COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

February 11, 2022

To: Subcommittee on Communications and Technology Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on "Connecting America: Oversight of NTIA"

On **Wednesday, February 16, 2022, at 12:00 p.m. (EST), via Cisco WebEx online video conferencing**, the Subcommittee on Communications and Technology will hold a hearing entitled, "Connecting America: Oversight of NTIA."

I. BACKGROUND

The National Telecommunications and Information Administration (NTIA), an agency within the U.S. Department of Commerce is statutorily the President's principal advisor on telecommunications issues.[1] Its responsibilities include management of the spectrum licenses held by federal government agencies; participating in international telecommunications meetings and conferences to advance the U.S. interest; the development of policies concerning issues including privacy, security, interoperability, and emergency readiness; and coordinating federal telecommunications assistance to state and local governments.[2] It also conducts research and has administered a number of grant programs to increase adoption of and access to broadband internet service.[3]

II. KEY NTIA ISSUES AND INITIATIVES

A. Bipartisan Infrastructure Law

H.R. 3684, the Infrastructure Investment and Jobs Act (Act or IIJA), included a historic $65 billion investment in broadband access, affordability, and adoption.[4] Several of the programs authorized or funded in the Act are administered by NTIA. NTIA initiated a Request for Comment

[1] 47 U.S.C. § 902.

[2] *Id.*

[3] National Telecommunications and Information Administration, *About NTIA* (www.ntia.doc.gov/about) (accessed Feb. 9, 2022).

[4] Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58.

to invite public input on the programs, and that Request for Comment closed on February 4, 2022.[5]

1. Broadband Equity, Access, and Deployment

The Broadband Equity, Access, and Deployment (BEAD) program, created in the Act, provides funding to states and territories for deployment of broadband networks, planning and mapping activities, and other digital adoption projects.[6] In allocating the $42.5 billion appropriated for the program, each of the 50 states, plus the District of Columbia and Puerto Rico, will receive a minimum of $100 million. The remaining funds will be allocated to states on the basis of areas unserved by internet service that provides 25 megabits per second (mbps) download, and 3 mbps upload based on the broadband availability maps currently being developed by the Federal Communications Commission (FCC).

2. Middle Mile Broadband Infrastructure Program

The Act also created a $1 billion grant program to fund the construction, improvement, or acquisition of middle mile infrastructure.[7] Entities eligible for grants include state and municipal governments, electric utility and cooperatives, broadband service providers, nonprofit organizations, and Tribal governments or other Native entities, as defined by the Act.[8]

3. Digital Equity Programs

The Digital Equity Act of 2021, enacted as part of the Act, helps ensure that Americans everywhere have the technology, skills, and capacity to participate in the digital economy.[9] Three separate grant programs, all to be administered by NTIA, are included in the legislation. The State Digital Equity Planning Grant Program, funded at $60 million, will provide the 50 states, the District of Columbia, and Puerto Rico with funds to create plans that identify and address barriers to digital inclusion.[10] The State Digital Equity Capacity Grant Program, funded at $1.44 billion, will distribute funds to the 50 states, the District of Columbia, and Puerto Rico according to a formula, to support implementation of programs to address barriers identified in their respective Digital Equity Plan.[11] Finally, the Digital Equity Competitive Grant Program, funded at $1.25 billion, will award funding to eligible entities to create and implement digital equity programs over a five year period.[12]

---

[5] National Telecommunications and Information Administration, U.S. Department of Commerce, *Infrastructure Investment and Jobs Act Implementation*, 87 Fed. Reg. 1122 (Jan. 10, 2022) (notice).

[6] *See* note 4; National Telecommunications and Information Administration, *Grants Overview* (broadbandusa.ntia.doc.gov/resources/grant-programs) (accessed Feb. 3, 2022).

[7] *Id*.

[8] *Id*.

[9] *Id*.

[10] *Id*.

[11] *Id*.

[12] *Id*.

