

Responses from Tim Donovan:

Senator Blumenthal Questions for the Record

“Broadband Mapping: Challenges and Solutions” – Senate Committee on Commerce, Science, and Transportation

April 24, 2019

Pricing Data

The Form 477 data provides information on where broadband may be accessible but not whether it is affordable. While companies could take initiative and publicly disclose their pricing practices, very few choose to do so. Companies should not inhibit pricing disclosure because they fear competition, they should encourage standards that increase access and provide more affordable plans to consumers.

Question 1. At the hearing, I asked you if you would support including an assessment of economic barriers to broadband access in the FCC’s Broadband Deployment Report. Everyone expressed a willingness to consider this request and provide feedback. **Would you support inclusion of assessment of economic barriers to broadband access in the FCC’s Broadband Deployment Report?**

CCA members connect customers in some of the hardest to serve areas in the country, where economic barriers can be significant. The barriers to high capacity broadband expansion are primarily economic, especially in areas with sparse population density, not technological. A deeper understanding of these barriers can help provide information needed to close the digital divide, and accordingly CCA does not oppose efforts to include this information in the FCC’s Broadband Deployment Report.

Question 2. When asked if you would support more transparent broadband pricing, you stated that you do not survey your members on the price offerings they currently have. **After consulting with your member companies about their practices, will you commit to supporting the disclosure of price information in Form 477 data? If not, why not?**

CCA member carriers’ plans and pricing are publicly available, and carriers offer a variety of pre- and post-paid service plans to provide all consumers with options that meet their needs. CCA members have also historically led the industry and advancing new offerings that offer consumers increased services and transparency. Because this information is publicly available and changes frequently through service updates, various promotions, and competitive pressures, inclusion on the biannual Form 477 filings would not provide consumers with current information or information that is not already available.

Question 3. Do your members maintain records of how much they charge for service? If so, please describe the parameters of this recordkeeping. Is it broken down by geography, speed tier, or promotional offerings? How frequently is this data collected and how long is it stored? Is the data stored in a machine readable format? If none of your members maintain records on pricing, please explain why this is the case and how your members are able to maintain accurate billing practices without this information.

There is not an industry standard storage or billing methodology, and CCA members maintain their records through a variety of in-house and contracted services. Accordingly, break downs by geography, speed tiers, promotional offerings, frequency, and storage will vary across different carriers.

Responses from Jonathan Spalter:

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Ensuring that all Americans can take advantage of the opportunities created by broadband access requires a clear focus on ensuring that all consumers have access to broadband networks where they live and work. In addition to efforts to facilitate broadband deployment, it is equally important that consumers who wish to purchase broadband are able to afford such access. Thus, understanding the barriers to increased broadband adoption, including economic barriers to access, is an important topic. Should the Commission determine that the Broadband Deployment Report is the best way to provide an assessment of economic barriers to access broadband, then we support that effort. As its name implies, the FCC’s Broadband Deployment Report has historically focused on physical deployment – whether a consumer has access to a network or not. Thus, there may be other vehicles to explore this challenge as well.

Question 2. When asked whether you would support the disclosure of price information, you stated that you would have to evaluate very carefully on a company-by-company basis. **After consulting with your member companies about their practices, will you commit to supporting the disclosure of price information in Form 477 data? If not, why not?**

The purpose of the FCC Form 477 and the Commission's newly instituted Digital Opportunity Data Collection effort is to determine how many households have access, and lack access to broadband, and to determine with as much granularity as possible the location of those who lack access. This information is critical to many FCC broadband policymaking decisions, including its essential universal service fund (USF) programs that provide support for high-cost rural areas that would otherwise be uneconomic to serve. The Form 477 data has always been used for this purpose and should continue to be. Pricing data varies from company to company, can vary based on the type of plan or package a customer chooses, regularly changes and is often highly variant due to promotional packages for customers in the same area, and would be extremely challenging to keep up to date via a reporting process that is semi-annual. Simply put, as compared to reporting on whether a location does or does not have broadband (yes or no at different speeds), the ability to accurately capture pricing information is very challenging and would potential be misleading at any point in time for the reasons discussed above. Such information is also not relevant to broadband deployment by carriers, the purpose of the Broadband Deployment Report.

Question 3. Do your members maintain records of how much they charge for service? If so, please describe the parameters of this recordkeeping. Is it broken down by geography, speed tier, or promotional offerings? How frequently is this data collected and how long is it stored? Is the data stored in a machine readable format? If none of your members maintain records on pricing, please explain why this is the case and how your members are able to maintain accurate billing practices without this information.

The pricing plans of companies and how they maintain records of individual customer payment plans varies by company.

Question 4. Does USTelecom collect any information about pricing from its members? If so, please describe this information. Is it broken down by geography, speed tier, or promotional offerings? How frequently is this data collected and how long is it stored? Is the data stored in a machine readable format?

USTelecom does not collect pricing data from its members.

Question 5. During the hearing, you mentioned that your members comply with many "truth in billing" rules. **Please list these rules and any statutes where those rules are codified.**

47 C.F.R. §64.2401 of the Commission's rules require that a telephone company's bill must: (1) provide a brief, clear, non-misleading, plain language description of the service or services rendered to accompany each charge; (2) identify the service provider associated with each charge; (3) clearly and conspicuously identify any change in service provider; (4) contain full and non-misleading descriptions of charges; (5) identify those charges for which failure to pay will not result in disconnection of the customer's basic local service; (6) provide a toll-free number for customers to call in order to lodge a complaint or obtain information; (7) place charges from third parties that are not telephone companies in a distinct section of the bill, separate from telephone company charges; and (8) provide a separate subtotal for third-party charges in the separate bill section and on the payment page. Telephone companies also must notify consumers, on their websites and at the point of sale, of any options they offer to block charges from third parties that are not telephone companies.

