

United States Senate

September 17, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20054

Dear Chairman Pai:

As a new school year begins, students across the country are increasingly returning to virtual classrooms due to the coronavirus pandemic. Yet, studies indicate that as many as 16 million children in the United States lack internet access at home and are unable to participate in online learning.¹ These students are disproportionately from communities of color, low-income households, and rural areas.² Without urgent action by the Federal Communications Commission (FCC), we are deeply concerned that they will fall further behind in their studies. The current emergency demands that you take immediate action to help our nation’s most vulnerable children. We specifically call on you to utilize the E-Rate program to close this “homework gap” without further delay.

The FCC has clear authority and available funding under the E-Rate program to start connecting students immediately. The E-Rate is, and has been for over two decades, an essential source of funding to connect the nation’s schools and libraries to the internet. Although you have previously asserted otherwise based on your narrow interpretation of the law, the statute authorizing E-Rate does not preclude the FCC from expanding this program to fund connections at students’ homes — which, because schools have had to close their doors, have become de facto classrooms for millions of children. Indeed, previous Commissions have interpreted the statute as allowing them to make changes to the E-Rate program in response to emergencies.³ We urge you to adopt a similarly expansive view in light of the current crisis.

Moreover, we are not alone in believing that the FCC can and must act under its existing authority. Earlier this month, the state of Colorado filed a petition with the FCC seeking an emergency waiver of E-Rate rules to allow schools to extend their broadband network

¹ Common Sense Media and Boston Consulting Group, *Closing the K-12 Digital Divide in the Age of Distance Learning* (2020), <https://www.common sense media.org/kids-action/publications/closing-the-k-12-digital-divide-in-the-age-of-distance-learning>.

² *Id.*

³ In 2011, FCC Chairman Julius Genachowski authorized the E-Rate Deployed Ubiquitously pilot program to support wireless off-premises connectivity services for mobile learning devices. Additionally, FCC Chairman Kevin Martin led the Commission in approving an order that waived statutory requirements for the universal service program in the aftermath of Hurricane Katrina.

connectivity to students' homes for online learning.⁴ In August, the U.S. Department of the Interior similarly requested that the FCC update its interpretation of what constitutes a school campus under the E-Rate program in order to allow funding to support virtual classrooms.⁵ As schools across the country continue to rely on remote learning for the duration of this pandemic, we believe that the nationwide demand for E-Rate funding will only grow.

We have also recognized the need for Congress to address the growing learning gap across America. We have all cosponsored the *Emergency Educational Connections Act*,⁶ legislation that would appropriate at least \$4 billion to be delivered through the E-Rate program to equip students with internet connectivity and devices during the ongoing pandemic. We are fighting to ensure that Congress enacts this legislation to include more funding for students learning at home through the E-Rate as part of the next coronavirus relief package. We urge you to support our efforts on Capitol Hill. However, the FCC need not — and should not — wait for Congress to act. Although our legislation will provide needed resources to finish the job, the FCC can today begin to connect students immediately.

Providing more funding through the E-Rate, as opposed to setting up a new program, is the best way to help students continue their education at home. The E-Rate program is, and has been for over twenty years, an important source of funding to connect the nation's schools and libraries to the internet. As a result, community institutions across the United States already trust and are involved with the program, which should ensure that any distribution of new resources through E-Rate will proceed without bureaucratic delay. Additionally, the E-Rate program is deliberately designed to require an equitable distribution of resources according to students' needs, making sure that those families most affected by the homework gap will receive the support they require during this emergency.

The FCC has the power to help mitigate the impact of the coronavirus on our most vulnerable families. We now urge you in the strongest possible terms to utilize this authority to provide internet connectivity and devices for children in need. School bells across the country have started to ring, but without immediate action, many students are at risk of never making it to class.

Thank you for your attention to this important matter. We respectfully request your response by October 1, 2020. Due to the telework policies of many Senate offices during the coronavirus pandemic, physical signatures are unavailable. The listed senators have asked to be signatories to this letter.

⁴ *Petition for Waiver on behalf of The State of Colorado*, In the Matter of Modernizing the E-Rate Program for Schools and Libraries, WC Docket No. 13-184 (Sept. 2, 2020), <https://ecfsapi.fcc.gov/file/10902218280692/State%20of%20Colorado%20-%20Emergency%20E-Rate%20Waiver%20Petition%20-%2009.2.2020.pdf>.

⁵ Letter from Tara Sweeney, Assistant Secretary – Indian Affairs, U.S. Department of the Interior, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 20, 2020), <https://ecfsapi.fcc.gov/file/1090340165227/Department%20of%20Interior.pdf>.

⁶ Emergency Educational Connections Act of 2020, S. 3690, 116th Cong. (2020).

Sincerely,

Edward J. Markey
United States Senator

Maria Cantwell
United States Senator

Michael F. Bennet
United States Senator

Brian Schatz
United States Senator

Amy Klobuchar
United States Senator

Richard J. Durbin
United States Senator

Kirsten Gillibrand
United States Senator

Bernard Sanders
United States Senator

Cory A. Booker
United States Senator

Tom Udall
United States Senator

Jack Reed
United States Senator

Jacky Rosen
United States Senator

Robert Menendez
United States Senator

Mazie Hirono
United States Senator

Charles E. Schumer
United States Senator

Chris Van Hollen
United States Senator

Margaret Wood Hassan
United States Senator

Tammy Duckworth
United States Senator

Richard Blumenthal
United States Senator

Tammy Baldwin
United States Senator

Sheldon Whitehouse
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Jeanne Shaheen
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Tim Kaine
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Jeffrey A. Merkley
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Patty Murray
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Debbie Stabenow
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Angus S. King, Jr.
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Gary C. Peters
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Tina Smith
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Robert P. Casey, Jr.
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Catherine Cortez Masto
United States Senator

Ron Wyden
United States Senator

Christopher S. Murphy
United States Senator

Dianne Feinstein
United States Senator

Kamala D. Harris
United States Senator

Benjamin L. Cardin
United States Senator

Patrick J. Leahy
United States Senator

Elizabeth Warren
United States Senator

CC: The Honorable Michael O’Rielly, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Jessica Rosenworcel, Commissioner
The Honorable Geoffrey Starks, Commissioner