

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

In the Matters of)	
)	
Inquiry Concerning the Deployment of)	GN Docket No. 09-137
Advanced Telecommunications Capability)	
to All Americans in a Reasonable and)	
Timely Fashion, and Possible Steps to)	
Accelerate Such Deployment Pursuant to)	
Section 706 of the Telecommunications Act)	
of 1996, as Amended by the Broadband)	
Data Improvement Act)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51

**COMMENTS OF THE BROADBAND OPPORTUNITY COALITION, ASIAN
AMERICAN JUSTICE CENTER, JOINT CENTER FOR POLITICAL AND
ECONOMIC STUDIES, LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL, NATIONAL
COUNCIL OF LA RAZA, NATIONAL URBAN LEAGUE, AND ONE ECONOMY CORP.**

September 4, 2009

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Summary

The Broadband Opportunity Coalition, National Urban League (“NUL”), National Council of La Raza (“NCLR”), League of United Latin American Citizens (“LULAC”), Asian American Justice Center (“AAJC”), Minority Media and Telecommunications Council (“MMTC”), Joint Center for Political and Economic Studies (“Joint Center”), and One Economy, Inc. (“One Economy”)¹ respectfully submit the following comments in response to the Commission’s Notice of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act (“Notice”).²

Just as the Civil Rights Division of the Department of Justice has stepped up plans to enforce the nation’s antidiscrimination laws,³ the Commission should act to ensure that it fulfills

¹ Descriptions of the commenters are found in Appendix A. These Initial Comments and all subsequently filed supplements and reply comments reflect the institutional views of each commenter, and are not intended to represent the individual views of each of its officers, directors and members.

² See Notice of Inquiry, In the Matters of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 09-137 and A National Broadband Plan for Our Future, GN Docket 09-51 (released August 7, 2009) (“Notice”).

³ See Charlie Savage, Justice Department to Recharge Civil Rights Enforcement, N.Y. Times (August 31, 2009) (stating “In July, moreover, the division’s acting head, Loretta King, sent a memorandum to every federal agency urging more aggressive enforcement of regulations that forbid recipients of taxpayer money from policies that have a disparate impact on minorities”), available at http://www.nytimes.com/2009/09/01/us/politics/01rights.html?_r=1&hp=&adxnnl=1&pagewanted=all&adxnnlx=1251778713-AzYM8xccDFGWI6orgIUygw (last visited September 1, 2009).

its own anti-discrimination mandate, by investigating and preventing discrimination in telecommunications.⁴

Should the Commission use minimum speed guidelines for determining whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, the guidelines must be flexible enough for the Commission to consider the average speed that is actually being used by consumers who have access to the most advanced internet applications. Minimum speed guidelines that are below the actual average speed to which the majority of middle class and wealthy individuals subscribe is not sufficient for determining whether all Americans have adequate access to life saving technologies and to the tools needed to participate in the process of innovation and entrepreneurship.

The Commission should seek to create a robust record before deciding, prematurely, whether all communities are being adequately served. The Commission should not rely upon general data on broadband access to the exclusion of socioeconomic data and the informed perspectives of local community organizations that are most familiar with their respective communities.

As the Commission is aware, the goal of achieving ubiquitous advanced telecommunications capability is far from being reached. Persistent disparities along income, racial, and language lines have caused many communities to lack the basic infrastructure needed to take advantage of the most advanced technologies.

⁴ See 47 U.S.C. §151.

The substantial involvement of SDBs and MBEs in the buildout of the nation's broadband infrastructure is essential both for stimulating innovation and for providing needed services to poor and minority communities. The Commission should remove several structural barriers to entry, including designated entity rules that inhibit minority participation, and should specifically work to incentivize investments in SDBs and MBEs.

For the Commission to develop a full record, we recommend the following changes to the Commission's data collection process:

- using socioeconomic data in addition to general technical information;
- expanding Form 477 data collection;
- making ongoing assessments of SDB and MBE engagement; and
- collecting specific information regarding hardware and software availability in underserved and underserved areas.

