



The Honorable Jessica Rosenworcel
Chairwoman
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Dear Chairwoman Rosenworcel:

We, the undersigned organizations, write to express our concerns about the undercount of unconnected households and community anchor institutions (CAIs) in the National Broadband Map (Map) recently released by the Federal Communications Commission (FCC). We recognize that mapping the availability of broadband across the country on an address by address basis is a huge undertaking and that the Commission has been working diligently to meet the Congressional mandate. Nonetheless, we request that the FCC take all appropriate actions to swiftly address these deficiencies and ensure that all unconnected and under-connected entities are accounted for, before the Map is made available to the National Telecommunications and Information Administration (NTIA) for Broadband Equity, Access, and Deployment (BEAD) and Digital Equity (DE) determination of state allocations.

Nationwide, 20-25% of unconnected households reside in public and multifamily housing.¹ These are the lowest income and most digitally disconnected households in America. The Infrastructure Investment and Jobs Act (IIJA) included a transformational \$65 billion investment in broadband infrastructure, the largest ever proposed by Congress, intended to connect ALL households to affordable, reliable, broadband internet services. The coronavirus pandemic has further shed light on the longstanding importance of an affordable, high-speed broadband connection for Americans trying to pursue an education, work remotely, access healthcare, or stay connected to loved ones. Just as rural electrification did in the 1930s, these broadband investments will help connect every American to the infrastructure that powers modern life, and help ensure that communities across the nation are able to fully engage in the 21st century economy.

With regard to the provision of service in multifamily residential housing, the Broadband Data Collection (BDC) process created by the FCC, pursuant to the Broadband Deployment Accuracy and Technological Availability (DATA) Act, suffers from some of the same inaccuracies and lack of granularity as the Form 477 data it was tasked with replacing. The BDC as it exists today does not require a provider to demonstrate availability of broadband services to all of the housing units in a multifamily residential building. Rather, a multifamily building will be deemed served as long as one unit in the building is capable of receiving service. For example, the FCC National Broadband Maps do not take into account

¹*No Home Left Offline: Bridging the Broadband Affordability Gap*, EducationSuperHighway, 3, (2021) <https://www.educationsuperhighway.org/wp-content/uploads/No-Home-Left-Offline-Report-EducationSuperHighway2021.pdf>

circumstances in which a portion of the building is served, such as the business office or commercial space, but the residents are unserved or underserved, a situation often seen in low-income housing where ISPs have neglected installing or upgrading residential broadband wiring.

Under the current FCC National Broadband Map Challenge Process, the burden of proof is placed on millions of households living in multifamily residential buildings to challenge the accuracy of data building by building, and or benevolent third party entities to mount a bulk challenge on their behalf. It is naive and unfair to assume that millions of unserved households located in high-poverty areas will be able to mount a successful broadband availability challenge, especially in the limited amount of time that the FCC has allotted to submit challenges that can be taken into consideration by NTIA in the BEAD and DE allocation process.

Similarly, we are concerned that the proposed map will not identify the broadband available to community anchor institutions (CAIs). The Broadband Serviceable Location (BSL) Fabric (Fabric), which is intended to identify the individual locations that broadband providers serve, generally treats CAIs as not “broadband serviceable locations”. In other words, while broadband providers have to report information on homes and businesses, they do not have to report on the broadband availability to CAIs.² This conflicts with the FCC’s Third Report and Order in the mapping proceeding, issued in January 2021, which states that “to the extent such acquisitions of broadband capacity [by community anchor institutions] fall into the category of ‘mass market,’ then providers must report such data.” We understand that there are thousands of libraries, health clinics, houses of worship, and other CAIs across the country that *do* purchase mass market services and they should be included in both the Fabric and the final version of the Map. Relying on the challenge process alone is unlikely to adequately map and address the broadband needs of CAIs. The Commission’s Map challenge process is set up to allow parties to challenge a location or the availability of services at a location, but it does not identify how CAIs can challenge the designation of an anchor institution as not “broadband serviceable” (to change its BSL flag to “True”).³ Additionally, the inclusion of CAIs in the Map is necessary to comply with Congressional intent, since the IJA specifically states that anchor institutions that do not have gigabit connectivity are “unserved” and are thus eligible for broadband deployment under the BEAD program. The BEAD NOFO further states that “NTIA underscores its strong preference that Eligible Entities also ensure deployment of gigabit connections to community anchor institutions such as libraries and community centers that lack such connectivity.”⁴

² For instance, the BDC’s [Frequently Asked Questions](#) may be incorrect when it states that “The Commission has decided that because community anchor institutions generally subscribe to non-mass-market, enterprise-grade services, they would not be identified as BSLs [broadband serviceable locations] in the initial version of the Fabric.” We are not aware that the Commission has made this “decision”.

³ See <https://broadbandmap.fcc.gov/about>.

⁴ U.S. Department of Commerce, National Telecommunications and Information Administration (NTIA), *Broadband Equity, Access and Deployment (BEAD) Program, Notice of Funding Opportunity (NOFO)*, 2022, pg. 7, Washington, DC: Government Printing Office.

We recommend the FCC pause the current challenge process for MDUs and develop a challenge process, to be included in BEAD and DE allocations, specifically for MDUs deemed a priority for broadband by Congress⁵ and NTIA⁶, including:

- 1) locations in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved (as determined under section 673(2) of the Community Services Block Grant Act) is higher than the national percentage of such individuals or;
- 2) Locations that have a substantial share of unserved households.

