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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Commerce and Consumer Protection
and Judiciary
Tuesday, February 28, 2023
9:35 a.m.
Conference Room 016 & Via Videoconference

On the following measure:

S.B. 478 S.D.1, RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY INFORMATION REPORTING.

Chair Keohokalole, Chair Rhoads, and Members of the Committees:

My name is Jamie Sheu, and I am the Acting Cable Television Administrator for the Department of Commerce and Consumer Affairs' (Department) Cable Television Division. The Department supports this bill.

The purpose of this bill is to repeal Hawaii Revised Statutes (HRS) Chapter 440J, relating to telecommunications and cable industry information reporting requirements for broadband service providers, amending the definitions of "broadband infrastructure" and "broadband service" under chapter 206R, HRS, relating to the Broadband Infrastructure Grant Program, and requires the Department of Commerce and Consumer Affairs to make available for public inspection all broadband coverage reports that providers previously filed pursuant to chapter 440J, HRS.

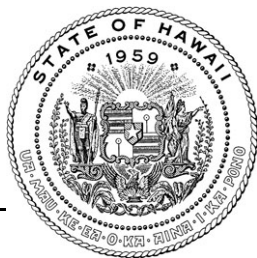
Accurately pinpointing unserved and underserved areas where broadband infrastructure is needed continues to be critical to access federal funding to provide service to all residents no matter where they work or live across our State. As mandated by Congress, the Federal Communications Commission (FCC) created the recently launched FCC National Broadband Map that displays where Internet services are available on a location-by-location basis across the United States, as reported by Internet Service Providers (ISPs) to the FCC through its Broadband Data Collection (BDC). Specifically, the BDC requires ISPs to report where they offer broadband Internet service to homes and small businesses on a location-specific basis, which is in high contrast to the census block level data reported by ISPs on the FCC's previously required Form 477 (sunset date December 31, 2022) and under HRS Chapter 440J. Even more importantly, the National Broadband Map and data are publicly available, allowing everyone access to this location-specific information on where broadband service is and is not available.

The FCC opened its window to collect the first set of ISP data in June of 2022, and requires ISPs going forward to update this data twice a year, with the first update due March 1, 2023. The FCC will continue to update, verify, and refine the map to improve its accuracy, and has set up a process to allow government entities, third parties, and consumers to challenge both the ISPs' submitted data as well as the underlying mapping fabric that identifies the individual locations using various sources (e.g., government address records, census data, and geo-spatial data).

Given the FCC's ability to collect and publicly disclose location-specific fixed broadband data, and accordingly its discontinuance of collection of census block-level data through its Form 477 (including for mobile providers who must also submit data through the BDC for the National Broadband Map), the Department believes that the efforts of the State as well as the ISPs would best be directed towards ensuring that the National Broadband Map accurately reflects the unserved and underserved areas across our State. Accordingly, the Department believes that the collection of broadband coverage data under HRS Chapter 440J, like the FCC's Form 477, has effectively been replaced by the more comprehensive and granular data collection under the BDC for all providers required to file broadband coverage reports under that chapter.

Testimony of DCCA
S.B. 478 S.D.1

Thank you for the opportunity to testify on this bill.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKA'I

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Written Statement of
CHRIS J. SADAYASU
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON JUDICIARY AND
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Tuesday, February 28, 2023
9:35 AM
State Capitol, Conference Room 016 & Videoconference

In consideration of
SB 478, SD1
RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY REPORTING.

Chairs Rhoads and Keohokalole, Vice Chairs Gabbard and Fukunaga and members of the Committees. The Department of Business, Economic Development and Tourism (DBEDT) **support SB 478, SD1** that repeals chapter 440J, HRS, relating to telecommunications and cable industry information reporting requirements for broadband service providers.

On January 19, 2021, the Federal Communications Commission (FCC) issued its Third Report and Order establishing Digital Opportunity Data Collection and took key steps to ensure that both the data collection itself, and the measures for verifying the accuracy of the data collected, will yield a robust and reliable data resource for the Commission, Congress, federal and state policymakers, and consumers to evaluate the status of broadband deployment throughout the United States.

After discussions with broadband Internet access services providers, the acknowledgement that the new data provided to the FCC is accessible from the FCC and is much more granular than the current FCC Form 477 report, DBEDT recognizes that HRS 440J is no longer necessary.

For Part II, Section 4, DBEDT defers to DCCA on the specific provisions of the bill.

Thank you for the opportunity to submit this testimony.



