



**MEMORANDUM**

**March 29, 2022**

**To: Subcommittee on Communications and Technology Members and Staff**

**Fr: Committee on Energy and Commerce Staff**

**Re: Hearing on “Connecting America: Oversight of the FCC”**

**On March 31, 2022, at 10:30 a.m. (EDT), in the John D. Dingell Room, 2123 of the Rayburn House Office Building, and via Cisco WebEx online video conferencing,** the Subcommittee on Communications and Technology will hold a hearing entitled, “Connecting America: Oversight of the FCC.”

**I. BACKGROUND**

The Federal Communications Commission (FCC) regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia, and U.S. territories.<sup>1</sup> An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America’s communications laws and regulations.<sup>2</sup>

**II. KEY FCC ISSUES AND PROCEEDINGS**

**A. Broadband Affordability and Adoption**

Since the beginning of the coronavirus disease of 2019 (COVID-19) pandemic, Congress has enacted programs to help people afford and adopt broadband service. The Emergency Broadband Benefit (EBB) was established by the Consolidated Appropriations Act of 2021. The program was then modified, given increased funding, and converted into a long-term program, the Affordable Connectivity Program (ACP), in H.R. 3684, the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law. Like the EBB, the ACP provides eligible households a discount on their monthly internet bill, and in some cases, a one-time discount on a device.<sup>3</sup> Over 10 million households have enrolled in the

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<sup>1</sup> Federal Communications Commission, *About the FCC* ([www.fcc.gov/about/overview](http://www.fcc.gov/about/overview)) (accessed Mar. 17, 2022)

<sup>2</sup> *Id.*

<sup>3</sup> Consolidated Appropriations Act of 2021, Pub. L. No. 116-260.

program.<sup>4</sup>

In the American Rescue Plan Act of 2021 (ARP), Congress established the Emergency Connectivity Fund (ECF), a \$7.7 billion program to help students, faculty, and library patrons access the internet at home by providing internet connectivity and devices through schools and libraries.<sup>5</sup> As of March 7, 2022, the FCC had distributed over \$4.69 billion to schools and libraries that applied.<sup>6</sup>

## **B. Universal Service Fund**

The Universal Service Fund (USF) supports communities through four key mechanisms:<sup>7</sup>

- The High Cost Support Program, including the Rural Digital Opportunity Fund (RDOF);
- The Lifeline Program, to help low-income Americans afford connectivity services;
- The E-Rate Program, a communications service discount program for schools and libraries; and
- The Rural Health Care Program, including the Connected Care Pilot Program.

In the Bipartisan Infrastructure Law, Congress required the FCC to open a proceeding to examine the future of USF.<sup>8</sup> The FCC issued a Notice of Inquiry on the Future of USF on December 15, 2021,<sup>9</sup> with reply comments due on March 17, 2022.<sup>10</sup>

## **C. Broadband Mapping**

The FCC has been collecting subscription and connection data for broadband and telephone service since 2000, using the information for many FCC actions including its publication of statutorily mandated reports to Congress regarding competition among certain service providers and the availability of advanced communications capability.<sup>11</sup> The FCC has

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<sup>4</sup> *FCC Says 10 Million Homes Have Now Signed Up for Affordable Internet Subsidy*, Daily Dot (Feb. 15, 2022) ([www.dailydot.com/debug/affordable-connectivity-program-broadband-subsidy-10-million-enrollees/](http://www.dailydot.com/debug/affordable-connectivity-program-broadband-subsidy-10-million-enrollees/)).

<sup>5</sup> Federal Communications Commission, *Emergency Connectivity Fund* ([www.fcc.gov/emergency-connectivity-fund](http://www.fcc.gov/emergency-connectivity-fund)) (accessed Mar. 21, 2022).

