

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

In the Matter of)	
)	
Establishing the Digital Opportunity Data Collection)	WC Docket No. 19-195
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	

COMMENTS OF CTIA

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CTIA¹ submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Fourth Further Notice of Proposed Rulemaking concerning the Broadband Data Collection (“BDC”) process.²

I. INTRODUCTION AND SUMMARY

CTIA and its members share the Commission’s ongoing commitment to enhancing the accuracy of the National Broadband Map and appreciate the opportunity to explore ways to refine the BDC processes to help achieve this goal. In the *FNPRM*, the Commission seeks comment on several issues relating to the BDC process, including the restoration of locations or areas that had been removed due to a lost or conceded challenge, a verification inquiry, or an audit; the treatment

¹ CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless providers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² *In re Establishing the Digital Opportunity Data Collection*, Fourth Report and Order, Declaratory Ruling, and Fourth Further Notice of Proposed Rulemaking, WC Docket Nos. 19-195 and 11-10, FCC 24-72 (rel. July 12, 2024) (“*Declaratory Ruling*” or “*FNPRM*”).

of “grandfathered” service; a proposed three-year BDC data retention requirement; and permanently eliminating the requirement that BDC submissions be accompanied by a certification by a licensed professional engineer (“PE”) if not submitted by a corporate engineering officer.³

For the fixed restoration process, CTIA encourages the Commission to confirm that it is voluntary for providers to submit additional information to restore fixed locations, take steps to conserve Commission and provider resources, and ensure flexibility to account for the variety of reasons that a location could be removed from the map. In particular, the Commission should:

- adopt a *de minimis* threshold to enable providers to restore up to 2% of the locations in their BDC footprint in each state per biannual filing without submitting additional data;
- conclude that the restoration of certain locations should have a lower evidentiary burden, such as fixed wireless locations removed after a challenge due to a “service change”; and
- identify a non-exhaustive list of the types of non-infrastructure data that could be persuasive to support restoring such locations, including screenshots or certifications where a provider has active subscribers.

For mobile, the Commission can limit the burdens of restoration by screening out challenges that would remove areas from the map due to circumstances that are outside of the provider’s control, such as challenges using speed tests conducted indoors or challenges based on data gathered in areas inaccessible to the provider. If that is not feasible, the Commission should provide a streamlined process for restoring areas that should not have been removed in the first place.

³ See *FNPRM* ¶¶ 45-64, 78-85, 95-105, 110-114; see also *Declaratory Ruling* ¶ 29.

Further, the Commission should:

- adopt the proposal to treat “grandfathered” service availability data⁴ as confidential to enhance the accuracy of the maps and reduce consumer confusion;
- refrain from requiring terrestrial licensed fixed wireless providers to submit information already in the Commission’s systems, including call signs, lease IDs, and FCC Registration Numbers (“FRN”), which is unnecessary and already within the Commission’s possession; and
- adopt a two-year data retention period, which appropriately balances the benefits and burdens of this proposal.

Finally, CTIA and its members encourage the Commission to further enhance the transparency of the BDC process by ensuring that providers understand how the data they submit is being used by the Commission (including infrastructure data submitted as part of an audit), and have prior, adequate notice of any changes to the BDC system, guidelines, and data specifications.

II. THE RESTORATION PROCESS SHOULD BE FLEXIBLE AND ALLOW PROVIDERS TO USE DATA THAT BEST SUPPORTS THE SPECIFIC REQUEST.

In the *Declaratory Ruling*, the Commission established “a pathway” for restoring a location or area previously removed from the National Broadband Map due to a conceded or lost challenge, a verification inquiry, or an audit.⁵ The Commission delegated authority to the Office of Economics and Analytics to coordinate with other Bureaus and develop the data specifications for

⁴ *FNPRM* ¶ 51 (“We propose to define a ‘grandfathered’ service similar to the definition used in other areas of our rules: any broadband Internet access service that is currently provided to an existing end user at a Broadband Serviceable Location, but that a facilities-based provider is discontinuing, has permanently ceased to advertise or market to new or potential subscribers, and would not make available to a new or potential subscriber at the Broadband Serviceable Location.” (citing 47 C.F.R. § 63.60(d))).

