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VIA E-MAIL

Nicholas A. Fraser
The Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Re: OMB Control Number 3060-XXXX
Review of the FCC's Comprehensive Market Data Collection for Interstate
Special Access Services, FCC 12-153

Dear Mr. Fraser:

The National Cable & Telecommunications Association (NCTA) hereby submits supplemental information in support of its request that the Office of Management and Budget (OMB) reject portions of the Federal Communications Commission's (FCC's) proposed data collection for interstate special access services.¹ Specifically, on January 31, 2014, the FCC published in the Federal Register a notice seeking comment pursuant to the Paperwork Reduction Act (PRA) on significant new additions to the reporting regime applicable to providers of broadband service (Form 477).² For the reasons explained below, these significant new broadband reporting obligations reduce the need for the FCC to collect burdensome retrospective pricing and revenue data and highly granular mapping data as part of the special access collection.

By way of background, the FCC first started collecting data from broadband providers on Form 477 in 2000. On the current version of Form 477, broadband providers are required to submit the number of subscribers they serve at various speed levels on a census tract basis.³ Separately, in 2009, Congress appropriated funds for the National Telecommunications and Information Administration (NTIA) to develop a National Broadband Map (NBM) that would

¹ See Letter from Steven F. Morris, NCTA, to Nicholas Fraser, Office of Management and Budget (Jan. 8, 2014) (NCTA Comments).

² *Notice of Public Information Collection being Reviewed by the Federal Communications Commission, Comments Requested*, 79 Fed. Reg. 5406 (Jan. 31, 2014); *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Report and Order, 28 FCC Rcd 9887 (2013) (*Form 477 Order*); Public Notice, *Wireline Competition Bureau Releases Data Specification for Form 477 Data Collection*, DA 13-1805 (Aug. 26, 2013) (*Public Notice*).

³ *Form 477 Order*, 28 FCC Rcd at 9891, ¶ 10.

show where broadband was available in the United States. NTIA collected this data by contracting with mapping entities in each state, which in turn collected the data from any broadband provider that volunteered to provide this information. The NBM shows the maximum speed that each provider offers on a census block basis, but does not distinguish between services offered to residential and business customers. Funding for the NBM expires in 2014.

Anticipating that NTIA no longer would have appropriated funds to continue collecting and posting broadband data for the NBM, the FCC in 2013 adopted the *Form 477 Order* significantly expanding the data it will collect pursuant to Form 477 to include both broadband subscription and deployment data. With respect to deployment data, the FCC generally is mandating that providers submit the same type of data previously submitted to state mapping entities on a voluntary basis, i.e., maximum speed offered on a census block basis.⁴ The FCC made one change, however, by requiring that providers separately report the availability of business and residential services.⁵ In particular, the FCC is requiring providers to report the maximum speeds offered to business customers in each census block, including speeds of services offered over dedicated facilities,⁶ services previously excluded from the Form 477 filing.⁷

The FCC's decision to expand the Form 477 data collection to include census block data identifying the maximum broadband speed offered to nonresidential customers over dedicated facilities will provide the agency with a substantial new source of data by which it can assess the level of competition in the special access marketplace for commercial customers at a granular geographic level. The new requirement to report the availability of high-capacity commercial broadband services overlaps with the special access data collection, which also seeks information on the availability of high-capacity commercial services, in two ways.

First, the prospective broadband reporting requirement on the Form 477 will provide a detailed, ongoing picture of competition for high-capacity services to business customers that should eliminate the need to collect burdensome retrospective pricing and revenue data for every month of 2010 and 2012 through the special access data request. Not only will retrospective pricing and revenue data be exceedingly complex for the FCC to analyze and extremely burdensome for providers to submit,⁸ but it also provides no information as to what is happening currently in the marketplace and no insight into how competition might develop going forward.

⁴ *Id.* at ¶ 37.

⁵ *Id.* at ¶ 38.

⁶ *Id.* at ¶ 38 n.119 (“For example, a provider might offer 1Gbps service on dedicated facilities to a single enterprise customer in a block, while providing the surrounding residential neighborhood 10 Mbps service. In such cases, we expect providers to be able to differentiate between residential and nonresidential deployment.”).

⁷ See *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 16318, 16336-37, ¶ 45 n.84 (2012).

⁸ NCTA Comments at 19-21.

In contrast, the combination of the geocoded location of cable operators' headends and customer locations (as proposed by NCTA as an alternative to the street level maps the FCC is seeking to collect through the special access data collection) and census block data regarding speeds offered to business customers (collected on Form 477) would provide the FCC with significant visibility into the current availability of special access services and enable the FCC to monitor future service trends at a highly granular geographic level.

Second, the combination of geocoded location data and prospective speed data at the census block level also should eliminate the need for street level mapping data in the format specified by the FCC. The new Form 477 will require broadband providers to identify census blocks where service is provided through fiber optic facilities.⁹ Providers also will be required to report the maximum speed offered to nonresidential customers in each census block. The FCC will be able to track both of these data points over time to monitor how the marketplace is developing. Furthermore, the FCC also will be able to use the geocoded location data to determine how many customer locations a provider served within that census block, which indicates the intensity of competition in that area. Given that the FCC has not demonstrated or explained how it could possibly develop regulations that would apply at a more granular level than the census block (e.g., at the building or street level),¹⁰ the ability to monitor competitive developments at the census block level while eliminating the street level mapping requirement appropriately balances the FCC's needs with the PRA's requirement to minimize the paperwork burden on respondents.

As OMB considers how best to resolve concerns attributable to the overlap between these two data collections, it should take note of the overwhelming nature of the burden the FCC is proposing. Even using the FCC's own burden estimates (which we have demonstrated are dramatically understated with respect to special access and which the FCC has yet to explain or support with respect to Form 477), complying with the two collections over the next three years will require over *5 million hours* at a cost exceeding *\$250 million*.¹¹ Requiring the telecommunications industry to spend that much time and money solely for the purpose of gathering and submitting data to the federal government is utterly and completely at odds with the fundamental purpose of the PRA, which is to "minimize the paperwork burden . . . resulting from the collection of information by or for the Federal Government."¹² Accordingly, for all the reasons explained in this letter and in NCTA's previous comments, we strongly encourage OMB

⁹ *Public Notice* at 5-6, 11-12, 19 (requiring that fixed broadband deployment and broadband subscriber information be provided by "technology of transmission," including "Optical Carrier/Fiber to the End User").

¹⁰ NCTA Comments at 16.

¹¹ The FCC estimates that the one-time special access data collection will require over 934,000 hours at a cost of almost \$70 million. *See* FCC Supporting Statement. The FCC estimates that the annual cost of the revised Form 477 collection is over 1.5 million hours at a cost of roughly \$68 million. *See* 79 Fed. Reg. 5406.

¹² 44 U.S.C. § 3501(1).

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to eliminate the requirements to provide retrospective pricing and revenue data and highly granular mapping data as part of the FCC's special access data collection.

Respectfully submitted,

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