* * * * *

Discussion

I. THE TERM “ADVANCED BROADBAND CAPABILITY” SHOULD BE DEFINED AS THAT WHICH WILL ALLOW ALL AMERICANS TO MOST FULLY USE THE INTERNET

The Commission seeks comment on the way in which “advanced telecommunications capability” and “broadband” should be defined in its sixth Section 706 report.⁵ In the Notice, the Commission stated that, in the past, it relied upon “static definitions” of “advanced telecommunications capability, which were tied to a specific transmission speed cut off,” such as 200 kbps or more.⁶ For the purpose of these comments, we will use the term “advanced broadband capability” to refer as well to “advanced telecommunications capability.”

The definition of “advanced broadband capability” should be flexible enough to evolve with changing technologies *and* to ensure that, if minimum speed guidelines are used, broadband providers do not exploit the minimum guidelines by providing inferior service to communities that have traditionally been priced out of the innovation process and prevented from receiving cutting-edge healthcare, education, and other vital applications. The Commission should be aware of the danger of assigning a minimum speed definition that would preclude access to vital application breakthroughs in underserved communities while providing adequate availability to everyone else. This problem arises when the speed requirements for new applications are at, or lower than, the actual average threshold for middle-class and affluent communities, yet above the “minimum” that is reserved for low-income individuals. All Americans, regardless of race or class, should have equal access to the same transformative technologies that not only disperse

⁵ See Notice.

⁶ See id. at 17 ¶34.

new information and services, but also generate participation in the creative process of bringing these new applications to market.

II. THE COMMISSION’S “AVAILABILITY” DEFINITION SHOULD INCORPORATE, WITH EQUAL OR MORE WEIGHT THAN TRADITIONAL CONSIDERATIONS, GRANULAR, SOCIO-ECONOMIC MAPPING DATA, SPECIFIC CIRCUMSTANCES AFFECTING ADOPTION RATES, AND THE PERSPECTIVE OF LOCAL ENTITIES WITH HISTORIC TIES TO NEGLECTED COMMUNITIES

A. The Commission’s “Availability” Definition Should Take Full Account Of Socioeconomic Data, In Addition to General Access Data

As discussed in MMTC’s Rural Broadband Comments,⁷ the Broadband Diversity Supporters’ National Broadband Plan Comments,⁸ and the Broadband Diversity Supporters’ NTIA/RUS Comments,⁹ to avoid a superficial accounting of broadband availability, the data maps, upon which the Commission and other agencies rely to determine areas of the country where broadband is “available,” should be multifunctional and layered to include social metrics. Tracking data on poverty status, employment status, income, race, language, public education, housing, health care, resource management, banking and credit availability, pollution,¹⁰ electoral

⁷ See Comments of the Minority Media and Telecommunications Council, In the Matter of Rural Broadband Strategy, GN Docket 09-29, filed March 25, 2009 (“Rural Broadband Comments”) at pp. 4-6.

⁸ See Initial Comments of the Broadband Diversity Supporters, In the Matter of A National Broadband Plan for Our Future, GN Docket 09-51, filed June 8, 2009 (“National Broadband Comments”) at p. 12-13.

⁹ See Comments of the Broadband Diversity Supporters, In the Matter of Joint National Telecommunications and Information Administration-Rural Utilities Request for Information, Docket No. 090309298-9299-01, Filed April 13, 2009 (“NTIA/RUS Comments”) at pp. 34-37.

¹⁰ See, e.g., Robert Bullard *et al.*, Toxic Wastes and Race at Twenty: Why Race Still Matters After All of These Years, 38 *Envtl. L. J.* 371 (2008) (discussing the disproportionate location of environmental hazards in or near minority and low-income communities).

participation,¹¹ and insurance¹² is as crucial to designing inclusive broadband policies as tracking traditional penetration benchmarks such as speed, price, and adoption rates.¹³ Further, such data should be obtained on a longitudinal basis, updated at least every three months, and rely upon granular, census-tract data.