⁵ *Declaratory Ruling* ¶¶ 28-44.

these restoration submissions, and concurrently sought comment on the use of non-infrastructure data for the restoration process.⁶

CTIA supports the Commission’s decision to establish a restoration process to help ensure that the National Broadband Map is timely and accurate, and commends the Commission for seeking comment on the data requirements and other potential evidence for restoration. As the Commission has recognized, broadband service availability can expand and contract in “various ways,” making it “entirely possible, and in fact, very likely” for the desire to restore a location to arise.⁷ Given the evolving nature of broadband networks, particularly wireless networks, and the diverse set of circumstances that may give rise to the desire to restore a location, the restoration process should be voluntary and the Commission should avoid creating a one-size-fits-all approach.⁸

A. The Fixed Restoration Process Should Be Flexible and Offer a Menu of Options for Providers.

As an initial matter, to conserve the resources of Commission staff and providers, the Commission should establish a *de minimis* threshold allowing providers to restore up to 2% of the

⁶ *Declaratory Ruling* ¶¶ 29, 44; *FNPRM* ¶¶ 110-114.

⁷ *Declaratory Ruling* ¶ 35.

⁸ CTIA filed a Petition for Clarification asking the Commission to confirm that the *Declaratory Ruling* does not mandate the restoration of locations or areas, or the submission of, for any restoration requests, the infrastructure data information outlined in the Commission’s Broadband Data Collection, Data Specifications for Provider Infrastructure Data in the Challenge, Verification, and Audit Processes. *See generally* Petition for Clarification of CTIA, WC Docket Nos. 19-195 and 11-10 (Aug. 12, 2024) (“CTIA Request for Clarification”); *see also* FCC, *Broadband Data Collection: Data Specifications for Provider Infrastructure Data in the Challenge, Verification, and Audit Processes* (Feb. 20, 2024), <https://us-fcc.app.box.com/v/bdc-infrastructure-spec> (“Data Specifications”). As CTIA has explained, while the *Declaratory Ruling* indicates that the use of the restoration process is optional, there is some uncertainty based on language used in the item and public confirmation by the Commission would be helpful. Mandating the submission of this information would impose unnecessary and excessive burdens on providers and contradict the plain text of the Broadband Deployment Accuracy and Technological Availability Act (“DATA Act”), and imposing such a requirement without notice-and-comment would also be inconsistent with the Administrative Procedure Act. *See* CTIA Request for Clarification at 5-7.

locations in the provider’s BDC filing in each state without submitting additional data. The Commission has ample safeguards to help ensure the accuracy of provider data submissions, including collecting infrastructure data as part of audits, verification requests, and enforcement.⁹ Relying on these existing safeguards and allowing providers to restore a small percentage of their total locations within a state without additional data, provides much-needed flexibility and avoids imposing unnecessary burdens.

Where a restoration would exceed the *de minimis* threshold in a state, the Commission should create a process that encourages providers to restore locations to enhance the accuracy of the map. There are a variety of reasons why a location may have been removed from the map. The Commission should afford flexibility in the ways that providers can show that service is now available at a previously-removed location to account for these variations, and should not impose the same evidentiary burdens for all restoration requests.

For example, the restoration of fixed wireless locations previously removed as “conceded” due to a “service change” should not require additional data support. The Commission added the “concede, service change” option in the challenge portal to differentiate these situations from other challenges to the maps. And, as CTIA has explained, use of the word “concede” in this context is actually a misnomer. This label does not mean that the provider’s filing was inaccurate. Rather, it merely indicates that a change in service availability occurred after the provider’s biannual filing “as-of” date.¹⁰

⁹ See 47 C.F.R. § 1.7006; Data Specifications.

¹⁰ See, e.g., Letter from Amy E. Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-195 and 11-10, at 2 (June 26, 2024) (“CTIA June 26, 2024 ex parte”); Comments of CTIA at 8, WC Docket Nos. 11-10 and 19-195 (Feb. 20, 2024) (“CTIA Comments”); Reply Comments of CTIA at 15 n.59, WC Docket Nos. 11-10 and 19-195 (Mar. 5, 2024); CTIA Request for Clarification at 4-5.

Requests to restore locations previously removed under the “concede, service change” label are therefore no different from the other service availability updates providers make as part of their biannual submissions. The Commission should instead develop a streamlined process, such as a drop-down menu in the BDC system, for providers to give a brief explanation of why the service is now available, such as intervening developments in network capacity, spectrum resources, and other factors between the date the challenge was deemed successful and the date of the restoration request.

To the extent the Commission requires the submission of additional information for the voluntary restoration process, the Commission should provide a non-exhaustive list of examples of non-infrastructure data that providers may elect to use, depending on the circumstances. This may include screenshots of providers’ websites showing current availability, or a certification by the provider that a location has an existing, active subscriber. Providing flexibility to use non-infrastructure data is consistent with the Commission’s recognition in the Declaratory Ruling that infrastructure data may not be relevant to the restoration of locations removed under certain fixed availability challenge codes, such as failure to schedule a service installation within 10 business days of a request, failure to install the service at the agreed-upon time, and requesting more than the standard installation fee to connect a location.¹¹ The Commission has also noted that the Data Specifications for infrastructure data are merely “indicative of the kind of information [the Commission] expect[s] to be persuasive” in restorations.¹²

Flexibility is especially important in the context of multi-dwelling units (“MDUs”) where millions of Americans live and work. Currently, a successful challenge in an MDU results in the

¹¹ *Declaratory Ruling* ¶ 42.