February 27, 2023

Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 205
Honolulu, HI 96813

Senator Karl Rhoads, Chair
Senate Committee on Judiciary
Hawaii State Capitol, Room 228
Honolulu, HI 96813

Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 216
Honolulu, HI 96813

Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary
Hawaii State Capitol, Room 201
Honolulu, HI 96813

RE: Support for SB478 – Reporting requirements for broadband service providers

Dear Chairs Keohokalole and Rhoads and Vice Chairs Fukunaga and Gabbard,

On behalf of CTIA®, the trade association for the wireless communications industry, I write to support Senate Bill 478, S.D. 1 relating to telecommunications and cable industry information reporting requirements for broadband service providers, and to provide comments. CTIA shares Hawaii's commitment to advancing broadband deployment and adoption across the state, and wireless carriers have been on the forefront of efforts to meet those goals.

The wireless industry strongly supports ubiquitous mobile broadband coverage and has been on the cutting-edge of promoting its deployment to meet ever-growing consumer demand. In 2021 alone, wireless carriers invested nearly \$35 billion to grow and improve the nation's networks.¹ This investment also fuels economic growth, including in Hawaii, where the wireless industry supports nearly 23,000 jobs and generates \$2.1 billion to the state's annual GDP.

State telecommunications policies that align with the existing federal regulatory regime for wireless creates efficiency and removes barriers to deployment. SB 478 SD 1 will repeal HRS 440J, which currently requires broadband data to be reported to the state annually. Removing this requirement will further streamline already existing data collection processes and allow carriers to focus their resources on the ultimate goal of expanding wireless broadband service.

Both Congress and the Federal Communications Commission (FCC) are taking steps to improve the collection and dissemination of data on broadband availability. In March of 2020, with strong bipartisan support, Congress passed the Broadband DATA Act, which built on prior steps to improve data collection and mapping at the FCC. This federal law takes a number of actions to improve broadband data collection, including:

- Setting strong parameters for service availability data collected from mobile broadband providers to ensure accuracy;
- Strengthening enforcement against providers that submit inaccurate broadband data;

¹ <https://www.ctia.org/news/u-s-wireless-investment-hits-record-high>



- Requiring the FCC to collect granular service availability data from wired, fixed wireless, and satellite broadband providers, and allowed the FCC to consider whether to collect verified coverage data from state, local, and tribal governments, as well as from other entities;
- Creating a process for state, local, and tribal governments, consumers, and other groups to challenge FCC maps with their own data; and
- Establishing a crowdsourcing process that will allow the public to participate in data collection.

The FCC's new broadband maps and the underlying data submitted by internet service providers (ISPs) are public and now available for download by anyone. As such, HRS 440J is no longer necessary.

We also have input on Part II of SB 478 SD 1. HRS 440J-3 required the Department of Commerce and Consumer Affairs (DCCA) to keep information submitted under HRS 440J confidential. Part II of SB 478 SD 1 instructs DCCA to make past submissions available to the public. Given current efforts on broadband data collection and mapping, Part II is unnecessary.

We appreciate the recognition through this legislation that the availability of FCC broadband data can effectively serve the needs of the State. For that reason, we strongly support the intent of s=SB 478 .

Sincerely,

Jeremy Crandall
Assistant Vice President
State Legislative Affairs

Written Statement of
Jeannine Souki
Senior Manager – Government & Regulatory Affairs

SENATE COMMITTEES ON COMMERCE & CONSUMER PROTECTION AND JUDICIARY
February 28, 2023

9:35 a.m.

SUPPORT FOR:

**S.B. 478, SD1 – RELATING TO TELECOMMUNICATIONS AND CABLE INDUSTRY
INFORMATION REPORTING**

To: Chairs Keahokalole and Rhoads, Vice-Chairs Fukunaga and Gabbard, and Members of the
Committees

Re: Testimony providing support for SB 478, SD1

Aloha Honorable Chairs, Vice-Chairs, and Committee Members:

Thank you for this opportunity to provide testimony supporting SB 478, SD1, to repeal chapter 440J, Hawai'i Revised Statutes (HRS), relating to telecommunications and cable industry information reporting requirements for broadband service providers.

Hawaiian Telcom supports the original intent of this housekeeping measure to repeal 440J, HRS. The current statute requires broadband service providers to report to the State Department of Commerce and Consumer Affairs (DCCA) on the percentage of each Census block without access to broadband service based on the FCC's broadband service definition. This information is filed as confidential and is used for the agency's planning purposes. While this reporting requirement was useful when the legislation was passed in 2012, Census block data is no longer considered relevant given the FCC's recent changes that require broadband service providers to file more granular location-specific service information. This bill is in keeping with changes made at the federal level with how broadband data is collected and reported into the FCC's National Broadband Data Map which is publicly available.

Prior to September 2022, the FCC required broadband providers to provide broadband service availability by Census block level (via FCC Form 477). Census blocks are statistical areas bounded by visible features, such as streets, roads, and streams, and by nonvisible boundaries, such as property lines. Census blocks are smaller in urban areas like Honolulu and larger and irregularly shaped in suburban and rural areas, and in remote areas, a census block may encompass hundreds of square miles. Currently, Chapter 440J requires broadband service providers to report the percentage of each Census block that broadband service is not available, similar to the previous FCC requirement.

