

Congress of the United States  
Washington, DC 20510

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May 1, 2020

The Honorable Ajit Pai  
Chairman  
Federal Communication Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Pai:

We commend the Federal Communications Commission (FCC) for its tireless efforts to continuously prioritize timely and effective deployment of fixed and mobile broadband services to areas that currently lack high-speed connectivity, including our rural communities in Kansas. While global economic activity, remote educational practices, precision agriculture, modern telemedicine, and day-to-day communications among Kansans are increasingly dependent upon high-speed broadband connectivity in general, the COVID-19 pandemic has dramatically accelerated the timeliness of this technological need in our rural communities. As such, it is urgent for the FCC to continue to pursue meaningful federal policy solutions like the 5G Fund Auction to promote deployment of high-speed broadband services to these communities. However, we have significant concerns with the draft Notice of Proposed Rulemaking (NPRM) and order for the 5G Fund Auction (GN Docket No. 20-32) as the proposal's two offered solutions will either lead to significant federal resources supporting 5G services in areas currently served with mobile broadband or inappropriately delay the disbursement of competitive federal resources to rural communities who require adequate connectivity now.

As you are aware, Congress passed and the President signed into law the *Broadband Deployment Accuracy and Technological Availability (Broadband DATA) Act* (Public Law 116-130) on March 24, 2020, and the goal of this bipartisan law is to improve the granularity and accuracy of the broadband access data on which the FCC bases its determinations for allocations related to Universal Service Fund. Prior to the 5G Fund Auction proposal, there were bipartisan calls from Congress voicing their concerns with the accuracy of the previous Mobility Fund Phase II Auction as the coverage maps determining eligibility for federal 4G LTE deployment support were found by the FCC to be "not accurate reflections of actual coverage"<sup>1</sup> and was officially pulled from implementation by the agency as a result. The *Broadband DATA Act* also provided supplemental mechanisms to improve such information through ongoing challenge processes and crowdsourcing methodologies. Through this legislative exercise, Congress made clear its intention to ensure that all future auctions from the Universal Service Fund, including the proposed \$8 billion in Phase I of the 5G Fund Auction, were to be informed by accurate, clear, and detailed information related to where high-speed quality broadband is and where it is not.

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<sup>1</sup> "Mobility Fund Phase II: Coverage Maps Investigation Staff Report," GN Docket No. 19-367, Federal Communications Commission, <https://docs.fcc.gov/public/attachments/DOC-361165A1.pdf>.

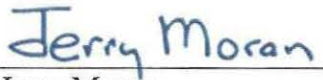
While the FCC has indicated that certain states, including Kansas, stand to benefit with high rates of eligible areas for 5G Fund Auction support by moving forward with the auction without the improved data informing allocations (as described in “Option A” of the NPRM), the U.S. Department of Agriculture’s Rural-Urban Commuting Area Codes (RUCA), which are the FCC’s suggested census tract-based eligibility platform, do not account for existing broadband availability and therefore do not prevent areas with sufficient 4G LTE or 3G services from receiving a significant portion of the 5G Fund. As there are already demonstrable business cases to deploy in areas that already have mobile broadband connectivity, duplication of federal resources to compete with existing broadband infrastructure is a real threat. Kansas has seen firsthand the lack of effective coordination can lead to wasteful spending of federal dollars to compete with private sector broadband investments through the overbuilding of existing infrastructure. There are far too many communities in the Kansas that would be positioned to continue to lose out on federal support because the eligibility determinations of the 5G Fund Auction do not meet the requirements the statute has laid out for it.

However, “Option B” of the NPRM, which would require the collection of new broadband availability data and development of new maps prior to the execution of Phase I of the 5G Fund Auction in 2023 or later, is not an appropriate solution either. The primary goal of federal programs like the Universal Service Fund has been to support increased access to telecommunications and advanced services, like high-speed broadband, and to do so at a timely rate to ensure our unserved and underserved communities have equal economic, educational, healthcare, and social opportunities as served communities. In addition, Kansans’ need for high-speed broadband could not be more critical than right now as our nation adjusts its day-to-day practices to meet public health protocols in response to the COVID-19 crisis.

With the concerns laid out above regarding the two options provided in the NPRM, we would request that the FCC consider a third alternative that is consistent with the *Broadband DATA Act*, prioritizing Congressionally-required changes to the underlying coverage data to inform where billions of federal dollars are directed while also acknowledging the continued urgency of the issue at hand. Measured, yet substantive, adjustments to the options laid out in the NPRM, such as prioritizing the implementation of the provisions pertaining to mobile broadband data availability from the *Broadband DATA Act* prior to conducting the 5G Fund Auction, should dramatically improve the granularity and accuracy of the relevant availability data without causing the currently projected delays. Finally, we stand ready to support any additional funding or reprogramming requests that the agency seeks to successfully carry out the provisions of the *Broadband DATA Act*. We understand and appreciate the resource-intensive exercise that replacing the agency’s broadband data availability processes is, and with the appropriate amount of justification, we will staunchly advocate on the agency’s behalf with our colleagues.

Kansans, and all Americans, deserve access to affordable and reliable broadband services, including mobile connectivity, and your continued leadership is appreciated. However, in order for federal broadband deployment initiatives like the 5G Fund Auction to be a success, federal resources need to be directed to specific areas with demonstrated need and in expedient fashion. In this interest, we urge the FCC to take immediate steps to implement the mobile broadband availability provisions of the *Broadband DATA Act* while clearly communicating the resource needs of the agency to do so efficiently. Thank you for your attention to this important matter.

Sincerely,



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Jerry Moran  
United States Senator



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Pat Roberts  
United States Senator



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Roger Marshall, M.D.  
Member of Congress



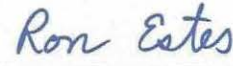
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Sharice L. Davids  
Member of Congress



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Steve Watkins  
Member of Congress



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Ron Estes  
Member of Congress