Attached are our comments, updated with an additional signer. Thank you!

Corrine Yu
Managing Policy Director
The Leadership Conference
202.466.5670 - Phone

From: Nancy Zirkin
Sent: Wednesday, June 10, 2015 5:19 PM
To: BOCrfc2015@ntia.doc.gov
Cc: Corrine Yu
Subject: Broadband Opportunity Council Comments

Attached are comments from The Leadership Conference on Civil and Human Rights and the undersigned organizations, focusing on Executive Branch policies impacting vulnerable communities with limited or no broadband. The efforts of the Broadband Opportunity Council have the potential to narrow the digital divide and give more Americans access to job opportunities, health care, social services, and education. We stand ready to work with you to ensure that all people in the U.S. are able to benefit from the most advanced technologies.

Nancy M. Zirkin
Executive Vice President
The Leadership Conference on Civil and Human Rights
The Leadership Conference Education Fund
1629 K Street NW, 10th Floor
Washington, D.C. 20006
202.263.2880 - Phone
202.329.4442 - Cell
Zirkin@civilrights.org - Email
www.civilrights.org

June 11, 2015

Broadband Opportunity Council
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, NW
Room 4626
Washington, DC 20230

BOCrfc2015@ntia.doc.gov

Submitted via e-mail

Dear Members of the Broadband Opportunity Council:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States, and the undersigned organizations, we appreciate this opportunity to share "perspectives and recommend actions the federal government can take to promote broadband deployment, adoption, and competition,"[1] specifically focusing on Executive Branch policies impacting vulnerable communities with limited or no broadband.[2]

As the National Broadband Plan (NBP) stated five years ago, "Broadband is a platform to create today's high-performance America—an America of universal opportunity and unceasing innovation, an America that can continue to lead the global economy, an America with world-leading, broadband-enabled health care, education, energy, job training, civic engagement, government performance and public safety."[3] Today, broadband technology is even more integral to our national vision and goals than it was when the NBP was released. Thus, the Broadband Opportunity Council's (BOC's) mandate for a systematic effort to identify how broadband adoption and competition can be increased is as timely as it is essential, and is most critical for the constituencies that The Leadership Conference represents—people who often lack access to broadband and other advanced technologies.

The federal government is in a unique position to make real the opportunity of broadband for all people in the United States. In brief, we recommend that the BOC member agencies:

- Issue a formal recommendation that the Federal Communications Commission modernize its Lifeline program to support affordable broadband.
- Increase the collection of data about broadband access and adoption, particularly among underserved communities, across the federal government.
- Identify, quantify, and study the concrete potential benefits to our national goals if all people in the U.S. fully utilized broadband.
- Study, identify best practices, and adopt policies to set minimum standards for federal-state benefits programs' use of websites and online web portals.
- Move beyond public-private partnerships to employ policy levers that will increase broadband adoption.
- Institutionalize this analysis by repeating it at regular intervals and by designating staff positions responsible for implementing agency broadband adoption plans.

The Leadership
Conference

The Gap between Broadband Adoption Goals and Reality

The NBP stated:

Broadband is a platform for social and economic opportunity. It can lower geographic barriers and help minimize socioeconomic disparities—connecting people from otherwise disconnected communities to job opportunities, avenues for educational advancement and channels for communication.[4]

To meet this goal, the NBP recommended that by 2020:

- At least 100 million U.S. homes should have affordable access to actual download speeds of at least 100 megabits per second and actual upload speeds of at least 50 megabits per second.
- Every American should have affordable access to robust broadband service, and the means and skills to subscribe if they so choose.[5]

In some cases, the promises of broadband identified in the NBP have begun to be realized. And yet disparities in broadband adoption continue, depriving historically disadvantaged communities of the very opportunities they need to participate fully in America's success. While 92 percent of households with incomes between $100,000 and $150,000 have broadband service, the adoption rate is only:

- 47 percent for households with income below $25,000;[6]
- 64 percent for African Americans and 53 percent for Hispanics;[7]
- 63 percent for people with disabilities;[8]
- 51 percent for people with limited English proficiency;[9]
- 38 percent for households that prefer Spanish.[10]

Most alarming, the rate of change in broadband adoption is actually slowing down and, in fact, *posted a decline* for the lowest income households in 2013.[11] The problem is widespread. The Pew Research Center recently found that five million households with school-age children do not have high-speed Internet service at home, constituting nearly 20 percent of families with children between six and 17 years.[12] Cost is a significant factor. Half of Americans who rely on smartphones for broadband access have had to cancel their cell phone service because of financial hardship.[13] The BOC has an opportunity to make a significant contribution toward increasing home broadband adoption and, as a consequence, the well-being of tens of millions of people in the U.S.