Further, as BDS' National Broadband Plan Comments noted, access to broadband at public access centers, such as public libraries, while important, is not a sufficient benchmark for determining whether broadband is ubiquitously available in any given community.¹⁴ To take advantage of advanced teaching techniques via the internet, all children should have available to them the same opportunities to use broadband in their homes that children from prosperous families enjoy. Lack of home broadband access restricts access to distance learning opportunities, job search services, digital information, specialized content, computer specific skills and other benefits derived from exposure to the internet.¹⁵ To the extent that these factors are not given sufficient consideration, it will be impossible for the Commission to adequately

¹¹ See, e.g., Gomillion v. Lightfoot, 364 U.S. 339, 340-42 (1960) (where the boundaries of the town of Tuskegee, Alabama, were redrawn “from a square to an uncouth twenty-eight-sided figure” in an effort to deprive Black citizens of voting rights); see also Amanda K. Baumle, Strategic Annexation Under the Voting Rights Act: Racial Dimensions of Annexation Practices, 24 Harv. BlackLetter J. 81 (2008) (exploring how annexation of territories with high populations of non-minorities often results in dilution of the minority votes).

¹² See, e.g., Saunders v. Farmers Insurance Exchange, 440 F.3d 940, 942-43 (8th Cir. 2006) (discussing allegations that insurance companies discriminated against minorities by charging rates other than the rate filed with the regulatory agency based on geography).

¹³ See id.

¹⁴ See National Broadband Plan Comments at p. 24.

¹⁵ See id.

determine whether “advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion,” as anticipated by Congress when it drafted Section 706.¹⁶

B. The Commission Should Consider Specific Factors That Prevent Ubiquitous Broadband Adoption

As the current financial crisis has made clear, market forces cannot be the sole determinant of what is best for the American people. Given the U.S. Census Bureau’s projections that, by 2042, today’s minorities will be the majority,¹⁷ the Commission, by placing appropriate emphasis on sociological factors affecting low broadband adoption rates in minority and low-income communities, would be making a needed investment in America’s future.

Just as the Gross Domestic Product (“GDP”) measures the value of a nation’s produced goods and services, it is conceivable that the digital economy may necessitate an additional measurement—a “Gross Innovation Product” (“GIP”), for example—which would measure the economic value of a nation’s innovation. If, by 2042, the majority of Americans are unable to contribute to such a GIP, the American economy may once again find itself operating poorly. Thus, the Commission should work to remove barriers to adoption with the same alacrity with which it promotes network neutrality for those who already have access to the most innovative technology available.

¹⁶ See 47 U.S.C. §1302(b).

¹⁷ See U.S. Census Bureau, An Older and More Diverse Nation By Midcentury (released August 14, 2009), available at <http://www.census.gov/Press-Release/www/releases/archives/population/012496.html> (last visited August 26, 2009).

As discussed in the National Broadband Plan Comments, broadband access and availability hinges upon both physical access to infrastructure and affordable service.¹⁸ Broadband cannot be said to have been reasonably deployed if unserved and underserved individuals cannot afford the broadband services being offered. To be meaningful, any definition of “access to broadband capability” should incorporate the following parameters:

- Access for those who have poor credit scores or no credit scores;
- Access not contingent on large deposits requirements;
- Access not contingent on large up-front payments for equipment; and
- Availability of attractive “value” packages more in sync with low-income households’ needs, discretionary income and usage patterns.¹⁹

C. In Reporting On Broadband Availability As Part Of Its Section 706 Report, The Commission Should Take Into Account The Perspectives Of Local Entities With Historic Ties To Neglected Communities

Locally-based Minority Business Entities (MBEs), Small and Disadvantaged Businesses (SDBs), nonprofit organizations, Historically Black Colleges and Universities (“HBCUs”), Hispanic Serving Institutions (“HSIs”), Asian American Serving Institutions (“AASIs”), and Native American Serving Institution (“NASIs”) have an on-the-ground perspective that Washington often lacks. As discussed in the National Broadband Plan Comments, the Commission’s National Broadband Plan should feature substantial involvement of locally-based

¹⁸ See National Broadband Plan Comments at p. 8.

¹⁹ See id. at 12 (citing Allen L. Hammond and C. K. Prahalad, Selling to the Poor, Foreign Policy, No. 142 (May - June, 2004) at 30-37, available at <http://www.jstor.org/stable/4147574> (last visited June 5, 2009)).