Given the correlation between income and the digital divide, it is reasonable to assume that multifamily buildings within high-poverty census tracts do not have access to reliable, affordable, high-speed broadband due to ISPs having either not fully wired or maintained the wiring to the units in the buildings.

To ensure all MDUs are accurately designated, we request that the FCC shift the burden of proof from unconnected consumers to the ISPs, by pausing the current challenge process and creating a new challenge process that automatically designates MDUs, which fit the above criteria, as unconnected and establish a process in which ISPs are required to submit challenges. Data required should include an accurate unit count, highest available speeds, unit by unit connectivity status (incl. type of wiring and usability status), total actual capacity currently provisioned to the building accounting for both infrastructure type and premise equipment and hardware, and artifacts proving that ALL units within a building have the infrastructure necessary to simultaneously qualify as connected (100/20Mbps) or under-connected (25/3Mbps), as defined by the IJJA. If an ISP does not submit a successful challenge within 30 days of the initial unconnected designation, including providing sufficient evidence and artifacts, those locations shall retain an unserved designation on the FCC National Broadband Maps.

To ensure all CAIs are accurately designated and are able to take advantage of funding, we request that the FCC also shift the burden of proof from CAIs to ISPs. The default should be that all anchor institutions are designated (“flagged”) as broadband serviceable locations unless an ISP can show otherwise. This process would be consistent with the FCC’s previous finding that anchor institutions will be included in the map to the extent they purchase “mass market” services.

We urge the Commission to address both of these shortcomings before the National Broadband Map is finalized and released to NTIA for BEAD/DE allocation determinations. We applaud the Commission for releasing the first draft of the FCC National Broadband Maps, which marks a critical first step in closing the digital divide and broadband affordability gap. EducationSuperHighway, SHLB, and the undersigned organizations look forward to continuing to partner with the Commission to ensure that no one is left offline.

Thank you for your attention on this important matter.

Sincerely,

⁵ H.R. 3684 - 117th Congress (2021-2022): Infrastructure Investment and Jobs Act. Congress.gov, Library of Congress, 15 November 2021, <https://www.congress.gov/bill/117th-congress/house-bill/3684>

⁶ *BEAD NOFO* at 41.



Evan Marwell
Founder & CEO
EducationSuperHighway
evan@educationsuperhighway.org



John Windhausen, Jr.
Executive Director,
Schools, Health & Libraries Broadband (SHLB)
Coalition
jwindhausen@shlb.org

All4Ed
American Library Association
Arizona State University
Association for Rural & Small Libraries (ARSL)
Benton Institute for Broadband & Society
California State Library
California Telehealth Network
Capital Area District Libraries
Castleberry Independent School District
Channelford Associates, Inc.
Chiefs for Change
COSLA - Chief Officers of State Library Agencies
Colorado Education Broadband Coalition
Colorado Hospital Association Broadband Services
Common Sense Media
Connect Waukegan
Connected Nation
Council of Chief State School Officers
Council on Affordable and Rural Housing
Digital Equity Institute
Downey City Library
EdTechnologyFunds, Inc.
Educational Professional Services and Educational Consulting Associates
EveryoneOn
Federal Funding Group
Fresno Coalition for Digital Inclusion
Fresno Housing
Fresno Unified School District
Friends & Foundation of Albany Public Library
Funds for Learning
Geeks Without Frontiers
Hennepin County, Minnesota
IBSA, Inc.

Kansas City Public Library
Kansas Office of Broadband Development
Kenosha Public Library
Ladera Education Institute
Lancaster-Lebanon Intermediate Unit 13
LeadingAge
Libraries of Middlesex Automation Consortium
Lit Communities
Local Initiatives Support Corporation (LISC)
Los Angeles County Economic Development Corporation (LAEDC)
Los Angeles County Library
Los Angeles County, Office of Education
Los Angeles County, Internal Services Department
Los Angeles Public Library
Maine State Library
Manufactured Housing Institute
Milwaukee Public Library
Minnesota State Library Services
Mobile Citizen, a Voqal project
Modesto City Schools Information and Educational Technology Services
Mohuman
Multicultural Media, Telecom and Internet Council
National Affordable Housing Management Association (NAHMA)
National Apartment Association
National Association of Federally Impacted Schools
National Association of Housing Cooperatives
National Collaborative for Digital Equity
National Council of Teachers of English
National Leased Housing Association
National Digital Inclusion Alliance
National Multifamily Housing Council
Nebraska Library Commission
New America's Open Technology Institute
New York Library Association
North Carolina Independent Colleges and Universities
NorthWest Colorado Broadband
NTEN
OCA-Asian Pacific American Advocates
OCHIN, Inc.
Petrichor Broadband LLC
POLAHS (Port of Los Angeles High School)
Positron Access Solutions Corp.
Public Advocacy for Kids (PAK)
Public Health Innovators, LLC

Pullman Public Schools
Redbud Telecom Consulting
Rhode Island Office of Library & Information Services
San Diego County Library
Seattle Information Technology Digital Equity Office, City of Seattle
Shreve Memorial Library
SmartWAVE Technologies
South Carolina State Library
Southern Ohio Health Care Network
Southern Oregon Education Service District
State Library of Iowa
Steamboat Springs School District
Sun Corridor Network
Telconnections, Inc.
Texas State Library and Archives Commission
The Undivided Project
The STEM Alliance
Urban Libraries Council
UNITE-LA
US-Ignite
Utah Education and Telehealth Network
Utah State Library Division
Val Verde Unified School District
Virginia Society for Technology in Education
Volunteers of America National Service
Voqal
VST Services, LP
Washington State Library
Westchester Library System
Westside Elementary School
Ysleta Independent School District

CC:

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