<sup>6</sup> *FCC Awards \$64 Million More Through Emergency Connectivity Fund*, Telecompetitor (Mar. 7, 2022) ([www.telecompetitor.com/fcc-awards-64-million-more-through-emergency-connectivity-fund/](http://www.telecompetitor.com/fcc-awards-64-million-more-through-emergency-connectivity-fund/)).

<sup>7</sup> Federal Communications Commission, *Universal Service* (Mar. 24, 2022) (<https://www.fcc.gov/general/universal-service>).

<sup>8</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58 § 60104.

<sup>9</sup> Federal Communications Commission, *Notice of Inquiry, Report on the Future of the Universal Service Fund* (Dec. 15, 2021) (WC Docket No. 21-476, FCC 21-127).

<sup>10</sup> Federal Communications Commission, *Order Granting an Extension of Time, Report on the Future of the Universal Service Fund* (Jan. 4, 2022) (WC Docket No. 21-476, DA 22-6).

<sup>11</sup> *Id.*

also used this data to inform its universal service program.<sup>12</sup>

Enacted in 2020, the Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act) requires the FCC to issue new rules to collect granular broadband availability data, to use such data to create maps, and to establish a process to verify the accuracy of such data.<sup>13</sup> In February 2021, Chairwoman Rosenworcel established an interagency broadband task force to implement the Broadband DATA Act,<sup>14</sup> and the FCC announced that providers can submit the required data beginning June 20, 2022, and ending September 1, 2022.<sup>15</sup> The Government Accountability Office (GAO) recently dismissed a challenge to the FCC's selection of a mapping contractor, allowing the FCC's work on the maps to continue.<sup>16</sup>

#### **D. Robocalls**

In December 2019, the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) was signed into law, giving the FCC the authority to take specific actions to fight illegal robocalls.<sup>17</sup> The FCC has taken a number of actions to implement the law, including launching the reassigned numbers database, adopting rules to require certain providers to adopt the Secure Telephony Identity Revisited (STIR) and Signature-based Handling of Asserted information using toKENs (SHAKEN) (together known as “STIR/SHAKEN”) protocol to verify the accuracy of caller identification, and ordered other providers to develop alternative methods to implement caller identification standards.<sup>18</sup>

#### **E. Secure Networks**

The Secure and Trusted Communications Networks Act of 2019 (STCNA) prohibits certain funds administered by the FCC from being used to “purchase, rent, lease, or otherwise obtain covered communications equipment and services” and directs the FCC to establish the Secure and Trusted Communications Reimbursement Program.<sup>19</sup> To date, the FCC has added eight companies to the list of covered equipment and services providers that pose a threat to the

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<sup>12</sup> *Id.*

<sup>13</sup> Congressional Research Service, *Broadband Data and Mapping: Background and Issues for the 117th Congress* (May 19, 2021) (R45962).

<sup>14</sup> Federal Communications Commission, *Acting Chairwoman Rosenworcel Establishes Broadband Data Task Force* (Feb. 17, 2021) (press release).

<sup>15</sup> Federal Communications Commission, *Public Notice, Broadband Data Task Force and Office of Economics and Analytics Announce Inaugural Broadband Data Collection Filing Dates* (Feb. 22, 2022) (WC Docket Nos. 11-10 and 19-195, DA 22-122).

<sup>16</sup> *FCC Locks in Key Vendor for Broadband Map Revamp*, Fierce Telecom (Mar. 3, 2022) ([www.fiercetelecom.com/telecom/fcc-locks-key-vendor-broadband-map-revamp](http://www.fiercetelecom.com/telecom/fcc-locks-key-vendor-broadband-map-revamp)).

<sup>17</sup> Congressional Research Service, *Federal Communications Commission: Progress Protecting Consumers from Illegal Robocalls* (Apr. 10, 2020) (R46311).

<sup>18</sup> *Id.*; Federal Communications Commission, *Report to Congress on Robocalls and Transmission of Misleading or Inaccurate Caller Identification Information* (Dec. 22, 2021) ([docs.fcc.gov/public/attachments/DOC-378593A1.pdf](https://docs.fcc.gov/public/attachments/DOC-378593A1.pdf)).