MBEs, SDBs, nonprofit organizations, HBCUs, HSIs, AASIs, and NASIs with demonstrated commitment, ability and experience to meet the needs of applicable communities.²⁰

BDS recommended “tapping into already existing networks of local and national nonprofit organizations that are engaged with the communities in which they operate and have expertise with creating culturally specific niche content that appeals to various ethnicities and non-English speakers.”²¹ Similarly, when reporting to Congress in its Section 706 report, the Commission should not make conclusions about broadband availability in neglected areas before consulting with local organizations that are familiar with the idiosyncrasies that affect local trends. Not doing so may lead to Commission to make premature inferences.

III. THE RECORD DOES NOT CURRENTLY DEMONSTRATE THAT ADVANCED BROADBAND CAPABILITY IS BEING DEPLOYED IN A REASONABLE AND TIMELY FASHION

By no stretch of the imagination has advanced broadband capability been deployed in the “reasonable and timely fashion” that was envisioned by Congress. As discussed in the National Broadband Plan Comments, despite evidence that the internet provides access to tools that may improve academic success, many unserved and underserved school districts lack adequate broadband service.²² Applied wisely, broadband provides access to high-bandwidth educational applications including online learning, collaborative work, and video conferencing; it connects geographically or economically isolated communities with the latest curricula and teaching

²⁰ See National Broadband Plan Comments at 20, 26-27.

²¹ See id.

²² See National Broadband Plan Comments at 24-25.

methods; it improves English literacy; it fosters digital proficiency; it improves work force skills and facilitates increased parent involvement.²³ Yet, in many schools, students do not have access to and, thus, cannot learn the use of the latest broadband technology.²⁴ This lack of service should be factored into the Commission's Section 706 review.

Further, deployment is severely lacking in isolated rural communities, such as Weirwood, Virginia, that are not situated along major highways.²⁵ These communities continue to suffer

²³ Id. (citing Benton Action Plan (citing Ed Tech Action Network, Why Technology in Schools? available at <http://www.edtechactionnetwork.org/why-technology-in-schools> (last visited September 4, 2009)).

²⁴ See MMTC Roadmap for Telecommunications Policy (July, 2008) (“Roadmap”) at 10 available at <http://www.mmtconline.org/filemanager/fileview/165/> (last visited September 1, 2009).

²⁵ See National Broadband Comments at 37-38 (citing Rural Broadband Comments at 2 (“Generally, when deploying rural broadband, the norm has been to construct a backbone along main highways and then to branch out broadband service from that backbone to communities adjacent to these major thoroughfares. For decades, this approach has neglected rural minority communities which, because of historic racial segregation, are situated further from major highways and to which the major highways are not easily accessible”); id. citing Daniel T. Lichter et al., Racial Segregation in Rural & Small Town America: Does New York State Fit the National Pattern? Community and Rural Development Institute, Cornell University (2007), available at <http://devsoc.cals.cornell.edu/cals/devsoc/outreach/cardi/publications/upload/10-2007-RPB.pdf> (last visited May 26, 2009) (“Many parts of rural America (e.g. blacks in the Mississippi Delta region or Native Americans on Indian reservations) have been home historically to large concentrations of racial and ethnic minorities. Non-metropolitan blacks are America's most highly segregated racial minority - roughly 30 to 40 percent higher than indices observed for rural Hispanic and Native Americans”); citing FCC, Bringing Broadband to Rural America, Report on a Rural Broadband Strategy, May 22, 2009, n. 10 at ¶31 (“Rural Broadband Report”) (discussing Weirwood, VA, an all-Black community on the Virginia Eastern Shore, which gives broadband availability a “public face,” and noting that the town has no funds to draw a fiber node from the trunk line that parallels U.S. Rt. 13 just a mile and a half away.)

from the present effects of past discrimination²⁶ and, as such, are not equipped to receive broadband services due to inadequate electrical outlets and wiring, both of which are needed to use broadband services safely.²⁷

Based on anecdotal reports, we believe that national broadband mapping will document a pattern of unequal broadband availability in areas with high concentrations of poor, minority, or rural households, and in some rural areas with high minority and poor populations (e.g., rural areas of the Southwest, rural areas of the South, certain U.S. territories, insular areas and Tribal lands).²⁸ There are also sizeable disparities in broadband access and usage along language