B. Consolidated Appropriations Act Grant Programs

Congress established and funded several programs in the Fiscal Year 2021 Consolidated Appropriations Act (Appropriations Act) to advance broadband access and adoption, three of which are being administered by NTIA.[13]

1. Tribal Connectivity Program

The Appropriations Act established a Tribal Connectivity Program at NTIA to provide funding to Tribal governments for a variety of connectivity purposes, including network deployment, telehealth, remote learning, and free or reduced-cost broadband service.[14] In September 2021, NTIA announced that it had received more than 280 applications and $5 billion in funding requests from the program.[15] NTIA continues to review applications and already has awarded nearly $4 million for eight projects.[16]

The IIJA revised this program, making certain technical edits and appropriating an additional $2 billion to the Tribal Connectivity Program.[17]

2. Broadband Infrastructure Program

The $300 million Broadband Infrastructure Program created in the Appropriations Act is a competitive grant program available to public-private partnerships to deploy broadband networks in areas that lack broadband service that delivers 25 mbps download and 3 mbps upload speeds.[18] In August, 2021, NTIA announced that it had received over 230 applications to the program, totaling over $2.5 billion in funding requests.[19] The agency is currently evaluating the applications based on the statutory priority specifications.[20]

---

[13] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260; National Telecommunications and Information Administration, *Grants Overview* (broadbandusa.ntia.doc.gov/resources/grant-programs) (accessed Feb. 3, 2022).

[14] *Id.*

[15] National Telecommunications and Information Administration, *NTIA's Tribal Broadband Connectivity Program Receives Over 280 Applications, More Than $5 Billion in Funding Requests* (Sept. 8, 2021) (press release).

[16] National Telecommunications and Information Administration Grants Overview, *Tribal Broadband Connectivity Program* (broadbandusa.ntia.doc.gov/resources/grant-programs/tribal-broadband-connectivity-program) (accessed Feb. 3, 2022).

[17] *See* note 4.

[18] *See* note 13.

[19] National Telecommunications and Information Administration, *NTIA's Broadband Infrastructure Program Receives Over 230 Applications, More Than $2.5 Billion in Funding Requests* (Aug. 24, 2021) (press release).

[20] *Id.*

3. Connecting Minority Communities Pilot Programs

The Appropriations Act created the Connecting Minority Communities Pilot Program, a grant funding opportunity to increase broadband connectivity and technical expertise to Minority Serving Institutions and their surrounding communities, including a 20 percent set aside for internet connections and devices for eligible students of the institutions.[21] NTIA released final rules to implement the program in June 2021.[22] Final applications were due on December 1, 2021, and the agency expects to make awards under the program in March 2022.[23]

C. Office of Internet Connectivity and Growth

The ACCESS Broadband Act, enacted in the Appropriations Act, gave NTIA significant responsibilities with respect to the coordination of federal broadband deployment funding programs and tracking of federal broadband deployment spending.[24] As required by the statute, NTIA established the Office of Internet Connectivity and Growth (OICG) in July 2021 to engage in outreach to communities regarding broadband connectivity and adoption, to track federal broadband deployment spending, and to coordinate with other federal and state agencies on broadband deployment.[25] The OICG is required to report to Congress annually regarding the work of the office, the number of Americans provided broadband through federal broadband deployment programs, and an estimate of economic impact of broadband connectivity on local communities.[26]

The Office of Minority Broadband Initiatives, also established under the Appropriations Act, is a part of the Office of Internet Connectivity and Growth, with responsibility for increasing broadband connectivity and related access to devices at Minority Serving Institutions, for their faculty and staff, and in surrounding communities.[27]

D. Spectrum Management

Congress has vested NTIA with significant authority over the federal government's use of the nation's airwaves. Specifically, under the functions assigned by Congress, NTIA has the

---

[21] Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

[22] National Telecommunications and Information Administration, *Department of Commerce's NTIA Releases Final Rule for $268 Million Connecting Minority Communities Pilot Program* (June 15, 2021) (press release).