¹² *Declaratory Ruling* ¶ 42.

removal of the entire MDU from the map, even when there are active subscribers in other units.¹³ Allowing providers to restore these locations by certifying that there are active subscribers within the MDU will improve the accuracy of the map by avoiding identifying the served location as unserved.¹⁴

By creating a flexible restoration process and establishing a *de minimis* exception, the Commission can promote the goals of more granular and accurate maps without imposing undue burdens.

B. The Commission Should Similarly Provide Flexibility for the Mobile Restoration Process.

While the BDC rules currently enable a restoration process for mobile availability, the Commission has not provided further guidance on the process.¹⁵ CTIA applauds the Commission for seeking comment on the process for the restoration of mobile areas, including whether the Commission should allow restoration of an area using on-the-ground speed test data.¹⁶

Similar to fixed restorations, the mobile restoration process should be flexible and seek to minimize burdens, especially where the restoration requests concern areas removed under challenges that are not permitted under the Commission's rules. Despite the Commission's clear guidance on these matters, CTIA members continue to receive mobile challenges that do not meet the Commission's requirements, including challenges based on speed tests that were plainly taken

¹³ See, e.g., Comments of USTelecom – The Broadband Association at 4-5, WC Docket No. 19-195 (Feb. 20, 2024).

¹⁴ To encourage submission of probative data, the Commission should presume that any such subscriber-specific information is confidential. Doing so is consistent with the Commission's current practices, where providers may request confidential treatment of provider-specific subscription information in BDC filings. See 47 C.F.R. § 1.7005(b); see also FCC Broadband Data Collection Help Center, *Filer Confidentiality Requests* (updated Mar. 27, 2024), <https://help.bdc.fcc.gov/hc/en-us/articles/8162804537883-Filer-Confidentiality-Requests>.

¹⁵ See 47 C.F.R. § 1.7006(e)(5), (e)(6)(iii), (f)(6), (f)(7); see also *FNPRM* ¶ 42.

¹⁶ *FNPRM* ¶ 114.

indoors, as well as challenges to outdoor stationary maps that were conducted in a moving vehicle.¹⁷ Because the Commission should reject these challenges as non-cognizable, such challenges should not even be passed through to providers.¹⁸

Notably, when analyzing crowdsource data from the new version of the FCC speed test app, one CTIA member found that about 20 percent of the speed tests conducted as challenges were performed within a building, despite the new version of the app prompting users to confirm they are not inside a building before conducting a speed test.

Figures 1 and 2 below show examples of mobile challenges that CTIA members have received, which were plainly taken indoors.¹⁹

¹⁷ The Commission has made clear that mobile challenge speed tests may not be conducted indoors, yet CTIA members continue to receive mobile challenges conducted indoors. *See Broadband Data Task Force Seeks Comment on the Broadband Data Collection Challenge Processes*, Public Notice, WC Docket Nos. 11-10 and 19-195, DA 24-64, at 7 & n.38 (WTB, WCB, & OEA rel. Jan. 19, 2024). The Commission also rejected proposals to allow challengers to submit in-vehicle tests to challenge stationary coverage. *See In re Establishing the Digital Opportunity Data Collection*, Order, 37 FCC Rcd 3007, 3027 ¶ 33 (WTB, OEA, & OET 2022) (“*BDC Mobile Technical Requirements Order*”).

¹⁸ CTIA June 26, 2024 ex parte at 3.

¹⁹ For purposes of these Figures, green dots and triangles represent challenge speed tests that passed, and red dots and triangles represent tests that failed. In Figure 2, the yellow triangles refer to speed tests conducted by the provider as part of their rebuttal after confirming with the challenger that he ran the speed tests from his living room, which are reflected as the red triangles.



Figure 1



Figure 2

Similarly, Figures 3 and 4 below show examples of challenges to a CTIA member's outdoor stationary maps that were conducted in a moving vehicle. Moreover, in Figures 3 and 4, it appears that a challenge was triggered in a hex that was never actually visited because the BDC system automatically calculated the average location of the four test points taken along Wilson Blvd. As

Figure 4 shows, only 3.5 of the actual tests were conducted within the hex where the challenge was triggered.

