For example, imposing a hard budget cap would risk kicking out eligible households from the program without warning and discourage provider participation.¹⁶

¹² Universal Service Administrative Company, “Eligible Lifeline Population Statistics.”
<https://www.usac.org/li/about/processoverview/stats/default.aspx>.

¹³ *Ex Parte* of Public Knowledge, New America’s Open Technology Institute, the Schools, Health, & Libraries Broadband Coalition, Free Press & the National Consumer Law Center, WC Docket Nos. 06-122, 19-195, 11-10 & 17-287 (filed Oct. 15, 2019),
<https://ecfsapi.fcc.gov/file/1016039279220/Public%20Interest%20Ex%20Parte%20-%20USF%20Cap%20-%202010.15.2019.pdf> (“Public Interest Ex Parte”).

¹⁴ *Id.* at 2.

¹⁵ Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, WC Docket Nos. 17-287, 11-42, 09-197 (rel. Dec. 1, 2017).

¹⁶ Public Interest Ex Parte at 5-6 (“Creating a Lifeline budget cap would create unnecessary uncertainty in the program, act as a deterrent to Lifeline provider participation in the program, and will sabotage two of the Commission’s priorities: promoting competition and choice in the Lifeline market, and incentivizing investment in broadband networks. Lastly, rationing Lifeline is contrary to the goal of universal service and stifles the program’s ability to bring affordable communications to the poor.”).

Broadband connectivity is a necessity in the 21st Century, yet it remains out of reach for too many Americans. The digital divide is a civil rights issue that the Commission must do more to address. We urge the Commission to adopt the aforementioned recommendations.

Respectfully,

Access Now
Benton Institute for Broadband & Society
Common Cause
MediaJustice
National Hispanic Media Coalition
New America's Open Technology Institute
Public Knowledge