[23] National Telecommunications and Information Administration, *Notice of Funding Opportunity Connecting Minority Communities Pilot Program* (November 2021) (broadbandusa.ntia.doc.gov/sites/default/files/2021-11/CMC%20Pilot%20Program%20NOFO%20Amendment%20%2811-9-2021%29.pdf).

[24] *See* note 21.

[25] *Id.;* National Telecommunications and Information Administration, *Access Broadband 2021 Report* (Dec. 2021).

[26] *Id.*

[27] *Id.*

authority to assign and oversee the spectrum usage rights of federal government agencies,[28] as well as represent the federal government on spectrum policy matters before the FCC.[29]

In representing the views of the federal government before the FCC, NTIA receives spectrum management and policy advice from experts at various federal agencies through its Interdepartment Radio Advisory Committee (IRAC).[30] In turn, NTIA and the FCC (the agency responsible for ensuring that spectrum is made available for commercial wireless use) have entered into a Memorandum of Understanding (MOU) to ensure that the two agencies are coordinating in a manner that allows federal and commercial users to utilize our country's finite spectrum reserves in the most efficient means possible.[31] Despite the MOU, beginning with the Trump Administration, the lack of coordination between NTIA and the various federal agencies it represents before the FCC, as well as the lack of coordination between NTIA and the FCC, has increasingly been a problem for spectrum management.[32] This lack of coordination has led to disputes that have pitted the FCC against various executive branch agencies directly, in contravention of the usual spectrum management processes that occur between the FCC and NTIA.[33]

In some cases, progress on the management of federal and commercial spectrum has significantly slowed as the agencies struggle to agree on interference concerns and spectrum reallocation matters.[34] This delay has the potential to harm the advances achieved with respect to several spectrum bands involving federal interests, such as those that have been made available for commercial use or in the process of being made available to commercial users. These bands

---

[28] 47 U.S.C. § 902.

[29] *Id*.

[30] National Telecommunications and Information Administration, *IRAC* (www.ntia.doc.gov/category/irac) (accessed Feb. 2, 2022).

[31] Federal Communications Commission, *FCC and NTIA Sign New Memorandum of Understanding on Spectrum Coordination* (Jan. 31, 2003) (press release).

[32] Government Accountability Office, *Spectrum Management: Agencies Should Strengthen Collaborative Mechanisms and Processes to Address Potential Interference* (June 2021) (GAO-21-474); Government Accountability Office, *Spectrum Management: NTIA Should Improve Spectrum Reallocation Planning and Assess Its Workforce* (Jan. 2022) (GAO-22-104537).

[33] Government Accountability Office, *Spectrum Management: Agencies Should Strengthen Collaborative Mechanisms and Processes to Address Potential Interference* (June 2021) (GAO-21-474); *See* note 31.

[34] *AT&T, Verizon pause 5G rollout near U.S. airports to avoid flight disruptions*, Reuters (Jan. 19, 2022) (www.reuters.com/business/aerospace-defense/biden-administration-talks-head-off-5g-aviation-standoff-2022-01-18/); *FCC Encouraged to 'Stay the Course' and Keep 5.9 GHz Spectrum for Transportation Use*, AASHTO Journal (May 17, 2019) (aashtojournal.org/2019/05/17/fcc-encouraged-to-stay-the-course-and-keep-5-9-ghz-spectrum-for-transportation-use/).

include the 3.7-4.2 GHz band (C-Band),[35] 3.55-3.7 GHz (3.5 GHz) band,[36] 3.45-3.55 GHz (3.45 GHz) band,[37] 3.1-3.45 GHz band,[38] 5.850-5.925 MHz (5.9 GHz) band,[39] and the 37.0-37.6 GHz (Lower 37 GHz) band.[40]