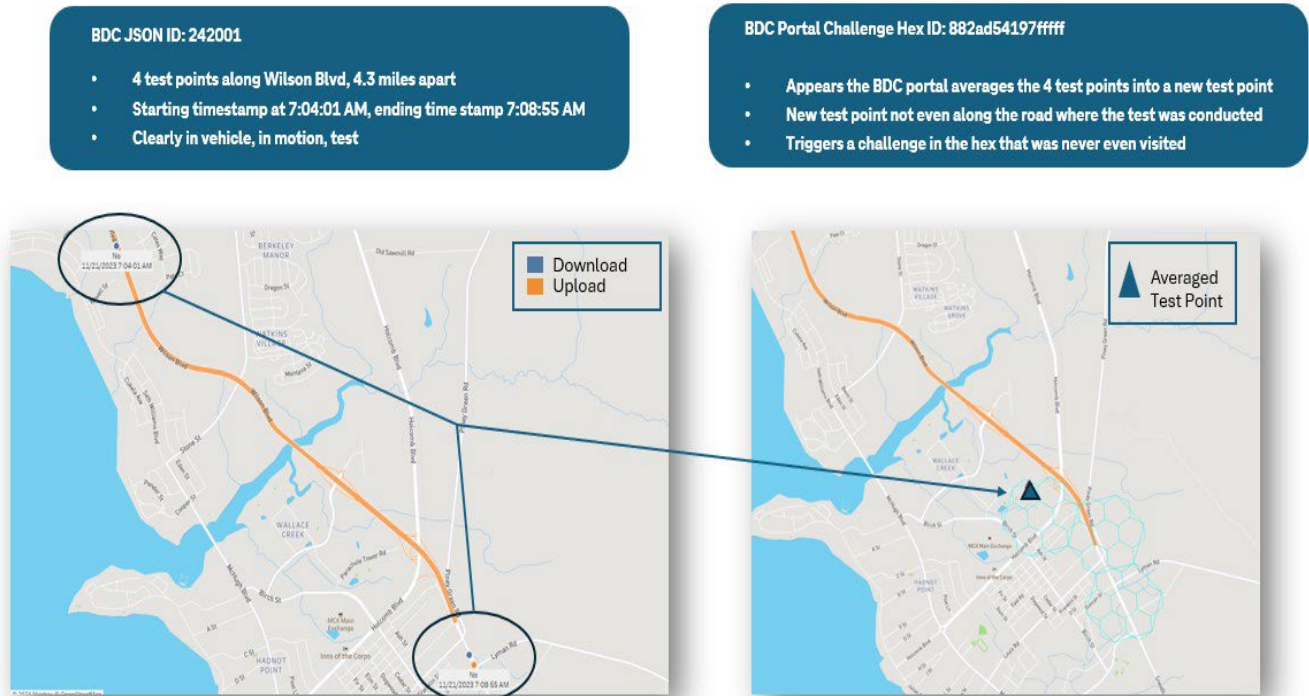


Figure 3

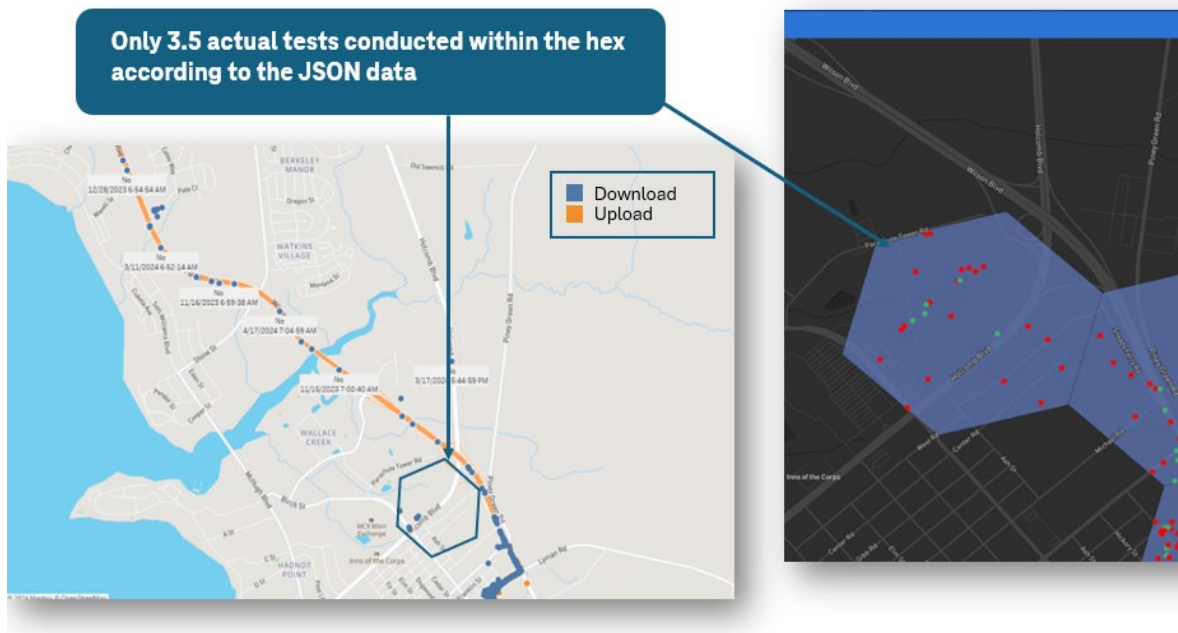


Figure 4

CTIA members have also received challenges from areas that are either inaccessible by road, on private property, or in government-restricted areas that providers cannot access without permission. These include challenges from areas that are falsely identified as “accessible” due to roadways that do not actually provide access. For example, to access the Hex-9 in Figure 5, the road is outside the adjacent Hex-8, which means that, as a practical matter, the Hex-9 is not accessible to the challenged provider. Despite the apparent presence of a road near the relevant area, responding to these challenges is difficult, if not impossible.²⁰

Furthermore, CTIA members have received challenges in areas outside of their reported coverage areas. As the Commission recently recognized, mobile availability data are more granular than the Hex-9 cells used in the BDC maps.²¹ The process of translating the provider’s availability data into the required Hex-9 inevitably introduces some imprecision. This is yet another example of the need for the Commission to carefully review challenges before passing them through to providers to ensure that a hex is not removed from the map due to a challenge in a part of the hex where coverage was never reported in the first place. If such challenges do ultimately fall to providers and result in removal, it is critical that providers have a flexible menu of options to restore such locations, as providing detailed infrastructure data to restore a hex where coverage was never reported in the first place would be counterintuitive and unduly burdensome on providers.

²⁰ See CTIA Comments at 22-24 (“The Commission should not accept challenges based on data gathered in areas that are inaccessible by road or otherwise inaccessible to the provider, including restricted areas like airports. Responding to these challenges is impractical and can pose safety issues for providers’ personnel and for sensitive government operations.”).

²¹ See *In re Establishing a 5G Fund for Rural America*, Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, GN Docket No. 20-32, FCC 24-89 ¶ 48 (rel. Aug. 29, 2024) (“*Second 5G Fund Order*”).

