

On March 10, 2020, Congress passed [the Broadband Deployment Accuracy and Technological Availability \(DATA\) Act](#), which set the stage for a sweeping reform on how broadband data is collected, verified, and mapped by the Federal Communications Commission (FCC) and builds upon the Digital Opportunity Data Collection (DODC) report and order that the FCC adopted in August 2019. The bill, sponsored by Senate Commerce Committee Chairman Roger Wicker, brings together the bipartisan and bicameral work of many broadband leaders in Congress, including Senator Shelley Moore Capito (R-WV) and Congresswoman Cathy McMorris Rodgers (R-WA), who had previously filed earlier versions of broadband mapping legislation, elements of which were incorporated into the Broadband DATA Act.

### **Overview**

The legislation states that within 180 days of being signed into law, the FCC must issue rules to set up a framework for collecting broadband availability data for fixed terrestrial, fixed wireless, satellite, and mobile broadband services. The rules will set up a twice-yearly collection and dissemination of granular broadband data from providers, create maps of service availability, establish processes for verification of the data's accuracy, and establish processes for the protection of competitively sensitive or non-public data. Furthermore, the FCC is required to develop processes for collecting other data from sources such as entities that map and track broadband coverage for a state, local, or tribal government; third parties whom the FCC thinks could aid in map development or verification; and other federal agencies. Further, the FCC is called upon to evolve the data collection and mapping process by revisiting their initial rules on an as-needed basis to account for changes in technology, so as to ensure the accuracy of wireless propagation modeling and to increase the usefulness of the coverage maps.

In total, there are seven key areas in which Congress provides direct instruction or guidance to the FCC as it prepares to implement the new broadband data and mapping program, which are summarized in greater detail below: 1) the creation of a location “fabric” to identify serviceable structures, 2) the handling provider-submitted data, 3) data accuracy and the creation of a challenge process, 4) reform of the current Form 477 data collection process, 5) the launch of a new National Broadband Map to display the data, 6) three technical assistance programs to support the challenge process, small provider data submission, and tribal governments, and 7) the costs associated with these new mandates.

### **The “Fabric”**

A major component of this legislation is the establishment of a “Broadband Serviceable Location Fabric” (Fabric), which would include the identification and precise geolocation of all structures in the United States where broadband service is (or should be) available for

installation. The Fabric’s geodatabase would contain precise coordinates of structures and will serve as the “foundation upon which all data relating to the availability of fixed broadband internet access service... be reported and overlaid.” The legislation requires the Fabric to be compatible with commonly-used GIS software and updated every six months. While a comprehensive nationwide Fabric is desired, the priority will be given to implementation of the Fabric for rural and insular areas. The legislation states that the FCC may contract with an entity to create and maintain the Fabric dataset through a competitive bid process and for a contract of no longer than five years.

### **Provider-Submitted Data**

As part of the rules established by the FCC under this legislation, uniform standards for how providers submit data are required. Data must include where the provider has actually built networks that offer service and where they *could* provide service within 10 days of a service request (without the imposition of additional fees or construction costs), download and upload speeds at various speed tiers determined by the FCC, and latency data. All data must be capable of being georeferenced to the Fabric.

For fixed wireless providers, propagation maps and models are required along with addresses or locations served. For fixed terrestrial and satellite providers, either polygon shapefiles *or* a list of addresses or locations served must be submitted. For mobile carriers, the FCC will require propagation maps and models to include current 4G LTE coverage. They must also take into account clutter and show speeds of at least 5 Mbps/1 Mbps. The speeds must be achieved with cell edge probability of no less than 90 percent and cell loading of no less than 50 percent—requirements that are more stringent than those that were employed to create eligibility maps under the FCC’s 2018 Mobility Fund Phase II process.

### **Challenge Process and Data Accuracy**

Concern for the accuracy of the data submitted is at the very core of the Broadband DATA Act. Therefore, this legislation lays out a robust challenge process as well as other measures to ensure reliability of data submitted.