E. Other Initiatives

1. Cybersecurity and Supply Chain

In May 2021, President Biden issued an Executive Order on Improving the Nation's Cybersecurity (Cybersecurity Executive Order), which, among other things, directed NTIA to develop the minimum elements for a Software Bill of Materials (SBOM), a crucial tool in developing a more transparent and secure software supply chain.[41] On July 12, 2021, NTIA, in coordination with the Department of Commerce, fulfilled the Cybersecurity Executive Order's directive by releasing its report on the minimum elements for a SBOM.[42]

In addition to these developments, in July 2020, NTIA, in cooperation with the Office of the Director of National Intelligence, the Department of Homeland Security, the Federal Bureau of Investigations, and the FCC, established the Communications Supply Chain Risk Information Partnership (C-SCRIP), consistent with the requirements in the Secure and Trusted Communications Network Act of 2019.[43] The C-SCRIP program is primarily aimed at trusted

---

[35] 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).

[36] 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).

[37] 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).

[38] *See* note 4.

[39] 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).

[40] 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).

[41] National Telecommunications and Information Administration, *NTIA Releases Minimum Elements for a Software Bill of Materials* (July 12, 2021) (www.ntia.doc.gov/blog/2021/ntia-releases-minimum-elements-software-bill-materials).

[42] *Id*.

[43] National Telecommunications and Information Administration, *Establishment of the Communications Supply Chain Risk Information Partnership*, 85 Fed. Reg. 131 (July 8, 2020) (notice).

small and rural communications providers and equipment suppliers, with the goal of improving their access to risk information regarding key elements in their supply chain.[44]

2. National Strategy to Secure 5G

As required by the Secure 5G and Beyond Act of 2020, in January 2021, NTIA released a plan to implement the National Strategy to Secure 5G (National Strategy).[45] The National Strategy details how the United States and other like-minded countries can lead the global development, deployment, and management of secure and reliable 5G infrastructure.[46]

3. Privacy

In December 2021, NTIA held three virtual listening sessions concerning the intersection of privacy, equity, and civil rights.[47] Specifically, NTIA's listening sessions focused on the following three areas: (1) the legal landscape of consumer privacy and civil rights protections; (2) data processing and structural inequalities; and (3) solutions.[48] With listening sessions now concluded, NTIA plans to solicit written comments on the topics covered during these sessions in a forthcoming Request for Comment.[49]

4. Domain Name System

The Domain Name System (DNS) is an important component of the internet infrastructure as it associates user-friendly domain names (e.g., www.ntia.doc.gov) with the numeric network addresses (e.g., 170.110.225.155) required to deliver information on the internet.[50] NTIA serves as the Executive Branch's expert on matters concerning DNS and has adopted a multistakeholder approach in coordinating DNS.[51]

---

[44] National Telecommunications and Information Administration, *Establishment of the Communications Supply Chain Risk Information Partnership*, 85 Fed. Reg. 41006 (July 8, 2020) (notice).

[45] National Telecommunications and Information Administration, *National Strategy to Secure 5G Implementation Plan* (Jan. 2021) (www.ntia.gov/files/ntia/publications/2021-1-12_115445_national_strategy_to_secure_5g_implementation_plan_and_annexes_a_f_final.pdf).

[46] *Id*.

[47] National Telecommunications and Information Administration, *NTIA Virtual Listening Sessions on Personal Data: Privacy, Equity, and Civil Rights* (www.ntia.doc.gov/other-publication/2022/ntia-virtual-listening-sessions-personal-data-privacy-equity-and-civil-rights) (accessed Jan. 24, 2022).

[48] *Id*.

[49] *Id*.

[50] National Telecommunications and Information Administration, *Domain Name System* (www.ntia.gov/category/domain-name-system) (accessed Jan. 25, 2022).

[51] *Id*.

III. WITNESS

The following witness has been invited to testify:

The Honorable Alan Davidson
Assistant Secretary for Communications and Information
Administrator of the National Telecommunications and Information Administration
U.S. Department of Commerce