

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
State of Competition in the)	GN Docket No. 24-119
Communications Marketplace)	
)	

**COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”) hereby files these Comments in response to the Public Notice released April 22, 2024 in the above-captioned proceeding.¹ The Public Notice seeks comment on how to evaluate availability and the state of competition for a variety of services, including fixed and mobile broadband, and data sources that might be helpful in doing so.

As an initial matter, the Public Notice highlights a point that NTCA has made repeatedly in recent advocacy – that the data used by the Federal Communications Commission (the “Commission”) will be critical to make accurate assessments of the state of the broadband marketplace and sound decisions when it comes to broadband funding or policies.² As NTCA has explained, however, while the Commission’s Broadband Data Collection (“BDC”) and the ensuing national broadband map have improved over time and represent the most effective sources of data on broadband availability to date, “lingering structural problems in collection of data continue to

¹ *Office of Economics and Analytics Seeks Comment on the State of Competition in the Communications Marketplace*, GN Docket Nos. 24-119, DA 24-374 Public Notice (rel. April 22, 2024) (“Public Notice”).

² *See, e.g., Ex Parte* Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, Commission, WC Docket No. 19-195, *et al.* (filed May 2, 2024) (“*Mapping Ex Parte*”).

plague the promise and ultimate reliability of the map.”³ In particular, “[m]arketing claims, rather than technical specifications, tend to rule the day – and drive bad decisions as a result.”⁴ From assessing the state of competition in the marketplace to the Commission’s universal service programs, and even carrying forward into other agencies’ programs that depend upon the national broadband map to identify eligible areas for potential funding, bad advertising-driven data results in “false positives” that treat given locations or entire areas as served (and thus deemed subject to competition and/or ineligible for funding) when the reality on the ground is very different based upon actual network capabilities and performance.

Thus, even as NTCA supports the Public Notice’s proposal to rely upon BDC data as the starting point for evaluations of the state of competition in the fixed broadband service marketplace (along with Form 477 data for purposes of historical trending), and even as the Public Notice asks about other resources that might be used to complement the Commission’s own data,⁵ the Commission’s primary focus should be upon tightening up BDC reporting and thereby making the national broadband map a far more reliable baseline for such analysis and decision-making. While other data sources may be informative and other aspects of reporting helpful as noted below, if the national broadband map enables reporting that does not track to realities on the ground, this shaky foundation will call into question the reliability of any data stacked atop it – and ultimately any decisions made by reference to it.

In this regard, NTCA welcomes the recent announcement that the Commission is considering measures aimed at updating BDC reporting and auditing processes, including better

³ *Id.* at 1.

⁴ *Id.* at Attachment, p. 3.

⁵ Public Notice at ¶ 6.

data validation efforts and proposals for additional modifications based upon “lessons learned” and issues raised by stakeholders with BDC reporting and outputs to date.⁶ Although the item is not yet available for public review, it will be important to enact changes along the lines of those highlighted in the news release – and ultimately others – to provide an accurate and reliable baseline of information on broadband availability that can then be used to make meaningful decisions on competition policy, universal service, and other significant issues affecting the communications marketplace. For example, as NTCA noted recently in the *Mapping Ex Parte*, systemic issues in BDC reporting permit far-reaching claims of coverage without any showing of meaningful subscription (or even authority to conduct business in the state(s) claimed), reflections of actual consumer experience, or apparent technical capability to deliver service as asserted.⁷ Other examples include oddly convenient and even seemingly strategically timed evolving claims of availability.⁸

Finally, it remains essential that the Commission think more critically about how to use BDC data and the national broadband map in a prudent and nuanced manner, in lieu of applying an overly simplistic presumption that, just because the map shows a provider could serve *any one* location in an area, it is in fact capable of acting as a viable competitor for *every* location in that area. This is not an easy task, to be sure, but as a matter of reasoned policymaking and in the interest of both promoting effective competition and fulfilling its statutory obligations to ensure universal service, the Commission cannot take at face value a claim that a provider *could* serve (or

⁶ See *FCC Makes Updates to Broadband Data Collection Efforts*, News Release (rel. May 22, 2024).

⁷ *Mapping Ex Parte* at Attachment, pp. 9-16, 20, and 23-25.

⁸ *Id.* at Attachment, pp. 7-8, 17-19, and 23-25.

even worse, merely advertises service to) any given location as a reliable proxy for that provider's ability to meet *every* consumer's need in the area where that location resides.⁹ Good governance dictates that some additional level of effort must be made to translate BDC claims into establishment of effective competition or substitution for universal service, and it will be important in realistically evaluating the state of competition in the communications marketplace for the Commission to make such an effort.

In addition to updates and improvements to BDC processes and the national broadband map –but consistent with the recommendations provided above and previously with respect to seeking to reflect better the user experience in evaluating broadband availability – NTCA recommends that the Commission consider limited but pertinent data with respect to service characteristics beyond download and upload speeds in setting policy and making funding decisions. Specifically, the Commission should also take account of latency and data allowances in considering whether providers are in fact competitive with one another, as speeds alone provide only a partial picture as to consumer expectations and experience.¹⁰

Finally, with respect to subscription data and voice availability data, it is far past time for the Commission to move past the limitations of legacy Form 477-based reporting – just as it has already done for broadband availability. Even as a Fabric has been created and enhanced over several iterations to identify discrete serviceable locations, the Broadband Data Collection still requires submission of subscription data for voice and broadband alike at a census tract level (and, for VoIP, only at a state level), and there is no reporting whatsoever with respect to the availability

⁹ *Id.* at Attachment, pp. 21 and 26.

¹⁰ Public Notice at ¶ 3.

of fixed voice services.¹¹ Although compelling the submission of subscription data at a location-based level might reasonably give rise to concerns with respect to disclosure of customer-specific information, the Commission could certainly migrate to census block-based reporting for most voice and broadband subscriptions (with perhaps an exception if there is only one location in the relevant census block), and thereby capture more granular data on adoption without risking disclosure of individual customer data. Moreover, it would only make sense for the Commission to ask at the same time as and in the same manner that it collects fixed broadband availability data about the availability of fixed voice services.¹² The Commission should therefore compel each provider to report not only those locations to which it offers broadband services, but also to identify those locations to which it offers voice service using its own facilities. Such updates to these lingering vestiges of Form 477-based reporting would help the Commission to round out its assessment of the level of actual and effective competition in the communications marketplace.

Respectfully submitted,



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¹¹ See Broadband Data Collection Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data (Mar. 30, 2023), at 5.

¹² By contrast, the Commission already requires submissions regarding mobile voice availability. See *id.* at 52-53.