²⁶ See id. (citing Rural Broadband Comments at 3 (citing Christian E. Weller, Access Denied: Low-Income and Minority Families Face More Credit Constraints and Higher Borrowing Cost, Center for American Progress (2007), available at http://www.americanprogress.org/issues/2007/08/pdf/credit_access.pdf (last visited May 26, 2009); Gregory D. Squires and Ruthanne DeWolfe, “Insurance Redlining in Minority Communities,” The Review of Black Political Economy at 347-364 (2007); see generally Institute of Medicine, Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care, Brian Smedley et al., eds. (2003), available at http://www.nap.edu/openbook.php?record_id=10260&page (last visited May 26, 2009).

²⁷ See id., citing Rural Broadband Comments at 6 (citing Leslie A. Whitener, Rural America: Housing Poverty in Rural Areas Greater for Racial and Ethnic Minorities, United States Department of Agriculture (2000), available at <http://www.ers.usda.gov/publications/ruralamerica/ra152/ra152c.pdf> (last visited March 24, 2009). Higher proportions of rural minority households were classified as housing poor compared with white households.... One of the U.S. Department of Housing and Urban Development’s measures of housing poverty is “having no electricity, or all of the following three electric problems: exposed wiring, a room with no working wall outlet, and three blown fuses or tripped circuit breakers in the last 90 days.”

²⁸ Clearly there was a great deal of telecommunications deployment redlining in the past. Fortunately, it ended by the late 1990s, and in some markets (e.g. Verizon-D.C. and SBC-Missouri) years earlier. Remarkably, this happened at the initiative of the carriers and without litigation or regulatory intervention – marking one of the few occasions in civil rights history when a discriminatory practice was abandoned voluntarily.

lines.²⁹ For instance, broadband usage among Hispanics is lowest if Spanish is the only language spoken in the home.³⁰ Thus, for many of America's most vulnerable populations, broadband networks are simply not available. Therefore, deployment to these communities must be subsidized by government.³¹

IV. TO ACCELERATE BROADBAND DEPLOYMENT, THE COMMISSION SHOULD EXPAND THE UNIVERSAL SERVICE FUND TO BROADBAND DEPLOYMENT AND ADOPTION PROGRAMS, REMOVE ENTRY BARRIERS AND PROMOTE PARTICIPATION OF DE'S, MBES AND SDBS, AND CREATE INCENTIVES FOR INVESTMENT IN BROADBAND TECHNOLOGIES IN UNSERVED/UNDERSERVED, LOW-INCOME, MINORITY, AND MULTILINGUAL COMMUNITIES

To accelerate broadband deployment, the Commission should support programs to build out and stimulate demand for a flexible broadband infrastructure. As such, the Commission should expand the Universal Service Fund (USF) to include broadband deployment and adoption programs. The USF's high cost programs, Lifeline/Linkup programs, Rural Health Care program, and E-Rate program should all be restructured to meet the objectives of the national broadband plan.³²

Including broadband in the Lifeline/Linkup and Rural Health Care programs would allow low-income consumers in isolated communities to be connected to employment opportunities,

²⁹ See *id.* at 6 (citing See Hiroshi Ono and Madeline Zavodny, Immigrants, English Ability and the Digital Divide, *Social Forces*, v. 86 n. 4 pp. 1455-1479 (Jun 2008), available at <http://socialforces.unc.edu/epub/folder.2007-02-09.8541500563/June-2008-86-4> (purchase required)).

³⁰ See *id.*

³¹ See *id.*

³² See *National Broadband Plan Comments* at p. 15.

emergency information, and doctors and specialists that may otherwise be location or cost prohibitive.³³ For the purpose of expanding broadband awareness and demand, as well as fulfilling other national policy goals including increasing performance in STEM education, digital proficiency, and fostering productive workplace habits, a percentage of E-Rate funds should be allocated to digital literacy programs, portable computers for students, and teacher training on broadband technologies in low-income communities.³⁴

Additional measures the Commission should take in order accelerate broadband deployment include removing entry barriers and promoting participation of DEs, MBEs, and SDBs. As discussed at §IIC supra, SDBs are deeply familiar with the needs of the communities they serve, yet many barriers prevent them from serving these vulnerable communities.³⁵ As evidenced by the number of DE license winners in Auctions 66 and 73, the 2006 DE rules regarding the lease/resale restrictions and 10-year holding period render the DEs ability to obtain spectrum and access to capital more difficult, virtually negating the value of the bidding credit.³⁶ Other examples of entry barriers that hinder the participation of MBEs and SDBs are certain government procurement policies favoring previous large project experience, years-in-business

³³ See National Broadband Plan Comments at p. 16.