Question 6. During the hearing, you mentioned that using Form 477 to collect pricing data could lead the FCC to invoke its rate regulation authority. **Given that this authority has been rarely, if ever, used in the broadband context, why are you concerned about this? How would pricing transparency lead to rate regulation?**

As an information service, the FCC presently lacks the authority to regulate the rates of broadband internet access service. That could change if a future FCC reverses the FCC's *Restoring Internet Freedom* decision and declares broadband to be a telecommunications service. As a matter of law and policy, USTelecom would oppose such a decision, but it is a regulatory possibility. The point that the FCC's authority has rarely, if ever, been used to directly regulate broadband rates is a good one (although the 2015 Open Internet Order did subject broadband service to Title II of the Act and opened the door for rate regulation). Congress could remove the FCC's authority to rate regulate broadband which members of both parties have historically opposed given the competitive nature of the broadband market. Absent such action, there is always the overhang of potential rate regulation. FCC mandates to collect pricing data could potentially be misused to subject telecom carriers – and only telecom carriers – to rate regulation which would negatively impact investment and innovation.

Question 7. In 2016, the Federal Communications Commission adopted a 'Nutrition Label' that provided an easily readable, standardized disclosure form that ISPs could use to communicate pricing information to consumers. The FCC adopted this label as a safe harbor for compliance with the 2015 Open Internet Order's transparency rule. **Did USTelecom support this nutrition label and would you support reinstating the label so consumers can easily understand and compare ISP services?**

USTelecom was not a member of the FCC's Consumer Advisory Committee which adopted the broadband "Nutrition Label" and did not take a position on the process. USTelecom is a strong supporter of the FCC's existing open internet transparency rule, 47 CFR § 8.1, which requires Internet service providers to publicly disclose information about their network management practices, performance characteristics, and commercial terms of broadband Internet access service offerings. Failure to comply with the rule can lead to FCC enforcement penalties and providing misleading information to consumers inconsistent with the disclosures required by the FCC's transparency rule could lead to FTC enforcement as a violation of Section 5 of the FTC Act. There is no evidence to suggest the current rules are not working as intended or insufficient to protect consumers. Moreover, the highly competitive broadband market results in significant consumer outreach about broadband service offerings, including price, all of which is made publicly available on company websites and through other advertising mechanisms. In short, the combination of the FCC's transparency rule and market forces appears to be working.

Response from Chip Strange:

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Answer. Yes, I would support the inclusion of an assessment of economic barriers to broadband access in the FCC’s Broadband Deployment Report.

Response from Mike McCormick:

Question 1. At the hearing, I asked you if you would support including an assessment of economic barriers to broadband access in the FCC's Broadband Deployment Report. Everyone expressed a willingness to consider this request and provide feedback. **Would you support inclusion of assessment of economic barriers to broadband access in the FCC's Broadband Deployment Report?**

Response 1:

Although Farm Bureau is an organization that has limited technical capabilities to adequately respond to these types of questions, we are comfortable indicating that we would support inclusion of assessment of economic barriers to broadband access in the FCC's Broadband Deployment Report.

Response from Mike Oblizalo:

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Answer: Barriers to both availability and adoption must be better understood and addressed to achieve the ultimate goal of universal broadband. Although neither availability nor adoption can be achieved overnight, and while clearly no one can be “forced” to adopt broadband even when it is available, it is important to assess and then design strategies that promote both availability and adoption. All this being said, I am not a lawyer and I therefore cannot speak specifically to what the Broadband Deployment Report can or must measure or contain as a matter of law. But taking account of both availability and adoption would seem to be an important part of making good policy.

Question 2. During the hearing, you indicated support for disclosing pricing data through Form 477. **Can you explain your company's existing recordkeeping practices as it relates to pricing? Do you maintain records on how much you charge for service? If so, please describe the parameters of this recordkeeping. Is it broken down by geography, speed tier, or promotional offerings? How frequently is this data collected and how long is it stored? Is the data stored in a machine readable format? Answer:**

Answer: Hood Canal Communications’ billing system tracks the pricing by a customer’s specific broadband tier of service or bundle. Based on the customer’s needs, our staff

recommends the tiered service that they feel will have the most benefit to the customer. The pricing and tier of service is collected on a monthly basis through our billing vendor and by advice of counsel we store the data for six years. The data can be exported from the billing software into a machine-readable format.

Question 3. In 2016, the Federal Communications Commission adopted a ‘Nutrition Label’ that provided an easily readable, standardized disclosure form that ISPs could use to communicate pricing information to consumers. The FCC adopted this label as a safe harbor for compliance with the 2015 Open Internet Order’s transparency rule. **Would you support reinstating the label so consumers can easily understand and compare ISP services?**

Answer: As the manager of a small business living in the community I serve, I support giving our customers – my neighbors – sufficient and clear data for them to understand how our services are priced and to make informed judgments about service options. Any number of options should be available to providers, including potential “nutrition labels,” to achieve this goal of appropriate disclosures. There is likely no “one-size-fits-all” disclosure that will work in all cases, and such disclosures may need to be tailored to reflect conditions on the ground such as the various kinds of offerings made available by providers.