Challenges that do not comply with the Commission’s rules should not be deemed cognizable and should not be passed through to providers for a response. To the extent the Commission nonetheless continues to deem these invalid challenges as valid, restoration of these areas should be subject to no, or minimal, evidentiary requirements. In those situations, the challengers had failed to follow the rules or afford the providers a meaningful opportunity to respond to the challenges, and the providers should not bear the burden of proof when seeking to restore these locations.²²

III. THE COMMISSION SHOULD ADOPT ITS PROPOSAL TO TREAT “GRANDFATHERED” SERVICE DATA AS CONFIDENTIAL.

In the *FNPRM*, the Commission proposes to permit providers to indicate that the service offered at a location is a “grandfathered” service, and to request and receive confidential treatment of such data.²³ Under the Commission’s proposal, “grandfathered” service would mean “any broadband Internet access service that is currently provided to an existing end user at a Broadband Serviceable Location, but that a facilities-based provider is discontinuing, has permanently ceased to advertise or market to new or potential subscribers, and would not make available to a new or potential subscriber at the Broadband Serviceable Location.”²⁴ The Commission would keep the data on such services confidential upon providers’ requests, and would only disclose such data on an aggregated, redacted, or otherwise de-identified, differentiated, or masked basis.²⁵ CTIA supports these proposals.

²² As CTIA has discussed above, responding to such challenges is difficult, if not impossible. Furthermore, there is a significant financial burden associated with responding to each challenge of up to \$5,000 per challenge in at least one CTIA member’s experience.

²³ *FNPRM* ¶ 49.

²⁴ *FNPRM* ¶ 51.

²⁵ *FNPRM* ¶¶ 49, 56.

As an initial matter, providers should not be required to submit any grandfathered service availability data. Such data does not reflect current “availability,” and the publication of such data in the BDC maps not only risks revealing confidential subscribership information, but also may mislead consumers as to service availability.²⁶ Even so, CTIA appreciates the Commission’s interest in continuing to collect this data to “analyze more in-depth, useful information on the nature of fixed broadband services.”²⁷ Treating grandfathered service availability as confidential is a reasonable approach and would help address privacy and consumer confusion concerns.