Starting in September 2022, the FCC required providers to update their broadband availability and service speeds by location in the FCC's National Broadband Map. The FCC's map provides the most comprehensive and granular information about internet services available to individual locations, along with mobile coverage, which will be used to allocate federal broadband grants to states and territories. The FCC's map is publicly available so federal agencies, states, and counties can access the same data, updated bi-annually by broadband service providers by March 1 and September 1.

With the National Broadband Map in place, the FCC moved to eliminate the previous reporting requirement of broadband service availability data by Census block (FCC Form 477) in December 2022.

As a broadband service provider, Hawaiian Telcom supports repealing outdated regulations that caused additional costs so that we can focus on delivering broadband infrastructure and services, which provide more significant benefits to our community and the economic success of the state. However, we do not support the additional language in Section 4 of this bill which directs DCCA to make confidential data filed under 440J HRS publicly available. The confidentiality provision in 440J HRS exists to protect the companies from having proprietary business information disclosed while allowing DCCA access to sensitive and private business data. Allowing the state to now release proprietary information which was submitted under confidentiality provisions, is a violation of trust and bad public policy. We strongly believe this should be maintained and urge the Committees to remove this provision.

Finally, with the FCC's discontinuation of the collection of Census-block level data through Form 477 and the availability of location-specific broadband data available publicly and is being used today by federal, state, and county agencies to plan for more accurate deployment of broadband infrastructure and services, there is no longer a need to report 440J data to DCCA.

Hawaiian Telcom continues to invest hundreds of millions of dollars annually to expand broadband infrastructure across the state. In addition to significant investments into building out broadband infrastructure, Hawaiian Telcom supports digital equity as participating service provider in the federal Affordable Connectivity Program (ACP), which provides a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Hawaiian Homelands, and Lifeline Program which provides discounted services for qualified residents.

For these reasons, Hawaiian Telcom supports the intent of HB 478, SD1, and respectfully requests your Committees to pass this measure.



Charter Communications
Testimony of Rebecca Lieberman, Director of Government Affairs

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SENATE COMMITTEE ON JUDICIARY

Hawaii State Capitol
Tuesday, February 28, 2023

**COMMENTS ON S.B. 478, S.D. 1 – REALTING TO TELECOMMUNICATIONS AND CABLE INDUSTRY
INFORMATION REPORTING**

Chair Keohokalole, Chair Rhoads, Vice Chair Fukunaga, Vice Chair Gabbart, and Members of the Committees.

Thank you for the opportunity to provide testimony on of S.B. 478, S.D. 1. Charter Communications **supports the intent** of this bill, which would repeal chapter 440J of the Hawaii Revised Statutes, and proposes an amendment to address concerns.

Chapter 440J requires broadband service providers to annually file an aggregated report of broadband availability at the census-block level. This report is very similar to the FCC's Form 477 report, which requires broadband service providers to annually file census-block level broadband deployment data. In 2022, the FCC created a new broadband data collection mapping system, called the Broadband Data Collection System, and discontinued all Form 477 filings.

Instead of filing Form 477 reports, the FCC now requires broadband service providers to share broadband serviceable locations based on addresses and geographic coordinates, rather than census blocks. This broadband location data is then uploaded to the National Broadband Map, which is

publicly available online and will be updated twice each year. Reporting on specific addresses instead of census blocks provides the FCC, the state, and the public with much more precise information on broadband availability.

Charter supports the intent of this bill, which will help align state and federal policies and reduce outdated reporting requirements. However, we have concerns about Part II, Section 4, which would require DCCA to publish previously submitted Broadband Mapping Reports. All previous 440J reports were submitted under confidential treatment because this information is competitively sensitive, and Charter and other entities submitted this information with the understanding that it would remain confidential. As the legislature knows well, there is value in maintaining internal working documents confidential in order to have a clear understanding of data without jeopardizing ongoing endeavors. Publishing previously protected confidential information is counter to the original intent of maintaining confidentiality and creates an undesirable precedent moving forward.

Charter respectfully requests the Committee amend this bill by removing Part II, Section 4.

Charter believes that every Hawaii resident should have reliable access to high-speed internet service. We will continue to help bring the benefits of broadband and access to the internet to those who need it most. Hawaii is estimated to receive significant federal dollars for broadband infrastructure in the immediate future (via the Coronavirus Capital Project Fund and Broadband, Equity, Access, and Deployment Program), in addition to private investments already being made by the industry.

Mahalo for the opportunity to testify on S.B. 478, S.D. 1.