

MEMORANDUM

RE: FCC Broadband Deployment Report

DATE: May 29, 2019

Today, the FCC released its long-delayed 2019 Broadband Deployment Report <https://docs.fcc.gov/public/attachments/FCC-19-44A1.pdf>. As required by Congress, the Commission must “determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.” If not, the Commission is required to “take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.” Today, the FCC defines advanced telecommunications capability to be 25/3 Mb for fixed services and where mobile broadband is advertised at a minimum speed of 5/1 Mb.

According to the FCC, this report is built on the best available data, which it deems to be FCC Form 477. Since the last report was released in early 2018 (and even before), Congress and the GAO have rained down criticism on the quality of the Commission’s Form 477 data, mostly for overstating broadband availability. In Mobility Fund Phase II, the FCC did a “one time” collection to get higher quality data, which data has proven to be just about as poor as Form 477. Outside parties with independent measuring tools have demonstrated significant shortcomings with Form 477.

In addition, the FCC’s process has failed. A single company submitted Form 477 data showing that it provided 100 Mb coverage to 61 million people, constructed in less than a year, and the Commission didn’t catch it for eleven months after the submission, until an outside party pointed it out. That delayed the release of this report for three months.

Nor has the Commission corrected significant and longstanding data collection issues. The current report still finds a census block to be 100% served if a carrier is able to provide service to even one customer inside the block. An area is considered to be “served” if a carrier is currently providing service, or could provide service without an expenditure of extraordinary resources (this has never been defined). Accordingly, there are a lot of areas shown as “served” where rural people do not actually have access to broadband and, because the FCC has done no independent testing, we don’t know exactly how many people lack access.

The FCC claims 21.3 million lack access to terrestrial (land-based) broadband, however Microsoft has submitted data demonstrating that 161 million Americans are not actually using broadband at 25/3 speed. While some have access to 25/3 but choose to purchase a lower speed tier, Microsoft's data depict many areas where nobody is using broadband at 25/3, suggesting that the Commission's finding that broadband is available must be incorrect. When the FCC states that 73.6% of rural Americans have access to 25/3 service, what if that number is really 53.6%?

Accordingly, it is reasonable to conclude that we do not have a reliable measurement of how many Americans lack access to fixed broadband at 25/3 speed or mobile broadband at 5/1. At best, the report should be graded "incomplete" because literally none of the thousands of numbers depicted therein can be relied upon as an accurate representation of the state of affairs. As a result of these infirmities, we think it impossible for the FCC to accurately conclude that advanced telecommunications capabilities are being deployed in a timely fashion. If the FCC is incorrect, then the policy choice – to not take immediate steps to accelerate deployment – is the wrong one.

In the bigger picture, with 5G on the horizon, and demand for broadband throughput continuing to soar, it is disturbing that this Commission does not have even a rudimentary plan to close the Digital Divide. Congress gave the Commission taxing authority, the most powerful tool an agency can hold – the ability to raise money to accomplish policy goals. Through its universal service mechanism, the FCC could build a plan to ensure that every American has fixed and mobile broadband by a date certain.

To do that would require metrics – accurately measuring how many people lack access and where they need service. It would require estimating the cost of completing the task, determining what the target speed should be, setting a goal for how long it should take, and how the universal service contribution methodology should be set to meet that goal. It could be accompanied by any necessary request for Congressional assistance in the form of supplemental funding or other authority to complete the task, such as for example, enacting "dig once" policies, or reducing the need for environmental assessments in rights of way that have been previously disturbed.

John Horrigan at the Benton Foundation made a great point in his blog post today, that back in 2011 the number of Americans without broadband was 19 million, while today it is 21.3 million. Of course, in 2011, a 3 Mb connection was considered to be broadband. So sure we've made progress, but the point is solid. As we keep redefining broadband upward, the same rural Americans continue to lag the field. In ten years, when urban folks have 100+ Mb in their handhelds and 1 Gb at the home, or more, there's probably still going to be 20 million rural Americans stuck at a fraction of those speeds, unable to compete in the modern world, because this Commission didn't have the vision to get the job done.

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To sum up, the job is hard to do, and faces political opposition, but it is a simple set of tasks. The FCC must convey to the nation that the government understands the magnitude of the problem, outline a plan to fix it, including a set date on which virtually every American can look forward to having broadband access at a reasonable cost, as envisioned by Section 254(b)(3) of the Communications Act. Instead, we have platitudes and back patting.

The report is a disappointment in every respect.