Recommendations

The Leadership Conference recommends the following actions:

1. **Issue a formal recommendation that the Federal Communications Commission modernize its Lifeline program to support affordable broadband.** Many signatories to these comments today also endorsed the Federal Communications Commission's plan to modernize the Lifeline program to support broadband. (See http://civilrightsdocs.info/pdf/policy/letters/2015/Lifeline-Principles-final-6-10-15.pdf) Many national goals would be more easily and inexpensively achieved if millions of low-income people could effectively use broadband service, including accessing program information and performing a variety of functions through online portals instead of in-person visits or telephone calls. Lifeline is the only federal program that addresses the cost of broadband. If broadband is not affordable, all other goals relevant to broadband adoption will be impossible. Because the agencies that comprise the BOC will benefit from Lifeline modernization, the BOC should issue a formal finding supporting the Federal Communications Commission's proposal to do so.

2. **Increase the collection of data and assessment with respect to broadband use by the target populations of federal agencies, particularly among underserved communities.** Each federal agency should know the broadband adoption rates of each population it serves, and more specifically, should track how most people interact with the agency. Areas of inquiry could include: (a) what percentage of case files were created via in-person, telephonic, or online mechanisms; (b) what percentage of respondents use online platforms from home, via mobile devices, or at anchor institutions like libraries, community centers or schools; (c) would respondents prefer different technology than the one that they are using; and (d) would broadband further other programmatic goals for the target population?[14] The data should be made public in a format that can be manipulated and compared across agencies and programs. A good example of an opportunity to collect relevant information about broadband adoption is the Department of Housing and Urban Development's (HUD's) pending rulemaking on its proposed Affirmatively Furthering Fair Housing Assessment (AFFH) Tool. The Leadership Conference recommended that HUD include access to and adoption of broadband (including quality and affordability) as an indicator in the AFFH tool. In an alternate model, the Food and Nutrition Service requires states to collect data about the use of electronic notification when states receive a waiver to use it.[15]

3. **Identify and study the concrete potential benefits to our national goals and agency goals if all people in the U.S. fully utilized broadband.** The NBP identified national goals that could be facilitated with universal broadband access and adoption. Health IT presents a compelling example of the benefits of broadband adoption. A pair of recent reports by the Consumer Partnership for eHealth and the National Partnership for Women and Families (NPWF) illustrate the power of data analysis to demonstrate improved outcomes with robust online access. The reports noted the important role of Electronic Health Records (EHRs) and online access to those records in reducing health disparities, stating, "It's impossible to achieve better health outcomes and significantly reduce health care costs without tackling health disparities, which are a pervasive and costly problem."[16] The NPWF report found that online access to EHRs encourages patients to take action to improve their health, and further, that Hispanic, LGBT, and Asian American individuals were the most likely to want to access their EHRs on a mobile device.[17]

4. **Study, identify best practices, and adopt policies to set minimum standards for federal benefits programs' use of websites and online web portals.** Increased availability of broadband means that more individuals can apply for federal benefits online, and also possibly monitor their applications, receive communications, or update eligibility information. This kind of access can provide great benefits. Conversely, poorly created online portals or web sites can violate statutes or rules, make the application process more difficult, or jeopardize privacy.[18] Federal agencies should review their own and state online portals to ensure that online materials are no less accurate or accessible than their paper counterparts. The Food and Nutrition Service has issued best practices to states to help them create and evaluate their online portals, and also issued deadlines for states to come into compliance.[19] Best practices, evaluation, and timelines for compliance should be replicated government-wide. The interagency process should share information across institutional silos, identifying the best agency resources and a common set of evaluation benchmarks.[20]

