

As Congress Passes Broadband Mapping Bill, Debate Continues Over Carrier Resistance

Despite the belief voiced last month by the broadband mapping bill's main sponsor, Senate Commerce, Science, and Transportation Committee Chairman Daniel K. Inouye (D., Hawaii), that there was likely not enough time left in the legislative session to move the bill through, Congress has approved the Broadband Data Improvement Act (S 1492).

However, the push to identify areas with little or no broadband service might still run into resistance from broadband service providers that are reluctant to share what they view as proprietary data about their current service availability and offerings, according to observers of the broadband mapping policy debate at a recent conference on the subject.

After tinkering in the Senate to achieve a bipartisan version of the bill, and technical amendments by the House, both chambers approved an identical version of the Broadband Data Improvement Act (S 1492) at the end of September, sending the measure to the White House for President Bush's signature. The telecom industry and state utility regulators welcomed the bill, and other parties praised the incorporation of the Protecting Children in the 21st Century Act (S 1965) into the broadband mapping legislation.

Sen. Inouye had sponsored S 1492, which directs the FCC to conduct inquiries into the deployment of advanced telecom services on an annual, rather than a periodic, basis.

S 1492 also directs the Commerce Department to establish a matching grant program for state nonprofit, public-private projects aimed at identifying and tracking "the availability and adoption of broadband services within each state." However, the legislation does not authorize an appropriation for that purpose, unlike an earlier version of the measure that would have authorized \$40 million a year for five years.

The final version of S 1492 orders the Census Bureau to include a question in its American Community Survey that assesses levels of residential computer use and dial-up versus broadband Internet subscribership.

It directs the Government Accountability Office to develop broadband metrics, in part for use in international comparisons, a provision adopted from House telecom and the Internet subcommittee Chairman Edward J. Markey's (D., Mass.) proposed Broadband Census Act (HR 3919). S 1492 also directs the Small Business Administration's Office of Advocacy to study the impact of broadband speed and price on small businesses.

Sen. Ted Stevens (R., Alaska) had sponsored S 1965, which was incorporated into S 1492 and which requires schools that receive universal service "E-rate" support to offer age-appropriate education regarding online behavior, including social networking, chat rooms, and

cyberbullying. It also calls for creation of an interagency working group to identify and encourage technologies and initiatives to help parents protect their children from unwanted content and would direct the Federal Trade Commission to carry out a public awareness and education campaign to promote the safe use of the Internet by children.

Chairman Inouye said the bill is necessary if the U.S. wants to remain a world leader in technology. "The federal government has a responsibility to ensure the continued rollout of broadband access, as well as the successful deployment of the next generation of broadband technology," he said. "This bill will give us the baseline statistics we need in order to eventually achieve the successful deployment of broadband access and services to all Americans."

Rep. Markey said that he wished the bipartisan version of S 1492 that emerged from the Senate "contained the more rigorous data collection and disclosure, as well as the mapping provisions, that were contained in the House-passed bill, I believe the redrafted Senate bill, which now includes some provisions of HR 3919, makes sorely needed progress in bolstering the data collection needed for policy-makers to have a better sense of America's progress, or lack thereof, in broadband deployment, speed, and affordability."

Oregon Public Utility Commissioner Ray Baum, the chairman of the National Association of Regulatory Utility Commissioners' Telecommunications Committee, said, "As an early supporter of this bill, NARUC is particularly pleased with the provisions that both acknowledge the important role states play and provide matching grants that will help states develop and implement data collection efforts. The information gained as a result of this bill will speed broadband-collection programs and help bring the power of the Internet to as many citizens as possible."

Walter B. McCormick Jr., president and chief executive officer of the U.S. Telecom Association, said, "We are very pleased that Congress has acted on this critical legislation that will increase broadband adoption and bring broadband service to underserved and unserved parts of the country. As this legislation acknowledges, using public-private partnerships to accelerate investment and deployment depends on accurate broadband mapping and effective targeting of resources."

The National Cable and Telecommunications Association praised the work of both chambers in backing the measure. "We applaud the Congress for approving this important legislation which will enable policy-makers to have a much clearer picture about the state of broadband in America," said Kyle McSlarrow, NCTA's president and chief executive officer. "Improved data about the availability and speed of all broadband offerings will help accomplish the important goal of universal broadband for all Americans."

Curt Stamp, president of the Independent Telephone & Telecommunications Alliance, said, "This legislation is one more step toward the public-private partnership that will be needed to ensure broadband availability for all Americans ... and we urge the President to swiftly sign it into law."

Peter Davidson, Verizon Communications, Inc.'s senior vice president-federal government relations, said, "There is no single entity or one-size-fits-all formula to get broadband to everyone. Building upon robust private sector investments by Verizon and others, this legislation recognizes that fact by creating a road map for public-private partnerships between governments, business, labor, educators, consumer groups, and other nonprofit organizations."

