

# Washington takes on Digital Discrimination

Setting the record straight on the factors contributing to the digital disparity in multifamily broadband services.

By Kevin Donnelly / NMHC and Valerie M. Sargent / *Broadband Communities*

The FCC has long sought information about the health of the multifamily broadband market. The apartment industry has been instrumental in providing data and on-the-ground insight to policymakers on deployment, access and adoption issues facing rental properties and their residents. As policymakers and the apartment industry make historic investments in broadband and extend its benefits to millions more Americans, let's make sure onerous regulations do not upend the way property owners and broadband providers can partner to deliver broadband services to residents today successfully. Until now, too many rental properties and renters have been left unconnected.

As part of the robust broadband funding provided by the bipartisan Infrastructure Investment and Jobs Act (IIJA), Congress required the FCC to define digital discrimination and enact rules to prevent it – something that housing operators would agree with. As always, however, details matter.

### MAINTAINING MULTIFAMILY BROADBAND COMPETITION

Though the proceeding is aimed mainly at broadband providers, the FCC has also used it to raise questions about whether multifamily property owners have a role to play in digital discrimination and whether the FCC should revisit rules governing agreements and relationships between broadband providers and property owners.

The questions raised by the FCC about apartment owners continue to reveal their interest in exploring the multifamily broadband market and their desire to see renters well-served. The industry, through comments filed by the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA), has reinforced that property owners do not engage in digital discrimination and are strong proponents of renters having access to reliable, high-speed broadband services.

Property owners invest significant resources to build, maintain and upgrade broadband networks and provide residents with reliable, fast broadband services. The

broadband services at most apartment communities are often better, faster and cheaper than what is available in the broader market. This results from robust competition in the multifamily broadband market, which ultimately drives investment, higher service standards, and lower pricing. Competition benefits renters.

Industry data shows that competition and superior broadband services already exist in most of the multifamily market and should be a model for success to replicate across communities. However, it's important to acknowledge that an actual market failure exists – as shown in situations in which broadband providers are unable to make the economic decision to serve or modernize broadband infrastructure in low-income, smaller or affordable properties because of their inability to recoup a return on investment. Owners of those buildings don't have a large enough operating margin to incur or contribute to the expenses to deploy or upgrade infrastructure.

### A HISTORIC MOMENT

That's why federal support initiatives such as the Broadband Equity, Access, and Deployment (BEAD) Program are so important. It's deploying critical subsidies – worth \$42.5 billion – to expand high-speed internet access by funding planning, infrastructure deployment and adoption in unserved and underserved areas. This will help support the necessary expansion of modern broadband infrastructure in low-income multifamily properties – a key priority when the law was passed. These needed solutions will help fill the economic gaps preventing broadband connectivity and adoption in too many multifamily communities.

Property owners, through NMHC, argue that using this proceeding to regulate the multifamily broadband market further will do more harm than good and disincentivize providers and owners from making crucial investments in infrastructure that enables broadband access.

In the end, the apartment industry believes the FCC should adopt a narrow definition of “digital discrimination” and focus on delivering needed subsidies, such as the \$42.5

billion included in the bipartisan infrastructure law, to get modern broadband where it doesn't exist – whether in multifamily communities or rural areas of the country. Low-income multifamily communities are eligible for the subsidies.

This is a historic moment in the effort to eliminate the digital divide. Want to learn more? Join us at the **BROADBAND COMMUNITIES** Summit during the NMHC Town Hall on May 2, 2023. Though much of the

discussion and focus on the digital divide has focused on rural and other areas without service, many low-income multifamily communities are rightly eligible for funding under the BEAD Program and adoption subsidies such as the ACP. The Town Hall will cover several key topics related to digital equity, access and adoption – including ways to advocate for and access critical subsidies, hear about cost-effective strategies for deployment, and achieve shared goals of attaining

digital equity for those in need. Register at: [www.bbcmag.com/events/summit-2023/home](http://www.bbcmag.com/events/summit-2023/home). 📍



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