In the *FNPRM*, the Commission seeks comments on whether it should adopt any requirements to deter gaming, including whether to require additional declarations or evidence from the providers.²⁸ No additional requirements are necessary. The Commission should permit providers to designate service as “grandfathered” in their biannual submissions by a simple certification.²⁹ Providers are incentivized to show locations as served on the map and have limited incentives to exclude locations as unserved. Imposing additional evidentiary requirements for claiming “grandfathered” services is unnecessary. As the Commission has recognized, the agency has existing tools, such as verifications, audits, and enforcement mechanisms, to investigate and validate claims of grandfathered services.³⁰

²⁶ See *FNPRM* ¶ 48.

²⁷ *FNPRM* ¶ 50.

²⁸ *FNPRM* ¶ 54.

²⁹ See 47 C.F.R. §§ 0.457, 0.459; 5 U.S.C. § 552.

³⁰ See *FNPRM* ¶ 54.

IV. COLLECTING SPECTRUM AUTHORIZATION INFORMATION FROM LICENSED FIXED WIRELESS PROVIDERS IS UNNECESSARY AND WOULD IMPOSE INEQUITABLE BURDENS.

The Commission proposes to require terrestrial licensed fixed wireless providers to include additional information about their licensed service in their biannual BDC filings, including all call signs and lease IDs associated with the licenses held or leased by the filer that were used to provide broadband service as of the relevant BDC filing date, and FRNs of the entity holding the license or lease as recorded in the Commission’s Universal Licensing System (“ULS”) or Spectrum Access Systems.³¹

While CTIA shares the Commission’s goal of “ensur[ing] that the reported availability is authorized based upon applicable FCC spectrum licenses or other forms of authorization,” the proposed requirements are unnecessary, violate the principle of technology-neutrality, and would place disproportionate burdens on licensed fixed wireless providers.³² CTIA urges the Commission to refrain from imposing such requirements.³³ Importantly, the Commission has not identified record evidence suggesting that licensed fixed wireless providers are reporting service availability outside of their licensed areas.³⁴ This is unsurprising given the robust protection that the Commission’s wireless licensing and leasing rules provide against such unauthorized operations.³⁵ Nor would the collection of licensing information help to verify coverage as

³¹ *FNPRM* ¶ 62.

³² *FNPRM* ¶ 61.

³³ CTIA members have discovered that the BDC system appears to already request the submission of call signs for the filing covering data as of June 30, 2024, despite the fact that the Commission is still seeking comment on whether to implement this requirement. This creates confusion and raises transparency concerns. CTIA urges the Commission to provide prior notice of all changes to the BDC system, BDC guidelines, and BDC specifications.

³⁴ *See FNPRM* ¶¶ 58-64.

³⁵ The use of licensed spectrum without authorization is prohibited under the Commission’s rules, and the Commission has actively enforced these rules. *See* 47 C.F.R. § 1.903(a); *see also, e.g., Top Golf USA, Inc.*

suggested by the *FNPRM*, since such licensing information merely verifies where a provider is authorized to offer wireless service.³⁶ The requested information is also presently available to the Commission via ULS or the relevant Spectrum Access Systems, as applicable. To the extent the Commission has any concerns about potential claims of service availability based on unauthorized operations in any providers' biannual submissions, the Commission has ample tools under its existing audit and enforcement authorities to investigate and address these concerns.

In addition to being unnecessary, the proposed requirement to submit call sign, lease ID, and FRN information would add considerable and disproportionate burdens on licensed fixed wireless providers.³⁷ Often, a single spectrum band alone can implicate thousands of call signs. For CTIA members that are nationwide providers, a biannual submission may involve tens of thousands of licenses and leases. Placing this disproportionate burden on one technology, licensed fixed wireless providers, without evidence of a need to do so, is contrary to sound public policy.

Indeed, concerns in the record regarding overstatement of coverage are focused on unlicensed wireless internet service providers ("WISPs") as opposed to licensed fixed wireless providers. NTCA–The Rural Broadband Association ("NTCA") noted that certain WISPs have sought to reinstate potential overstatement of coverage onto the BDC maps by filing under different entity names and claiming provision of service without having obtained the proper

Licensee of Station WQOA563, Glendale, Arizona, Notice of Violation, File No. EB-FIELDWR-23-00035116 (EB rel. June 7, 2023). Other licensees and operators may also file complaints with the FCC regarding interference from unauthorized operations.

³⁶ See *FNPRM* ¶ 62.