<sup>19</sup> Pub. L. No. 116-124 (2020).

national security according to STCNA: Huawei Technologies Co., ZTE Corp., Hytera Communications Corp., Hangzhou Hikvision Digital Technology Co., Dahua Technology Co.,<sup>20</sup> AO Kaspersky Lab, China Telecom (Americas) Corp, and China Mobile International USA Inc.<sup>21</sup> The program reimburses eligible providers for the removal, replacement, and disposal of covered communications equipment and services.<sup>22</sup> As part of the Consolidated Appropriations Act of 2021, Congress appropriated \$1.9 billion in funding for the program. In February, however, the FCC announced that it had received requests totaling approximately \$5.6 billion.<sup>23</sup> In addition to implementing STNCA, the FCC has revoked authorization of some telecommunications companies from serving U.S. customers due to national security concerns.<sup>24</sup>

## **F. Media Issues**

According to the most recent FCC data released in October 2019, ownership of full power commercial television stations and commercial FM radio stations by women and people of color remains very low, at about 10 percent.<sup>25</sup> Section 202(h) of the Telecommunications Act of 1996 (the Act) directs the FCC to review its media ownership rules every four years to determine whether they are “necessary in the public interest” and to “repeal or modify any regulation it determines to be no longer in the public interest.”<sup>26</sup> The FCC reviews these rules to ensure that they continue to serve the policy goals of competition, localism, and diversity.<sup>27</sup> In June 2021, the FCC sought public comment to update the record in the 2018 Quadrennial Review proceeding.<sup>28</sup> The comment deadline ended on October 1, 2021.

The FCC has Equal Employment Opportunity rules and policies for radio and TV broadcasters and multichannel video programming distributors (MVPDs), which prohibit

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<sup>20</sup> Federal Communications Commission, *FCC Publishes List of Communications Equipment and Services that Pose a Threat to National Security* (Mar. 12, 2021) (press release).

<sup>21</sup> Federal Communications Commission, *FCC Expands List of Communications Equipment and Services that Pose a Threat to National Security* (Mar. 25, 2022) (press release).

<sup>22</sup> *Id.*

<sup>23</sup> Federal Communications Commission, *Public Notice, Wireline Competition Bureau Announces Applications Filed for the Secure and Trusted Communications Networks Reimbursement Program* (Feb. 9, 2022) (WC Docket No. 18-89, DA 22-131).

<sup>24</sup> Federal Communications Commission, *Order, FCC Revokes China Telecom* (Nov. 2, 2021) (GN Docket No. 20-109, FCC 21-114); Federal Communications Commission, *Order, FCC Revokes Pacific Networks' & ComNet's Telecom Service Authority* (Mar. 16, 2022) (WC Docket No. 20-11, DA 22-22).

<sup>25</sup> Federal Communications Commission, *Fifth Report on Ownership of Broadcast Stations* (Sept. 2021) (DA 21-1101).

<sup>26</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 202(h); Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3, § 629.

<sup>27</sup> Federal Communications Commission, *Notice of Proposed Rulemaking, 2018 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996* (Dec. 13, 2018) (MB Docket No. 18-349).

<sup>28</sup> Federal Communications Commission, *Public Notice, Media Bureau Seeks to Update the Record in the 2018 Quadrennial Regulatory Review* (June 4, 2021) (MB Docket No. 18-349).

discrimination in hiring on the basis of race, color, religion, national origin, or gender.<sup>29</sup> For MVPDs, the rules also prohibit discrimination in hiring on the basis of age.<sup>30</sup> The FCC is required to collect employment demographic data,<sup>31</sup> however, it has not done so for nearly two decades.<sup>32</sup> On July 26, 2021, the FCC released a Further Notice of Proposed Rulemaking to refresh the record to obtain further input on the legal, logistical, and technical issues surrounding the collection of the EEO data.<sup>33</sup>