³⁴ See id. at pp. 16, 24.

³⁵ See id. at p. 18.

³⁶ See id. at pp. 21-22 (“... DEs secured only 4% (\$551 Million) and 2.6% (\$501 Million), respectively, of the licenses allocated in the two largest spectrum auctions in FCC history, Auctions 66 and 73. Virtually no licenses were awarded to minorities or women. Further in Auction 73, of the 250 most valuable licenses won (which yielded 95% of the total auction revenue (\$18 billion)), DEs won only 1% of the value (\$176 Million)” (internal citations omitted)).

requirements, bonding, or bundling of contracts.³⁷ The effect of these rules is to limit the participation of organizations that are traditionally committed to serving their communities.³⁸ As such, the Commission should modify the DE rules and eliminate entry barriers³⁹ for SDBs and MBEs in order to increase their participation and encourage rapid broadband deployment.

Specifically, we recommend that the DE rules be revised as follows:

- Define “Large Incumbent Service Provider” based on subscriber information and the types of “Material Relationships” that constitute fraud under the DE program, based on the old CMRS Spectrum Cap Attribution rules.
- Conduct, before an auction, a comprehensive review of the qualifications of an entity seeking designated entity status, and conduct regular random audits of DE applicants’ qualifications.
- Increase the amount of bidding credits to enhance their value to DEs seeking access to capital.
- Restore the previous long-standing Five-Year Hold Rule for DEs in place of the debilitating and unreasonable Ten-Year Hold Rule, which has cut off almost all access to capital from new entrant minority-owned DEs.

³⁷ See id. at p. 30. See also NTIA/RUS Comments at p. 17.

³⁸ See National Broadband Plan Comments at p. 18, 21 (“The FCC’s Lease/Resale Restriction is unduly restrictive and unreasonably limits the potential for full broadband deployment in rural and urban areas by an entire class of wireless providers.”)

³⁹ See Letter to Marlene Dortch, Secretary, Federal Communications Commission, from Cheryl Johns, Assistant Chief Counsel for Telecommunications at the Small Business Administration’s Office of Advocacy, regarding “Changes to the Designated Entity Provisions in FCC Spectrum Auction Rules” (filed August 25, 2009) (recommending that the FCC amend the DE rules “quickly” because “Advocacy believes that the April 2006 changes made to the DE auction rules inhibited participation by small entities and minority businesses in recent spectrum auctions. While it is our understanding that these rules were changed to prevent fraud and other abuses within the FCC’s auction process, the administrative record fails to support this justification. In addition, Advocacy believes that this type of abuse would best be addressed by the enforcement of the audit process, which is frequently used by other federal agencies and included in the Commission’s original auction rules.”)

- Relax (but do not entirely eliminate) the restrictions on DEs' ability to lease, resell or wholesale their licenses, post-auction, that effectively deprive DEs of their bidding credits.⁴⁰

To encourage participation by MBEs and SDBs as contractors and subcontractors, the Commission should create incentives for investment in broadband technologies in unserved/underserved, low-income, minority, and multilingual communities. Actions the Commission should take to incentivize investment in these areas include:

- working with minority banks to develop a line of credit for SDB broadband ventures;
- supplying direct loans for investment in broadband technologies in these areas;
- using the interest generated from spectrum auction proceeds to reinstate the Telecommunications Development Fund;
- using tax credits and reinstate the tax certificate policy to encourage DBE and MBE participation;
- increasing broadband demand by creating digital literacy and training programs in vulnerable communities; and
- allocating certain USF funds to state grant programs to increase broadband facilities in unserved communities.⁴¹

V. TO IMPROVE ITS BROADBAND DATA COLLECTION EFFORTS, THE COMMISSION SHOULD TRACK SOCIOECONOMIC DATA, EXPAND 477 DATA COLLECTION, ADEQUATELY ASSESS SDB AND MBE ENGAGEMENT, AND COLLECT SPECIFIC HARDWARE AND SOFTWARE AVAILABILITY INFORMATION IN UNSERVED AND UNDERSERVED AREAS

We generally agree with the BDIA's data collection reforms.⁴² By expanding speed tiers for reporting purposes, requiring collection of more granular data beyond previous zip codes ranges,

⁴⁰ See Roadmap at 21.