³⁷ Requiring the submission of call sign and lease ID information would also be inconsistent with the Commission's decision to create ULS as "a single technological platform for information collection from wireless licensees and applicants, eliminating the need for wireless carriers to file duplicative applications, and increasing the accuracy and reliability of licensing information." *In re Biennial Regulatory Review*, Notice of Proposed Rulemaking, 13 FCC Rcd 9672, 9674 ¶ 3 (1998).

business licenses to do so.³⁸ To illustrate the coverage overstatement by WISPs, NTCA compared one WISP’s coverage map with that of a fixed wireless provider who is a CTIA member, which NTCA noted is more accurate.³⁹ This comparison, which was included in an ex parte presentation made by NTCA, is shown in Figure 6 below.

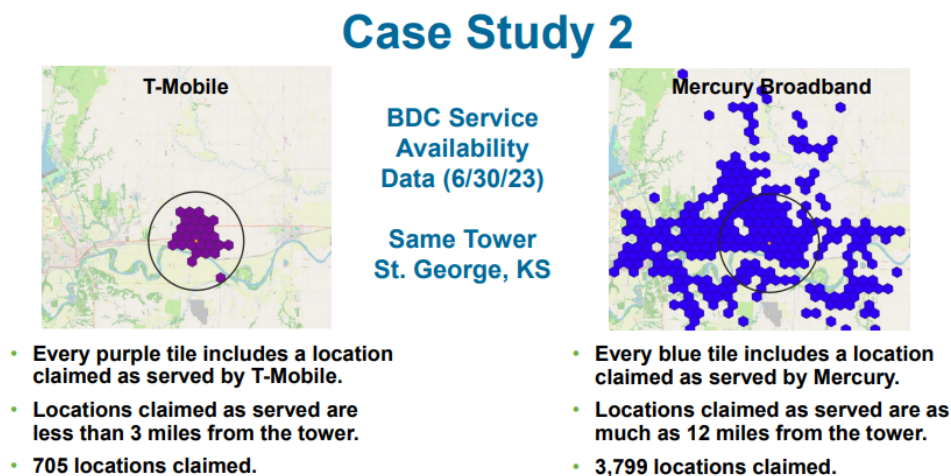


Figure 6

The Commission’s proposed additional data collection does nothing to address this alleged overstatement by WISPs. CTIA urges the Commission to focus on enforcement to target any overstatement of coverage rather than imposing new, unnecessary burdens on licensed fixed wireless providers.

³⁸ See, e.g., NTCA, Realizing the Promise of the BDC at 11, attachment B to Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-195 *et al.* (May 2, 2024) (“NTCA May 2, 2024 ex parte”); NTCA, Realizing the Promise of the BDC at 11, attachment B to Letter from Michael R. Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-195 *et al.* (May 17, 2024) (“NTCA May 17, 2024 ex parte”).

³⁹ NTCA, Realizing the Promise of the BDC at 11, attachment B to NTCA May 2, 2024 ex parte; NTCA, Realizing the Promise of the BDC at 11, attachment B to NTCA May 17, 2024 ex parte.

V. A TWO-YEAR RETENTION PERIOD WOULD ACHIEVE A REASONABLE BALANCE BETWEEN BENEFITS AND BURDENS.

In the *FNPRM*, the Commission proposes to require providers to retain underlying data used to create their biannual submissions for at least three years from the applicable “as-of” date, and to retain the data used to respond to challenges, verification inquiries, or notifications of Commission initiation of an audit for three years.⁴⁰ The Commission seeks comment on the benefits and burdens of retaining the data for three years, as well as any alternative retention periods that the Commission should adopt.⁴¹

CTIA supports the Commission’s objectives to provide clarity to providers and ensure the Commission’s access to necessary documentation for purposes of conducting audits, verification, and other reviews. A two-year retention period, however, would achieve a better balance between these objectives and the burden imposed on providers. The data underlying each BDC submission is both highly voluminous and quick to “expire.” Such data only represent the state of a provider’s network availability as of the relevant snapshot date, and is replaced by updated data every six months.⁴² As a result, each additional year of retention imposes significant burdens on providers with diminished returns. A two-year retention period is more than sufficient to ensure the Commission’s access to this data for auditing or verifying providers’ submissions, without imposing undue burdens.⁴³

⁴⁰ *FNPRM* ¶¶ 82-85.

⁴¹ *FNPRM* ¶¶ 82-85.

⁴² Indeed, the Commission prohibits the use of speed tests that are older than one year as evidence for BDC mobile challenges. *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3049 ¶ 70; *see also Second 5G Fund Order* ¶ 56. This underscores that data over two years old are no longer relevant.

⁴³ Moreover, a longer retention period to support “the downstream uses of the data in various funding programs” is not warranted. *FNPRM* ¶ 84. To the extent the entities administrating these funding programs determine that the retention of the information underlying providers’ BDC data submissions would be helpful, these entities are well-positioned to set such retention requirements and periods, just as the Commission has done for universal service programs.

