



2020 Indigenous Connectivity Summit Policy Recommendations

October 2020

Indigenous peoples in North America are pursuing innovative and independent ways to connect to the Internet. They face unique challenges to connectivity and, when it comes to policymaking, they are often left out of both national markets and the policymaking processes that supports them. In the wake of the COVID-19 pandemic, it has become even more apparent that access to broadband is a basic service¹, similar to access to water or electricity. As such, politicians must take bold and rapid action to reach digital equity, in coordination, with the Indigenous communities who lack affordable access.

Notably, both the Canadian government and the United Nations have recognized this critical role. The UN's Declaration on the Rights of Indigenous Peoples states:

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them"².

The Canadian Truth and Reconciliation Committee's 94 calls to action³ include a recommendation that national regulators increase Indigenous programming and representations of culture, language, and perspectives through the media. They also include a "call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation."

It is time for both the United States and Canadian governments to take meaningful action to uphold this important declaration.

Indigenous voices are critical to conversations about connectivity, especially when the policy outcomes of those conversations will affect Indigenous communities. That is why the Internet Society held its second Policy and Advocacy Training in the lead up to the 2020 Indigenous Connectivity Summit (ICS).

Over 180 individuals from across the United States and Canada met over the course of six weeks to discuss the role of policy and advocacy, the outcomes of the current connectivity environment due to the current political state of play, and how they can positively impact new policies or rules to support equity and inclusion.

The culmination of this work resulted in a discussion about the 2020 Policy Recommendations, which Indigenous Connectivity Summit participants contributed to and formally approved.

It is important to note that while previous years' policy recommendations served as stand-alone documents, this year's participants emphasized that the documents should be read together in tandem. COVID-19 has highlighted the opportunities and need to truly reach digital equity and ensure everyone in North America has equal access. Therefore, policymakers must look at the historical record as they move forward with new policies to address connectivity.

1 In 2016, the Canadian Radio-Television Commission declared the Internet a "basic service" in Canada:

<https://crtc.gc.ca/eng/archive/2016/2016-496.htm>

2 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

3 http://www.trc.ca/assets/pdf/Calls_to_Action_English2.pdf

Please help make your local policymakers aware of these recommendations; share them on social media, raise them in meetings, include them in reports, and more.

Now, more than ever, connectivity and community are key.

The following were adopted as the 2020 ICS Policy Recommendations. They are presented in no particular order of importance; all are considered of equal priority. The recommendations fall into six critical areas: effective and accurate mapping; inclusivity, community consultation, engagement; capacity building in Indigenous communities; spectrum rights and sovereignty; infrastructure and ownership; and, affordability.

Specific policies and recommendations within each of those categories can be found below:

Effective and Accurate Mapping

It is known that broadband mapping data collection in both the United States and Canada requires significant improvement to support research and equity. The appropriate agencies should prioritize changes to the way data is collected and who is excluded from federal programs based on mapping challenges immediately.

- Funding programs frequently exclude communities where data shows that a single home meets minimum service standards within their hexagon or census block of mapped space. New limits should be set so if a majority of the population is not served, the community will be eligible to apply for funding for connectivity projects.
- If an entity receives federal funding for builds on Indigenous lands, they should have a new funding structure that identifies what provisions and subscription rates are needed for that specific community (e.g. broadband speeds or otherwise depending on what backhaul is available to the community).
- Both dark and lit fiber should be mapped, and made publicly available, as well as the number of homes and businesses connected to them.
- Incumbent Internet service providers must be accountable, through reporting, to ensure community members are actually getting access to the reported bandwidth.

Inclusivity, Community Consultation, and Engagement

There must be better accountability and increased efforts both from governments and non-Indigenous entities to engage and consult with Indigenous communities in meaningful ways⁴. This can be improved through the following policies:

- Consultation between government and Indigenous and non-Indigenous entities should be based upon best-practice Key Performance Indicators (KPIs) to determine if the engagement is meaningful. These specific KPIs should be based on community needs, clear project timelines, and mutually understood goals and definitions.
- Indigenous (Tribal, Native Hawaiian, First Nations, Alaska Native, Metís, and Inuit) governments and/or representative organizations must be engaged during the early planning stages of any project or policy that may affect their communities or land. By working with Indigenous

⁴ Additional examples of best practices for community consultation and engagement can be found in this resource from the First Mile Connectivity Consortium: <http://firstmile.ca/resources-for-community-engagement/>

communities early on, non-Indigenous entities may be able to form mutually beneficial and lasting relationships. Furthermore, Indigenous governments will be empowered to play an active role in the projects and policies that impact their communities.

- Non-Indigenous entities must respect Indigenous communities' protocols, standards, and local governance. During the current and post COVID-19 pandemic, they should also be required to engage communities about their expectations for safety during COVID-19 and non-Indigenous entities should respect the guidelines for safe work within the community.
- Non-Indigenous Internet Service Providers should receive training, cultural education information, and other community-critical information from the community regarding sacred sites, norms, etc. prior to deploying service.
- Partnerships should be encouraged both between Indigenous and non-Indigenous entities as well as between Indigenous communities.
- Indigenous peoples should be commissioned to provide guidance to government agencies, committees, and representative bodies should increase the number of salaried Indigenous staff to provide guidance and insight into all policy processes impacting Indigenous areas.⁵
- An Indigenous Broadband Fund and centralized data base that captures funding opportunities, eligibility, and information on how to apply should be created.
- Indigenous representatives should be hired on a salaried basis to serve as liaisons to assist communities with their applications for funding and participation in policy processes.

