



April 20, 2023

Ms. Marlene Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re. Prevention and Elimination of Digital Discrimination Reply Comment (Docket 22-69)

Dear Ms. Dortch,

On behalf of Asian Americans Advancing Justice | AAJC, we write in response to the FCC’s Inquiry on Preventing Digital Discrimination and endorse the comment submitted by the Japanese American Citizens League (JACL).¹

Asian Americans Advancing Justice | AAJC (“Advancing Justice | AAJC”) is dedicated to furthering civil and human rights for Asian American and to promoting a fair and equitable society for all. We provide the growing Asian American community with multilingual resources, culturally appropriate community education, and public policy and civil rights advocacy. In the communications field, Advancing Justice | AAJC works to promote access to critical technology, services, and media for our consumers.

According to the Infrastructure, Investment, and Jobs Act (IIJA), “access to affordable, high-speed broadband is essential to full participation in modern life in the United States” and “the persistent digital divide in the U.S is a barrier to the economic competitiveness...and equitable distribution of essential public services, including health care and education.”² Recognizing that economic competitiveness and access to public service are a critical part of bridging the digital divide, it is imperative that the Federal Communications Commission (FCC) implement the disparate impact framework when evaluating policies. In the implementation of this framework, when disparate impact is identified, the FCC should allow internet service providers (ISPs) to provide additional context, as disparate impact alone may not prove discrimination.

As the Japanese American Citizens League (JACL) discussed in their Digital Discrimination comments, small businesses in San Francisco’s Japantown experience an economic disadvantage compared to

¹ <https://www.fcc.gov/ecfs/document/102222832007410/1>

² <https://www.congress.gov/bill/117th-congress/house-bill/3684/text>

surrounding businesses because the businesses in Japantown “are limited to copper lines with a maximum capacity of 100 megabits/second”.³ While these service gaps are potentially the result of differing market demand across different communities and not necessarily the product of blatant discriminatory intent, they still mean marginalized communities like Japantown are left without access to high-quality reliable broadband. Communities are harmed regardless of intent; consideration of disparate impact can serve as a useful bellwether for the need for further government scrutiny or added context from ISPs to ensure digital equity.

While broadband access is critical for small businesses to be economically competitive, this access is additionally important for communities to access essential public services. Sadly, in some communities historical redlining continues to create barriers that further the digital divide. In San Francisco’s Chinatown, racial, economic, and environmental inequalities contribute to digital inequality and redlining for the neighborhood’s largely working class and immigrant population. Historic Chinatowns and ethnic enclaves across the United States were born out of housing and labor discrimination, and displacement made its mark on the very physical landscape and infrastructure, impacting residents to this day.⁴ 40% of housing in San Francisco’s Chinatown is single-room occupancy, meaning many residents only have a general address instead of one that points to their specific room, which may disqualify them from getting Wi-Fi access if someone else already has an account using that same general address. The decades-old concrete flooring and walls in many buildings in the area also make the penetration and transmission of Wi-Fi signals through the building almost physically impossible. Due to these barriers, residents lack the infrastructure necessary to install hard-wired internet or other connections, which forces residents’ to rely on lower quality, lower speed hotspot devices.

Even in neighborhoods where low-income communities are able to access the internet, the quality and consistency of the connections vary, making them unreliable and disruptive for essential uses like logging in to school, working, or applying for government assistance programs. According to an investigation by the Markup, “a quartet of Internet Service Providers (ISPs) consistently gave the worst deals for internet services to households in low-income, less-White, and historically redlined neighborhoods in major cities across the country”.⁵ For example, in Boston’s Chinatown, immigrant neighborhoods, and public housing, digital connectivity is spotty, and users are kicked off several times a day which makes the internet unusable.⁶ Without adequate access to broadband, communities are unable to apply for or benefit from important government services and programs. Furthermore, businesses are repeatedly excluded from programs that are designed to assist them because they are unable to access them online. During the pandemic, some family-owned small businesses in San Francisco's Chinatown looked to install security cameras following the increase in violent attacks targeting the AAPI community, but were unfortunately unable to do so because their low-speed internet connections available did not support these services.

Asian Americans Advancing Justice | AAJC supports the FCC utilizing the disparate impact framework to define digital discrimination. This framework will address the needs of historically redlined communities that are unable to fully participate in the digital economy and have inequitable access to public services.

³ <https://www.fcc.gov/ecfs/document/102222832007410/1>

⁴ <https://journals.uic.edu/ojs/index.php/fm/article/view/6196/5187>

⁵ <https://themarkup.org/hello-world/2023/04/08/whos-afraid-of-disparate-impact>

⁶ <https://www.bostonglobe.com/2021/01/24/metro/digital-divide-remains-wide-some/>

Recognizing that disparate impact on its own may not prove digital discrimination, the FCC should prioritize using this framework to identify instances of digital inequity and, if deemed necessary, investigate whether digital discrimination occurred.

Advancing Justice | AAJC thanks you for the opportunity to provide comments related to this rulemaking. For more information, please contact Emily Chi, Director for Telecommunications, Technology, and Media at Asian Americans Advancing Justice | AAJC at echi@advancingjustice-ajc.org.

Sincerely,
Asian Americans Advancing Justice - AAJC