AT&T, Inc., Executive Vice President-federal relations Tim McKone said, "Broadband networks create economic development, more jobs, and improved health care and educational opportunities for communities. This important legislation will help in our nation's efforts - both public and private sectors and federal and state initiatives - to bring these benefits to all Americans."

The Telecommunications Industry Association President Grant Seiffert said, "Enactment of this bill will help to increase our knowledge about where the gaps in broadband coverage are today and will then help drive additional broadband deployment, bringing the United States one step closer to Internet access for all Americans." TIA added that "over \$1 trillion could be lost over the next decade due to constraints on broadband development."

TDS Telecommunications Corp. also praised the passage of the bill, while suggesting that it "adds to the discussion on whether or not the federal Universal Service Fund should be expanded, by definition, to include broadband as a supported service."

In separate statements, FCC Commissioner Deborah T. Tate and the National PTA praised the inclusion of the S 1965 provisions in the broadband mapping bill.

Proprietary Data Cited as Challenge

Meanwhile, panelists at a Broadband Census for America conference in Washington said that state and federal government programs to develop maps of broadband service availability at a granular level must overcome objections by carriers to revealing what they view as proprietary information, although carriers may actually find the resulting maps beneficial.

Speaking at the Sept. 26 conference held at the Washington office of the American Association for the Advancement of Science, **Art Brodsky**, director-communications at Public Knowledge, criticized carriers' objections to broadband mapping projects by questioning the proprietary and competitive value of information on where carriers have already deployed broadband services. He noted that carriers are not being asked about future deployment plans, which would more clearly involve competitive concerns.

Drew Clark, who is the executive director of BroadbandCensus.com, one of the sponsors of the conference, noted that the FCC and carriers have objected to attempts to obtain underlying carrier data on broadband deployment submitted to the FCC, arguing that disclosure causes competitive harm by permitting new entrants to better target those areas lacking broadband competition.

Because the data submitted to the FCC has not been made publicly available, BroadbandCensus.com and others, including the Communications Workers of America's Speed Matters program, have resorted to obtaining information directly from consumers, a process Mr. Clark termed "crowd-sourcing." By submitting information on their own service at a particular location, and taking download and upload speed tests, individual users can participate in the development of broadband maps or databases.

Mr. Clark said that the three purposes of BroadbandCensus.com are to aid the process of competition, serve policy-makers, and aid consumers.

Mark McElroy, chief operating officer of Connected Nation, said that a mapping program will be beneficial if it's relevant to consumers, in that the map can tell them if they can get broadband at home; if it's relevant to providers, in that it can let them know where and why they should extend their networks; and if it's relevant to increased digital literacy, in that it can be used in conjunction with an effective demand stimulation effort.

Debbie Goldman, coordinator of the CWA's Speed Matters, said that in developing broadband mapping and deployment policies, "the states are the laboratories because unfortunately we don't have a national policy."

Kenneth Flamm, a professor of public affairs at the University of Texas-Austin, said that collecting information on broadband use "is a job actually for the federal government and the federal statistical agencies," but that they lack adequate funding and don't do a good job of keeping up with relatively new services. "There shouldn't be an argument about whether the government going out to try to measure the state of the market is somehow infringing [on private companies]. ... There's no private-public conflict here," he added.

A member of the audience suggested the Internal Revenue Service and private online tax-filing companies could capture information on broadband connection rates with an "opt-in" speed-test at the time of filing. Mr. Flamm said that was a "clever idea."

Speaking during the closing keynote, **Eamonn Confrey**, first secretary-information and communications policy at the Irish Embassy in Washington, explained his country's broadband initiatives, which include its broadband.gov.ie website. The overall purpose of the site is to help consumers and small business, he said.

While customers cannot order broadband service on the site, it does include links to broadband providers in their area. It also has a tool to check if digital subscriber line (DSL) service - the principal nonmobile broadband technology in Ireland - is available at the user's fixed-line phone number.

The website also allows consumers "to register their demand for broadband," so providers can see where there is demand.

"Initially, there was a lot of resistance from larger providers" to listing their services on the website, which is a voluntary process for providers, Mr. Confrey said. Eventually, however, they

came to see it as a competitive disadvantage not to be listed there. The website "has proved to be a win-win for provider and consumer alike," he added.

The Irish government also recently launched a national broadband scheme to reach the remaining 10% of the population that does not have broadband service available, Mr. Confrey said. The government provides funding to induce broadband in those areas while setting requirements to ensure that "the winning company won't be able to cherry-pick" within the contracted area.

Mr. Confrey emphasized that the Irish government views broadband deployment as "an economic competitiveness issue for us," as the country seeks to retain employers like Yahoo, Inc., and Google, Inc., that are attracted by an English-speaking, "fairly well educated" work force in Europe. "You simply won't retain that kind of investment without the infrastructure," he added.