Capacity Building in Indigenous Communities

The secondary goal of connectivity is capacity building in Indigenous communities. Funding for infrastructure, operations and maintenance, and training (technical and digital literacy) are equally important to fundamentally achieve digital equity.

- Federal grants should be created and tailored to Indigenous communities for basic planning, digital inclusion, and network operation and maintenance.
- If federal funds are allocated to private, non-Indigenous entities operating on Indigenous lands, that entity should be required to train community members to maintain the network on their own land or at minimum hire community members for local labor. They should also be required to service a higher penetration rate to ensure homes are serviced as well as businesses.

5 This is particularly important given the growing pressure on Indigenous representatives to continually share their story, which can result in knowledge fatigue. In the words of Twyla Baker, "The idea that Indigenous people (or any marginalized person/group) engaging with the larger population on a given subject or topic related to bias, must first set the stage in terms of historical context all the way to current day state of affairs, before even addressing said topic of bias - over and over again - due to the lack of education/background the listener has. A Direct impact of erasure of true Indigenous history beyond the cursory mention in our school systems."

Spectrum Rights and Sovereignty

Spectrum, like water, is a critical natural resource for Indigenous communities. Federal regulators must therefore ensure that Indigenous governments, Indigenous-owned entities, and communities have first rights to the spectrum over their lands.

- Federal regulators should include an Indigenous Priority Window, similar to the one held for Educational Broadband Service spectrum in the United States, for every spectrum auction. This model should also require spectrum allocators and regulators to provide more robust educational opportunities about the Indigenous Priority Windows.
- Indigenous communities should have first access to spectrum over their land during spectrum auctions and if spectrum licenses are transferred, the community should have first right of refusal.
- Unused spectrum over Indigenous lands should be reallocated for Indigenous use.
- Internet service providers who acquire spectrum over an Indigenous community, but do not use it within a reasonable number of years (e.g. three years), should be required to give the spectrum license to the community it covers.
- As outlined in the United States Government Accountability Office's 2018 report on tribal broadband⁶, to be eligible for Universal Service Fund support in the United States, a provider must be an "eligible telecommunications carrier" (ETC). However, this eligibility is overly cumbersome for Indigenous communities and can prove to be a significant hurdle in the spectrum ownership process. The ETC eligibility should be reconsidered and specific metrics should be set for Indigenous communities.

Infrastructure and Ownership

To bring essential connectivity to these under-served communities, flexible and creative approaches to technology and funding models are needed, including empowering Indigenous communities to own and maintain their own infrastructure (as the service provider or otherwise).

- Policymakers should ensure that when new federal development funds for broadband are created, the criteria for applicants must be inclusive and not preclude Indigenous government or community member participation. They should also open funding to all kinds of providers, including small or community-run networks.
- Federal funding opportunities, including development funds, should prioritize community choice, including through community networks, public-private partnerships, mesh networks, and access to Low Earth Orbit satellites where available. These opportunities should also start at the "First Mile" in unconnected communities and ensure sustainability by including support for operational expenses.
- Separate models should be considered for un/under-connected areas as well as urban, connected ones to support equity.

⁶ <https://www.gao.gov/assets/700/694810.pdf>

- Grants for funding for networks should be straight forward, easily accessible, and without overly burdensome reporting requirements to encourage Indigenous, rural, and remote applications. Federal grants should prioritize comparative applications instead of reverse auctions.
- To ensure that these communities achieve 100% connectivity, the bandwidth constraints of 50 Mbps downstream/10 Mbps upstream in Canada and 25 Mbps downstream / 3 Mbps upstream in the United States and the moratorium on Rural Remote Broadband Systems (RRBS) spectrum use should be re-evaluated. Policymakers and service providers should prioritize symmetrical bandwidth offerings.
- Dig-once and other policies should be implemented to increase the availability of dark fiber.
- Indigenous data sovereignty must be upheld. As the Native Nations Institute on Data writes, “Indigenous data sovereignty is the right of a nation to govern the collection, ownership, and application of its own data. It derives from [Indigenous communities] inherent right to govern their peoples, lands, and resources.”⁷

Affordability

It is not enough for Indigenous communities to merely get access to service. To achieve digital equity, service must be both accessible and affordable.

- Metrics must be created to measure, inform, and monitor affordability. Service should then be routinely evaluated and publicly reported on to ensure they continue to be affordable to communities.
- Standard-use pricing models should be maintained that link price to the actual cost of bandwidth.
- Research should be carried out to determine equitable pricing for bandwidth. This research will provide evidence to support price discrepancies between urban and rural communities, who desperately need, and deserve, equitable access.

⁷ http://nni.arizona.edu/application/files/1715/1579/8037/Policy_Brief_Indigenous_Data_Sovereignty_in_the_United_States.pdf