Regardless of the retention period, cell loading data should be exempted from any retention requirements. Cell loading data reflect usage and capacity information about the network at a given time, which does not meaningfully contribute to the determination of whether service is available in an area. Cell loading data is extremely voluminous, especially for nationwide providers, and offers little additional insight into service availability. For example, one CTIA member noted that one week's worth of cell loading data for just one spectrum band and one technology results in approximately 150 million individual records. Subjecting this data to the retention requirement would impose excessive burdens on providers and is unnecessary.

VI. THE COMMISSION SHOULD PERMANENTLY ELIMINATE THE PE CERTIFICATION REQUIREMENT.

CTIA supports the Commission's proposal to permanently eliminate the requirement that parties submitting verified broadband data in the BDC provide a certification by a licensed PE if not submitted by a corporate engineering officer.⁴⁴ In the *FNPRM*, the Commission seeks comment on this proposal, as well as its proposal to require certification "by (i) a corporate officer possessing a B.S. degree in engineering and who has direct knowledge of and responsibility for the carrier's network design and construction; (ii) an engineer possessing a bachelor's or postgraduate degree in electrical engineering, electronic technology, or another similar technical discipline, and at least seven years of relevant experience in broadband network design and/or performance; or (iii) an employee with specialized training relevant to broadband network engineering and design, deployment, and/or performance, and at least 10 years of relevant experience in broadband network engineering, design, and/or performance."⁴⁵

⁴⁴ *FNPRM* ¶¶ 95, 100; 47 C.F.R. § 1.7004(d).

⁴⁵ *FNPRM* ¶ 101.

Given the continuing shortage of licensed PEs with expertise in Radio Frequency (“RF”) engineering and broadband network design, permanently eliminating the PE certification requirement would provide certainty to providers regarding their certification obligations and avoid the need to continue using piecemeal waivers to address this persistent feature of the broadband industry and RF engineering workforce.⁴⁶ The Commission’s proposed alternative certification qualifications, as tested under the prior two PE waiver orders, are sufficient to ensure reliable BDC data submissions.⁴⁷

In amending its rules to eliminate the PE certification requirement, however, the Commission should not include the conditions attached to the previous, temporary waiver.⁴⁸ Providers that avail themselves of the waiver must retain their infrastructure data in support of their biannual submissions and produce those data upon request by the Commission, even if the provider submits a list of locations and addresses instead of propagation maps and details for their BDC filings.⁴⁹ Even assuming this condition were appropriate for the temporary waiver extension, which CTIA disputes, it is not appropriate as a rule that would apply to all providers subject to the BDC. The permanent elimination of an outdated certification requirement does not justify the addition of a new data retention requirement. The Commission is examining various questions relating to providers’ data retention and submission obligations under the BDC in this proceeding.

⁴⁶ See Comments of CTIA, WC Docket No. 19-195 (Sept. 1, 2023).

⁴⁷ See *In re Establishing the Digital Opportunity Data Collection*, Declaratory Ruling and Limited Waiver, 37 FCC Rcd 7836, 7846-47 ¶ 19 (WCB, OEA, & WTB 2022); *In re Establishing the Digital Opportunity Data Collection*, Order, 38 FCC Rcd 11075, 11078-79 ¶ 8 (WTB, WCB, & OEA 2023) (“*PE Waiver Extension Order*”).

⁴⁸ See *FNPRM* ¶ 103.

⁴⁹ See *PE Waiver Extension Order*, 38 FCC Rcd at 11083-84 ¶¶ 18, 22.

Any changes to providers' data retention obligations should be examined and applied as part of that inquiry.⁵⁰

VII. CONCLUSION.

CTIA applauds the Commission for considering further adjustments to the BDC process. To achieve more granular, accurate maps, any updates to the BDC process should focus on increasing transparency and flexibility. CTIA encourages the Commission to refrain from adopting any additional data submission or retention requirements that are not necessary or may lead to consumer confusion. CTIA looks forward to continuing to work with the Commission on this iterative process.

Respectfully submitted,

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⁵⁰ Moreover, imposing this additional burden on fixed wireless providers is also in tension with the DATA Act, which states that a fixed provider may submit either a list of addresses or locations that constitute the service area of the provider, or propagation maps and propagation models. 47 U.S.C. § 642(b)(2)(A)(iv); *see also* 47 C.F.R. § 1.7004(c)(1). In explicitly stating that the Commission “may only permit, but not require,” a provider to use either means of reporting, the statute contemplates that providers be afforded the option to not prepare or retain this information in the BDC process. 47 U.S.C. § 642(b)(2)(A)(iv)(bb).