MVPDs are prohibited from retransmitting the signals of broadcast stations without first obtaining the broadcaster’s consent—commonly referred to as “retransmission consent.”<sup>34</sup> The FCC also has rules governing program carriage disputes between MVPDs and video programming providers.<sup>35</sup>

Congress passed the Television Viewer Protection Act of 2019, which allowed smaller MVPDs to collectively negotiate for retransmission consent with large broadcasters.<sup>36</sup> Additionally, it required MVPDs, internet service providers, and telephone providers (both fixed and mobile) to include all charges in the prices they advertise and bill for services.<sup>37</sup> Lastly, the bill required greater transparency in electronic bills and provided remedies to consumers for certain increases in charges.<sup>38</sup>

## **G. Spectrum Pipeline**

The FCC, in collaboration with the National Telecommunications and Information Administration (NTIA) in certain instances, has made several spectrum bands available for 5G and next-generation wireless technology use and has started the process of making others available for such use. These bands include the 2496-2690 Megahertz (MHz) (2.5 Gigahertz

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<sup>29</sup> Federal Communications Commission, *EEO Rules and Policies for Radio, Broadcast TV and Non-Broadcast TV* ([www.fcc.gov/consumers/guides/eo-rules-and-policies-radio-and-broadcast-and-non-broadcast-tv](http://www.fcc.gov/consumers/guides/eo-rules-and-policies-radio-and-broadcast-and-non-broadcast-tv)) (accessed Mar. 17, 2022).

<sup>30</sup> *Id.*

<sup>31</sup> Federal Communications Commission, *Third Report and Order and Fourth Notice of Proposed Rulemaking, Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Procedures* (June 4, 2004) (MB Docket No. 98-204).

<sup>32</sup> Letter from Sen. Chris Van Hollen and Rep. Yvette D. Clarke to Federal Communications Commission Chairman Ajit V. Pai (May 10, 2019).

<sup>33</sup> Federal Communications Commission, *Further Notice of Proposed Rulemaking, Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Procedures* (July 26, 2021) (MB Docket No. 98-204).

<sup>34</sup> 47 U.S.C. § 325(b)(3)(C)(iii); 47 C.F.R. § 76.65(b) (2005).

<sup>35</sup> 47 U.S.C. § 536; 47 C.F.R. § 76.1302 (1999).

<sup>36</sup> The Television Viewer Protection Act of 2019, Pub. L. No. 116-94.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

(GHz)) band;<sup>39</sup> 3.7-4.2 GHz band (C-Band);<sup>40</sup> 3.55-3.7 GHz (3.5 GHz) band;<sup>41</sup> 3.45-3.55 GHz (3.45 GHz) band;<sup>42</sup> 3.1-3.45 GHz band;<sup>43</sup> 5.850-5.925 GHz (5.9 GHz) band;<sup>44</sup> 5.925-7.125 GHz (6 GHz) band;<sup>45</sup> 12.2-12.7 GHz (12 GHz) band;<sup>46</sup> and the 37.0-37.6 GHz (Lower 37 GHz) band.<sup>47</sup>

## **H. FCC's Spectrum Auction Authority**

The FCC has been conducting spectrum auctions pursuant to Congressional authority since 1994.<sup>48</sup> Spectrum auctions have raised \$200 billion in federal revenue,<sup>49</sup> and have been found to be an efficient way to allocate limited spectrum licenses.<sup>50</sup> This grant of authority has from the start been subject to an expiration date.<sup>51</sup> Congress has extended the FCC's spectrum auction authority several times, with the FCC's general spectrum auction authority set to expire next on September 30, 2022.<sup>52</sup> If Congress fails to act, the FCC will no longer have the authority to hold spectrum auctions, grant spectrum licenses related to those auctions, or do other auction work that relies on this authority, except for certain spectrum identified under the Spectrum Pipeline Act of 2015 and under the Bipartisan Infrastructure Law.<sup>53</sup>

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<sup>39</sup> Federal Communications Commission, *Report and Order, Band on Transforming the 2.5 GHz Band* (July 2019) (WT Docket No. 18-120).