In the legislation, the FCC is required to establish a challenge process by taking into account any lessons learned from the Mobility Fund Phase II program—the FCC’s now-canceled program aimed at providing funds to providers to serve areas lacking mobile LTE coverage. The FCC received wide [criticism](#) for the way in which it required mobile carriers to report where they serve, resulting in overstated coverage and reduced program eligibility—an issue that was of particular importance to Senate Commerce Committee Chairman Roger Wicker, the bill’s sponsor.

The Broadband DATA Act then calls for the FCC to develop a process for verifying the data submitted through the challenge process and how providers may then respond to challenges. The FCC is required to develop an online mechanism for submitting and viewing challenges. The Act calls for a report to be delivered to Congress within 12-18 months that evaluates the challenge process, data inaccuracies, and more.

The legislation also calls for the FCC to conduct regular audits of providers that submit data and incorporate crowdsourcing techniques for citizen feedback.

## **Form 477 Reform**

As expected, the bill takes aim at the current Form 477 reporting process, under which broadband providers currently submit service availability data. The FCC's August 2019 DODC [\*Report and Order and Second Further Notice of Proposed Rulemaking\*](#) indicated an intention to reform and perhaps eliminate the Form 477 reporting, but many questions remained regarding how the Commission would proceed. The Broadband DATA Act now gives the FCC 180 days to reform Form 477 in order to “enable the comparison of data and maps” and to maintain “the public availability of data relating to the deployment of broadband internet access service.” What remains unclear is if the Commission will retain elements of the Form 477 process, such as collecting data on broadband subscribership.

## **National Broadband Map**

The legislation requires the FCC to develop a new national map of broadband service, both fixed and mobile, and to show the areas that remain unserved across the country. The FCC will then use these maps to determine which areas have service and which areas do not when making funding award determinations for their various programs. The maps must be updated at least twice annually and the USDA's Rural Utilities Service (RUS) and the National Telecommunications and Information Administration (NTIA) must consult the maps as a means of identifying unserved areas as they consider future funding awards to expand broadband services. The new national broadband map will be made publicly available as well.

## **Technical Assistance**

Under the act, technical assistance will be offered to tribal governments for the submission of broadband data. Additionally, small service providers (defined as those with less than 100,000 service connections) may request and receive filing assistance from the FCC in order to ensure the accuracy of their filings. Further, the FCC is required to provide technical assistance to state, local, and tribal governments in the forms of tutorials, webinars, and FCC staff assistance, specifically with regard to the challenge process that will be established.

## **Costs**

The FCC is not permitted to utilize Universal Service Fund (USF) dollars to carry out the mission set forth in the Act, unless an amount is specifically appropriated by Congress from the USF. Further, the bill does not authorize any specific funding amount, and the FCC has said it does not currently have the budget to carry out all of the Act's mandates. Therefore, it is likely that Congress will have to appropriate funds in a future Financial Services & General Government appropriations bill before the FCC can fully implement all of the Act's requirements.

## **Next Steps and Questions**

The Broadband DATA Act clears a path for more accurate and reliable broadband access data on a location-by-location basis—a significant improvement over the FCC's current data collection at the census block level of detail. However, several questions still remain—including how funding issues above will be resolved.

What is clear is that the FCC will have to roll out a revised report and order to adapt the DODC program adopted last year to the bill's requirements, and formally call for the creation of a Broadband Serviceable Location Fabric, establish the details of a challenge process, and determine a timeline by which service providers must submit the first round of granular service availability data. The FCC will have 180 days from enactment (when the president signs the bill into law) to accomplish these tasks.

States that are engaged in (or planning) their own broadband mapping initiatives should think about how the Broadband DATA Act's passage will impact them. Certainly, this means that service availability data will be available from the FCC for state consumption—data that is much more accurate and granular than anything the FCC has collected in the past. States will need to develop a process to respond to the FCC's call for challenges to the data, as valid challenges will certainly impact the flow of money to unserved areas. States that are prepared to submit robust challenges will likely be in a better position to steer more federal money their way. States may also choose to augment the new federal data in ways that serve their own needs—such as supporting their own state grant programs for broadband development, assessing “middle mile” fiber infrastructure needs, or analyzing the cost of services.

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