⁴¹ See id. at p. 46-47.

requiring comparative analysis of successful international initiatives, involving the Bureau of the Census in data gathering, requiring publication of surveys, evaluating the impact of availability on small businesses and structuring other inter-agency and federal-state coordination, and collecting data on computer ownership, BDIA recommends steps in the right direction.

However, by focusing solely on availability and requiring data on an annual basis, the BDIA reforms will fall short of generating sufficient data to support national broadband plan objectives.

In §IIA supra, we addressed socio-economic factors that needed to be tracked in the

Commission’s data collection process.⁴³ To address market barriers to entry, the Commission data collection practices should also feature:

- A uniform format and elements within each report to facilitate coordination and interoperability with other federal, state and municipal mapping and data collection initiatives (one possibility is to reconstitute the Federal-State Joint Conference on Advanced Services).⁴⁴
- Data collection on the availability of broadband services in educational institutions, health facilities, public service and safety agencies, libraries, community centers, senior centers and facilities.
- Data collection on the availability of broadband in multiple-occupant dwellings, particularly low-income dwellings subsidized with federal and state funds.
- Revising and expanding Form 477 to collect information from commercial carriers regarding their tier pricing, credit and deposit requirements across various communities.
- Quarterly reporting obligations for SDB and MBE pursuant to Section 6001(i) (1) of the Recovery Act to measure success in the grant process and to establish public accountability standards.

⁴² See Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4097 (codified at 47 U.S.C. §§1301-04) (“BDIA”).

⁴³ The Commission has extensive general authority to collect evidence needed to support its civil rights rules and policies through Sections 257, 303(g) and 403 of the Communications Act.

⁴⁴ See National Broadband Plan Comments at 45-46 (citing BDIA at §1304).

- Quarterly reporting by fund recipients on new subscribership and technology training efforts.
- Requiring compliance with EEO and SBA objectives with respect to data gathering grant awards.⁴⁵
- Establishing procurement “best-practices” for data collection, with significant mobilization of community-based institutions that are trusted and experienced within low-income, minority and multilingual communities to collect and report data.⁴⁶
- Coordination with state and municipal initiatives to map broadband deployment and use.

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⁴⁵ See id. (citing BDIA, 47 U.S.C. §1304(b) (2), (c) – (d)).

⁴⁶ See id. (citing BDIA §1304(e)).

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APPENDIX A

Descriptions of Commenters

The **Broadband Opportunity Coalition** (BOC), composed of several of the nation's leading civil rights and social justice organizations, works to promote universal broadband adoption, MBE participation in broadband deployment, and broadband literacy.

The **Asian American Justice Center** (AAJC) works to advance the human and civil rights of Asian Americans through advocacy, public policy, public education and litigation.

The **Joint Center for Political and Economic Studies** is one of the nation's leading research and public policy organizations, and the only one that focuses primarily on the concerns of African Americans and other people of color.

The **League of United Latin American Citizens** (LULAC) is the largest and oldest Hispanic organization in the United States, with a mission to advance the education, employment, housing and civil rights of Latinos.

The **Minority Media and Telecommunications Council** (MMTC) is the nation's principal advocate for diversity in the media and telecommunications industries.

The **National Council of La Raza** (NCLR) is the largest national Hispanic civil rights and advocacy organization in the United States.

The mission of the **National Urban League** (NUL) is to enable African Americans to secure economic self-reliance, parity, power and civil rights.

One Economy Corp. is a global nonprofit organization that uses innovative approaches to deliver the power of technology and information to low-income people, giving them valuable tools for building better lives. It helps bring broadband into the homes of low-income people and employs youth to train their community members to use technology effectively.

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