<sup>40</sup> Federal Communications Commission, *Report and Order and Order of Proposed Modification, Expanding Flexible Use of the 3.7 GHz to 4.2 GHz Band* (Mar. 2020) (GN Docket No. 18-122).

<sup>41</sup> Federal Communications Commission, *Report and Order and Second Further Notice of Proposed Rulemaking, Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band* (Apr. 2015) (GN Docket No. 12-354).

<sup>42</sup> Federal Communications Commission, *Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, Facilitating Shared Use in the 3100-3550 MHz Band* (Mar. 2021) (WT Docket No. 19-348).

<sup>43</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58.

<sup>44</sup> Federal Communications Commission, *First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, Use of the 5.850-5.925 GHz Band* (Nov. 2020) (ET Docket No. 19-138).

<sup>45</sup> Federal Communications Commission, *Unlicensed Use of the 6 GHz Band* (Apr. 2020) (ET Docket No. 18-295).

<sup>46</sup> Federal Communications Commission, *Notice of Proposed Rulemaking, Expanding Flexible Use of the 12.2-12.7 GHz Band* (Jan. 15, 2021) (WT Docket No. 20-443).

<sup>47</sup> Federal Communications Commission, *Report and Order and Further Notice of Proposed Rulemaking, Use of Spectrum Bands Above 24 GHz for Mobile Radio Services* (July 2016) (GN Docket No. 14-177).

<sup>48</sup> *Id.*

<sup>49</sup> Federal Communications Commission, *Auctions Summary* ([www.fcc.gov/auctions-summary](http://www.fcc.gov/auctions-summary)) (accessed Mar. 1, 2022).

<sup>50</sup> Federal Communications Commission, *Report, FCC Report to Congress on Spectrum Auctions* (Oct. 1997) (WT Docket No.97-150).

<sup>51</sup> Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66.

<sup>52</sup> 47 U.S.C. § 309(j).

<sup>53</sup> *Id.*

## **I. Network Resiliency**

Americans depend on communications networks to call for help, contact loved ones, and access critical emergency response information when disaster strikes. In recent years, communications networks have been pressed to meet increasing challenges due to natural disasters, which have grown in size and severity due to environmental and climate factors.<sup>54</sup> FCC data reports that the number of reported wireless outages caused by a physical incident increased from 189 in 2009 to 1,079 in 2016.<sup>55</sup> In September 2021, the FCC released a Notice of Proposed Rulemaking regarding steps to improve the reliability and resiliency of communications networks during emergencies.<sup>56</sup>

## **III. WITNESSES**

The following witnesses have been invited to testify:

**The Honorable Jessica Rosenworcel**  
Chairwoman  
Federal Communications Commission

**The Honorable Brendan Carr**  
Commissioner  
Federal Communications Commission

**The Honorable Geoffrey Starks**  
Commissioner  
Federal Communications Commission

**The Honorable Nathan Simington**  
Commissioner  
Federal Communications Commission

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<sup>54</sup> U.S. Global Change Research Program, *Fourth National Climate Assessment Volume II: Impacts, Risks, and Adaptation in the United States* (Nov. 2018).

<sup>55</sup> Government Accountability Office, *FCC Should Improve Monitoring of Industry Efforts to Strengthen Wireless Network Resiliency* (Dec. 2017) (GAO-18-198).

<sup>56</sup> Federal Communications Commission, *Fact Sheet: Resilient Networks; Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; New Part 4 of the Commission's Rules Concerning Disruptions to Communications* (Sept. 9, 2021) (PS Docket Nos. 21-346 and 15-80; ET Docket No. 04-35).