5. **Move beyond public-private partnerships to employ policy levers that will increase broadband adoption.** Public-private partnerships are an important component of increasing broadband adoption, as every sector—from large private corporations to small local foundations, from trusted community institutions to regional economic agencies—is needed to tackle this problem. Projects such as Connect2Compete (now a program of Everyone On) and the HUD Digital Opportunity Demonstration[21] play important roles in this effort. Just as every sector is

The Leadership
Conference

needed for progress, however, so is every policy tool. We strongly encourage BOC member agencies to include rulemakings and policies to buttress bully pulpit advocacy and demonstration projects. In many cases, simple changes can have a significant impact. For example, adding broadband subscriptions to the list of permissible expenses in a number of anti-poverty programs, such as SNAP, would have a meaningful impact.[22] In addition, many federal grant programs contain minimum standards that could be modified to include broadband Internet as a necessary feature of housing, job training, or other programs.

6. **Institutionalize this analysis by repeating it at regular intervals and by designating staff positions responsible for implementing agency broadband adoption plans.** At its release, the NBP introduction explained, "The plan is in beta, and always will be."[23] The same should be true for the BOC recommendations. The first round of comments will most assuredly produce important recommendations. Subsequent convenings should continue to investigate the ways that the federal government, working as a whole, can increase access to technology and thus, equality in opportunity for all people in the U.S. The NBP recommended that the White House create a Broadband Strategy Council, which would receive and track plans from government agencies implementing the NBP goals. This is important if universal broadband adoption is to be transformed from a goal into a reality.[24]

As President Obama said earlier this year, "In the 21st century, in this age of innovation and in technology, so much of the prosperity that we're striving for, so many of the jobs that we want to create depend on our digital economy."[25] The efforts of the Broadband Opportunity Council have the potential to narrow the digital divide and give more Americans access to job opportunities, health care, social services, and education. We stand ready to work with you to ensure that all people in the U.S. are able to benefit from the most advanced technologies. If you have any questions about these comments, please contact Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670 or yu@civilrights.org or Cheryl Leanza, United Church of Christ, OC Inc. at 202-904-2168 or cleanza@alhmail.com.

Sincerely,

American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Common Cause
Communications Workers of America
The Leadership Conference on Civil and Human Rights
NAACP
National Consumer Law Center, on behalf of its low-income clients
National Council of La Raza
National Partnership for Women & Families
OCA – Asian Pacific American Advocates
United Church of Christ, OC Inc.

---

[1] Department of Agriculture, Rural Utilities Service, Department of Commerce, National Telecommunications and Information Administration, Docket No. 1540414365–5365–01, Broadband Opportunity Council Notice and Request for Comment, 80 Fed. Reg. 23785 (April 29, 2015) (BOC RFC).

The Leadership Conference

---

[2] Section F, BOC RFC, 80 FR 23785, 23787. Note that recommendation number two also addresses measuring broadband adoption from section H of the RFC.

[3] Federal Communications Commission, Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan* at 169 (rel. March 16, 2010) (*National Broadband Plan or NBP*), available at http://download.broadband.gov/plan/national-broadband-plan.pdf

[4] NBP at 169.

[5] Goals 1 and 3, NBP, Chapter 2, at 9-10.

[6] File, Thom and Camille Ryan, *Computer and Internet Use in the United States: 2013*, American Community Survey Reports, ACS-28, U.S. Census Bureau, Table 1 (2014) (ACS 2013) available online at: http://www.census.gov/history/pdf/2013computeruse.pdf.

[7] Zickuhr, Kathryn and Aaron Smith, *Home Broadband 2013*, Pew Research Center at 3 (Aug 2013) available at http://www.pewinternet.org/files/old-media//Files/Reports/2013/PIP_Broadband%202013_082613.pdf. In comparison, census data from the same year show a broadband adoption rate of 60 percent for African Americans and 66 percent for Hispanics. See ACS 2013 at Table 1. These differences are partially explained by the more expansive definition of broadband used by the ACS, but more data is needed.

[8] ACS 2013 at Table 1.

