



October 18, 2022

Broadband Data Task Force
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Chair Kiddoo and Broadband Data Taskforce Members,

We, the undersigned public interest organizations, submit this letter as members of Broadband Connects America (“BCA”), a coalition of diverse national, state-based, and local nonprofit organizations, as well as state agencies, that advocate for policies to promote broadband access in underserved rural areas. As the maps created through the Broadband Data Collection Program will determine the distribution of tens of billions of dollars in broadband funding, we urge you to offer guidance to consumers looking to challenge the availability of broadband. To delay this guidance risks leaving communities on the wrong side of the digital divide.

During the availability challenge process for the Broadband Data Collection maps, the Commission said consumers may file a challenge asserting that the “reported speed [is] not offered.”¹ However, it is unclear how consumers can actively participate in this facet of the challenge process, so Commission guidance would be useful.

Speed test data is critical for showing whether customers are actually receiving broadband. The Commission currently defines broadband as internet offering speeds of at least 25/3 Mbps, and Chairwoman Rosenworcel has proposed significantly increasing these speeds because they are no longer adequate for modern connectivity needs. Without data about the actual speeds that customers are receiving, it is impossible to know if their service meets even the current definition of broadband, let alone the speeds they need to meaningfully engage online.

The speeds a company purports to offer are irrelevant. If a consumer is not actually getting those speeds, let alone the higher speeds needed for modern connectivity, they will remain on the wrong side of the digital divide. Internet service providers often note that fixed broadband speeds are impacted by a consumer’s Wi-Fi router, and hence the *actual* speeds consumers experience is beyond their control. However, the point of the challenge process is not to punish ISPs, but rather to get consumers connected. Where there is a challenge, the ISP will have an opportunity to

¹Federal Communications commission, *Third Report and Order in the Matter of Establishing the Digital Opportunity Data collection*, WC Docket No. 19-195 at para. 72 (Jan 19, 2021).



respond with its own evidence to the challenge. If the consumer prevails and a new awardee wins funding, then it just may be that at the end of the new construction, consumers have a choice, i.e., a competitive market. And, needless to say, a competitive broadband marketplace is never a bad thing – particularly if it finally enables consumers long left behind to get connected at an affordable rate.

Given the Commission’s definition of broadband and its goal of closing the digital divide – we encourage the Bureau to provide guidance to consumers about how best to demonstrate that the services they receive cannot meet the definition of broadband – it *must* accept actual speed data during the challenge process for fixed broadband. The consequences for doing otherwise are simply too great.

Thank you for your attention to this urgent matter.

Sincerely,

Access Humboldt

Benton Institute for Broadband & Society

California Center for Rural Policy

Center for Rural Strategies

Communications Workers of America

National Consumer Law Center, on behalf of its low-income clients

National Digital Inclusion Alliance

Next Century Cities

Public Knowledge

State of Connecticut Office of Consumer Counsel

Together for Hope