

ONE HUNDRED SEVENTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

March 21, 2022

The Honorable Alan Davidson  
Assistant Secretary of Commerce for Communications and Information  
National Telecommunications and Information Administration  
1401 Constitution Avenue NW  
Washington, DC 20230

Dear Assistant Secretary Davidson:

We write to share key priorities that we believe will help the National Telecommunications and Information Administration (NTIA) implement H.R. 3684, the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, to ensure that the country makes meaningful progress in connecting all Americans to high-speed, affordable broadband service.<sup>1</sup> The Bipartisan Infrastructure Law included a historic \$65 billion investment in broadband access, affordability, and adoption.<sup>2</sup>

As you know, Congress entrusted NTIA to administer several of the broadband programs authorized or funded in the Bipartisan Infrastructure Law. Notably, the Broadband Equity, Access, and Deployment (BEAD) program provides funding to states and territories for deployment of broadband networks, planning and mapping activities, digital adoption projects, and any other uses to facilitate the program's goals.<sup>3</sup> Additionally, the Digital Equity Act of 2021 (Digital Equity Act) will help ensure that everyone has the technology, skills, and capacity to participate in the digital economy and the Middle Mile program will extend networks across the country.<sup>4</sup>

We believe the success of the Bipartisan Infrastructure Law's broadband programs will require an emphasis on affordability, digital inclusion, high-capacity networks, competition, and community engagement. To that end, we wanted to share our priorities as you work to establish

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<sup>1</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58.

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

<sup>3</sup> *Id.*; National Telecommunications and Information Administration, Grants Overview (broadbandusa.ntia.doc.gov/resources/grant-programs) (accessed Feb. 3, 2022).

<sup>4</sup> *Id.*

these important programs that will help us ensure all Americans have access to high-speed affordable broadband.

### *Affordability*

To provide the most possible help to those struggling to afford broadband service, we urge you to make the low-cost offering requirement in the BEAD program as widely available as feasible. It is well documented that affordability is a major barrier to broadband access for many people. Congress had this in mind when it created both the Affordability Connectivity Program and the low-cost offering requirement in the Bipartisan Infrastructure Law. In implementing the BEAD program, NTIA can ensure that as many people as possible benefit from these Congressional priorities, though participation by providers in the affordability programs administered by the Federal Communications Commission (FCC) alone cannot be enough to meet the BEAD program's low-cost offering.

### *Digital Inclusion*

We believe NTIA should designate “digital inclusion” activities, as defined in the Digital Equity Act, as a permissible use of BEAD funding.<sup>5</sup> The Bipartisan Infrastructure Law provides that BEAD funding can be used in a variety of specific ways to carry out broadband deployment and adoption.<sup>6</sup> In doing so, the Bipartisan Infrastructure Law directs states to prioritize unserved areas, then underserved areas, and then connecting community anchor institutions.<sup>7</sup> Beyond these priorities, the new law also permits NTIA to designate other eligible uses that facilitate the program's goals.<sup>8</sup> Allowing for the funding of “digital inclusion” activities is necessary since affordability, access to devices, and digital literacy are barriers to adoption for many people.<sup>9</sup>

### *Future Proof Federal Investment*

We believe that Bipartisan Infrastructure Law funding should prioritize projects that implement fiber networks and other technologies that can be scalable to meet the speeds that consumers will demand in the future. It is critical that NTIA ensure that networks built using

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<sup>5</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58. § 60302.

<sup>6</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58 § 60102(f).

<sup>7</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58 § 60102(h)(1)(A)(i).

<sup>8</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58 § 60102(f).

<sup>9</sup> Pew Research Center, *Home broadband adoption, computer ownership vary by race, ethnicity in the U.S.* (July 16, 2021) ([www.pewresearch.org/fact-tank/2021/07/16/home-broadband-adoption-computer-ownership-vary-by-race-ethnicity-in-the-u-s/](http://www.pewresearch.org/fact-tank/2021/07/16/home-broadband-adoption-computer-ownership-vary-by-race-ethnicity-in-the-u-s/)); National Skills Coalition, *The “digital divide” is about access to devices and the internet – but it’s also about access to skills* (Sept. 15, 2021) ([nationalskillscoalition.org/blog/future-of-work/the-digital-divide-is-about-access-to-devices-and-the-internet-but-its-also-about-access-to-skills/](http://nationalskillscoalition.org/blog/future-of-work/the-digital-divide-is-about-access-to-devices-and-the-internet-but-its-also-about-access-to-skills/)).

taxpayer funds are capable of meeting consumers' evolving digital needs.<sup>10</sup> Reliable, high-speed broadband access is needed for people to do their jobs, children to do their homework, patients to receive telehealth services, and for everyone to stay connected with family, friends, and their communities. These activities require high-capacity networks that can deliver fast speeds, especially as demand and adoption increase. It is also essential that recipients building out networks demonstrate the required technical and financial competencies to ensure that the projects actually deliver the service to consumers in the required time frames, and that network resiliency is emphasized from the beginning stages of planning. NTIA should also do all it can to ensure no community is left behind, including by establishing clear rules preventing digital discrimination in deployment of the networks funded under any of the programs included in the Bipartisan Infrastructure Law. Finally, to the extent possible, all programs should also prioritize quality, high-paying jobs for the projects funded.

### *Competition*

Where possible, the Bipartisan Infrastructure Law funding should promote open access networks to increase competition and consumer choice in broadband access providers. The new law specifically found that in “many communities across the country, increased competition among broadband providers has the potential to offer consumers more affordable, high-quality options for broadband service.”<sup>11</sup> President Biden’s July 2021 Executive Order on Promoting Competition in the American Economy also noted that consumers “pay too much for broadband...in part because of a lack of adequate competition.”<sup>12</sup> To promote a competitive broadband environment, we believe funding priority should be given to networks that will provide open access. Further, NTIA should examine the FCC’s recent action to ensure competitive access to apartment buildings, public housing, and other multi-tenant environments, and incorporate those measures as appropriate in BEAD.

### *Community Engagement*

NTIA should ensure that states have the tools and information to foster meaningful community engagement in the planning process as they implement BEAD and the Digital Equity Act. Further, states should include in the planning process stakeholders that reflect the demographics and needs of the local communities, and this engagement should be done on an ongoing basis as the funding and projects are implemented, and not just as a one-time, check-the-box requirement. Community engagement will be critical to achieve the goal of closing the digital divide and ensuring that everyone has access to reliable, affordable, high-speed broadband.

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<sup>10</sup> National Telecommunications and Information Administration, *Infrastructure Investment and Jobs Act*, 87 Fed. Reg. 1122 (Jan. 10, 2022) (notice).

<sup>11</sup> Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58 §60101.

<sup>12</sup> Exec. Order No. 14036, 86 Fed. Reg. 36987 (July 14, 2021).

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We look forward to working with you on achieving our common goal of closing the digital divide. Thank you for your attention to this important matter. If you have additional questions, please contact Jennifer Epperson of the Committee staff at (202) 225-2927.

Sincerely,



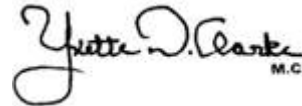
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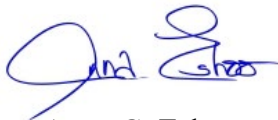
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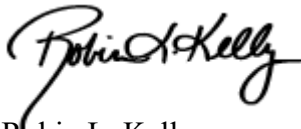
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