[9] *Id.*

[10] Lee Rainie, Director, Pew Internet and American Life Project, Presentation at Washington Post Live 2013 Bridging the Digital Divide forum (Nov. 5, 2013), available at http://www.pewinternet.org/Presentations/2013/Nov/The-State-of-Digital-Divides.aspx.

[11] Computer and Internet Use ACS November 2014 Report at Table 1.

[12] John Horrigan, *The Numbers Behind the Homework Gap* (Pew Research Center FacTank blog, April 20, 2015), available at: http://www.pewresearch.org/fact-tank/2015/04/20/the-numbers-behind-the-broadband-homework-gap/. African-American and Latino families in this category trail white Americans by 10 percentage points.

[13] Pew Research Center, U.S. Smartphone Use in 2015 at 14 (April 1, 2015) available at: http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/

[14] See Letter from Wade Henderson and Nancy Zirkin to Secretary Julian Castro (Nov. 24, 2014) (filed in Affirmatively Furthering Fair Housing Assessment Tool, Docket No. FR-5173-N-02); 79 Fed. Reg. 57949 (September 26, 2014).

[15] Food and Nutrition Service, Guidance for State Agencies on Novel Waivers at 8-9 (May 13, 2014), available at: http://www.fns.usda.gov/sites/default/files/SNAP%20-%20Guidance%20for%20States%20on%20Novel%20Waivers.pdf

[16] CPeH, Leveraging Meaningful Use to Reduce Health Disparities (August 2013) available at http://www.nationalpartnership.org/research-library/health-care/HIT/leveraging-meaningful-use-to.pdf ; National Partnership for Women & Families, Engaging Patients and Families (December 2014) available at: http://www.nationalpartnership.org/research-library/health-care/HIT/engaging-patients-and-families.pdf.

[17] NPWF, Engaging Patients at 5. Given the high reliance on mobile technology for broadband and telephone access in these populations generally, it is not surprising that these groups are more likely to want to use them for health technology as well.

[18] Personal data should be protected. *See* Civil Rights Principles for the Era of Big Data, http://www.civilrights.org/press/2014/civil-rights-principles-big-data.html.

[19] Best Practices for Online SNAP Applications, FNS, available at: http://www.fns.usda.gov/sites/default/files/snap/Best-Practices-for-Online-SNAP-Applications.pdf . FNS also evaluated state compliance and gave them 90 days to come into compliance. Food and Nutrition Service, Online Application Review Results and Action Items (December 17, 2010) available at: http://www.fns.usda.gov/sites/default/files/121710.pdf (for example explaining that relevant regulations require an applicant be permitted to submit an incomplete application in order to preserve her eligibility date, and that online forms that require all fields to be completed before submission violate relevant regulations).

[20] In a related matter, member agencies should reassess assumptions about affordable access to communications. Many agencies and federal-state benefits programs are required to utilize toll-free telephone numbers to make communications affordable. These numbers, however, are meaningless in an era when the major constraint on voice communications is the number of minutes in a monthly mobile plan. Similar questions may arise with regard to data

The Leadership Conference

caps for online mobile access in the future. *See, e.g.,* 7 CFR § 272.4(b)(3)(ii)(B), §273.10(g)(1)(i)(A); 45 C.F.R. §155.205(a).

[21] See Everyone On, About Us, http://everyoneon.org/about/c2c/; Dept. of Housing and Urban Development, Docket No. FR–5859–N–01, Advance Notice of Digital Opportunity Demonstration, 80 Fed. Reg. 18248 (April 3, 2015).

[22] Broadband internet should be included as one of the permissible household expense deductions, along with telephone and other utilities. See 7 CFR § 273.9(d)(6)(C).

[23] National Broadband Plan, Executive Summary, at xv available at http://download.broadband.gov/plan/national-broadband-plan-executive-summary.pdf.

[24] NBP, Recommendation 17.1 at 334.

[25] Remarks by the President on Promoting Community Broadband, Cedar Falls Iowa (Jan. 14, 2015) available at: https://www.whitehouse.gov/the-press-office/2015/01/14/remarks-president-promoting-community-broadband.