



August 14, 2020

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Establishing the Digital Opportunity Data Collection, WC Docket No. 19-195

Dear Ms. Dortch:

On August 12, 2020, the undersigned, for USTelecom; Mary Henze, Brendan Haggerty and Ola Oyefusi, for AT&T; Jeff Lanning and Richard Rousselot, for CenturyLink; Diana Eisner, for Frontier; Matthew Darden, for Windstream and Roy Litland for Verizon; met via telephone conference with Kirk Burgee, and Mike Ray, of the Wireline Competition Bureau; Chelsea Fallon, Steve Rosenberg and Alex Espinoza of the Office of Economics and Analytics; and Garnet Hanly, Stacy Ferraro, Erin Boone, Will Holloway and Monica DeLong, of the Wireless Telecommunications Bureau. The purpose of the meeting was to discuss USTelecom's position on the Commission's recently adopted Third Further Notice of Proposed Rulemaking (FNPRM)¹ in the above-referenced proceeding.

USTelecom advocated that the Commission require only a single category of reporting such as "mass market services" as opposed to requiring providers to distinguish between residential and residential-and-business locations. This distinction is not relevant from a service availability standpoint and it would be unduly burdensome because providers do not currently code services in that way for business purposes or for FCC Form 477 reporting. Non-mass market services such as commercial services provided via contract should not be required to be reported because exposing the existence and locations of those services raises serious confidentiality and antitrust concerns for service providers.

¹ *Digital Opportunity Data Collection, Second Report and Order and Third Further Notice of Proposed Rulemaking, WC Docket Nos. 19-195 and 10-90, FCC 19-79 (Jul. 16, 2020) ("2nd R&O and 3rd FNPRM").*

USTelecom also advocated that the Commission not require latency reporting because it is not required by the Broadband DATA Act and in practical terms latency is only relevant to assess performance not availability. USTelecom also explained, that should the Commission choose to require latency reporting, the reporting should be a check-box exercise where a provider indicates that it is within the proposed 100 millisecond threshold requirement as proposed.

With respect to the Commission's questions in the FNPRM about how to verify data, such verification can be achieved via the challenge and crowdsourcing resources alone and additional measures are not necessary. That said, if the Commission does find that there needs to be a separate type of verification such as verification against existing resources like USAC's HUBB database, the timing of such verification efforts is wholly dependent upon the creation of the Fabric. More specifically, any verification needs to wait for the creation of the Fabric because that will be the dataset against which all other data is checked. The intent of creating such a locations database is to ensure that when referring to locations there is a singular set of uniform reference data. Therefore, no data is in essence "verifiable" until the Fabric is created. Once the Fabric is complete, those geocoordinates should become the standard for evaluating any outside data, including data reported by third party and governmental entities.

For these same reasons the Commission should hold enforcement in abeyance for at least one full year after service providers begin reporting availability on top of the Fabric and accompanying challenges and crowdsourcing have taken place. This is necessary because at the outset of implementation, it will be impossible to determine whether an entity or individual "willfully and knowingly" or "recklessly" submitted information, or even whether that data is either inaccurate or incomplete, until there has been an opportunity for a clear transition to reporting on top of the Fabric, which will take at least a year.

Similarly, for purposes of the challenge process, USTelecom noted that once the Fabric is created it will be the definitive set of coordinates for locations when reviewing the evidence in a challenge process. USTelecom supports the list of information the Commission has proposed to collect for consumer challenges to fixed service availability and coverage data, however USTelecom expressed some concern over the "category of dispute" options as listed in the FNPRM. USTelecom believes this list is too broad, in part because it includes "provider failed to install within ten business days of valid order for service" and "installation attempted but unsuccessful."² USTelecom believes these options could result in unfounded challenges unrelated to availability and mapping when the service provider is able to provide service within ten business days as required, but circumstances such as the inability to schedule installation with the consumer delays the actual installation. While a provider's inability to offer service within ten business days is a denial of service, a delay in installation due to scheduling or other

² See 2nd R&O and 3rd FNPRM at para 142.

unforeseen circumstances that results ultimately in installation outside the ten day window is not a denial of service. The Commission should clarify this in its list of “categories of dispute.”

Additionally, USTelecom asked Commission staff to ensure that all of the fields of requested information be filled in in order for a challenge to be considered complete. This is true both for consumer challenges and challenges by state, local, and tribal governments as well as other entities. In particular, USTelecom urged the Commission to use a rigorous process for reviewing non-consumer challenges and apply a clear evidentiary standard particularly for bulk challenges so that the Commission and service providers are not inundated with illegitimate challenges. For these same reasons, USTelecom asked Commission staff to consider screening out challenges at the initial stage for relevancy so that frivolous challenges do not require a response from the service provider.

USTelecom also indicated its support for NTCA’s request for sixty days to respond to a consumer challenge because, particularly in the initial stages of the implementation of this process, there will likely be a lot of data to analyze. A longer response period is consistent with the goal of this process which is to get better data; therefore, the Commission should value accuracy over speed. USTelecom also indicated its support for the multi-step process for resolution of these challenges as proposed in the FNPRM.

With respect to defining locations for the Fabric, USTelecom urges the Commission to build on its existing guidance in CAF programs and take a clear position on a common location definition. Ideally, the definition can be used across the Commission’s fixed service USF programs that have reporting and/or buildout obligations to ensure consistency and to enhance accuracy across the board. While USTelecom does not ask the Commission to differ from its current CAF definition of location, it does seek clarification of mobile homes as housing units where those homes are stationary with unique addresses and/or receipt of electricity service. In these instances, an individual typically subscribes independently for broadband service and therefore those locations should be considered a “housing unit” and thus a broadband serviceable location.

USTelecom explained that during the Broadband Mapping Coalition pilot process when its vendor CostQuest built the Fabric they discovered that the purpose or use of the structure is available in the land use and tax assessments for most counties which is helpful in identifying these types of structures. However, where there is a lack of clarity, additional data (e.g., an address database or other third party data such as the mobile home association data) can be utilized to confirm whether the structure is stationary in a trailer park or simply a vacation recreational vehicle. In that same way, USTelecom explained that where there is a business and a residence on the same parcel of property, the deciding factor should be whether they are separate structures with separate addresses as indicated by the land use, tax assessment or other available data.

USTelecom reminded the Commission staff that the Fabric will undoubtedly be an ever-changing dataset as structures are built and torn down. Therefore, it of the utmost importance to ensure that the Fabric is updated regularly with data from the underlying data vendors as well as information gathered through crowdsourcing and the challenge process. While USTelecom believes this should be sufficient to ensure that the quality of the Fabric is maintained, USTelecom supports the use of statistical sampling as a check on quality and over time new data resources may become available that could also be included to continually improve the dataset.

Finally, USTelecom indicated its support for the Commission's proposal to publish the newly collected broadband availability data in aggregated forms to allow comparisons with the data currently collected. USTelecom explained that the current census-based deployment data collection via FCC Form 477 should continue for no more than one year after the Fabric and all reporting mechanisms are in place and sunset should occur automatically after that one-year period expires.

Please contact the undersigned should you have any questions.

Respectfully submitted,

USTELECOM -The Broadband Association



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