FCC NEWS from the Federal Communications Commission

Carr Concerned That Administration's New Broadband Rules Will Waste Taxpayer Dollars and Leave Families Waiting on Wrong Side of the Digital Divide

Rules Pursue Extraneous Political Goals Rather than Focusing on Connecting Americans

WASHINGTON, DC, May 19, 2022—Last week, the Commerce Department released new rules that will govern the expenditure of $42.5 billion in grants authorized by Congress in the 2021 Infrastructure Investment and Jobs Act ("Infrastructure Act"). Congress acted on a bipartisan basis for the purpose of quickly and efficiently extending high-speed Internet service to all Americans. FCC Commissioner Carr is concerned that the Commerce Department's rules are not focused on delivering on that bipartisan goal. Instead, those rules deviate from the statute by preferencing one technology over another, head down the path towards rate regulation, and otherwise waste taxpayer dollars by pursuing extraneous political goals that will leave families waiting on the wrong side of the digital divide.

Carr issued the following statement in response to the Commerce Department's new rules:

"While I have been pleased to see the broad, bipartisan support for extending affordable, high-speed Internet services to every American, the Commerce Department's rules governing the expenditure of $42.5 billion in broadband grants will undoubtedly waste taxpayer dollars and leave families waiting on the wrong side of the digital divide.

"The Commerce Department's rules do this by effectively negating the bipartisan decision Congress reached in the Infrastructure Act to refrain from picking winners and losers when it comes to the technologies that can deliver robust, high-speed Internet services. Indeed, the Infrastructure Act's lead drafters made clear that the statute does not favor particular technologies or providers. Yet the Commerce Department's rules are biased in favor of one technology and one set of providers.

"This decision by the Commerce Department will unfortunately leave families stuck waiting on the wrong side of the digital divide. Indeed, we have a range of next-gen technologies that can offer robust, affordable, high-speed Internet services—from 5G to fixed wireless to a new generation of LEO satellites—that can reach unconnected families virtually overnight. But the Commerce Department's rules will prevent states from funding projects that could quickly bridge the digital divide using those high-speed technologies in nearly all cases—putting too much of a thumb on the scale for fiber builds that provide robust service but can take years to build out in certain cases. Fiber is a great technology, and it should continue to be widely deployed and broadly supported, but time matters and a build completed years from now will not help a family that needs a robust, high-speed connection today. That is why the Commerce Department should have hewed to the Infrastructure Act and provided states with greater flexibility to pick the right technology based on a range of circumstances and considerations—including speed of build. Even with that additional flexibility, I have no doubt that fiber projects would demonstrate their value in the lion's share of cases.

"The problems compound from there. While the Infrastructure Act made clear that the law does not permit any rate regulation, the Commerce Department's implementing rules head down that path anyways. And there's no better way to sideline needed investment than to raise the specter of price controls.

"I am also concerned by the many ways in which the Commerce Department's rules will waste scarce taxpayer dollars. Overbuilding is just one example. For instance, the FCC announced back in 2020 the winning bidders in a multi-billion-dollar round of funding for federal subsidies to support the delivery of high-speed Internet service to unserved communities. Yet the Commerce Department's rules state that they would treat many of those areas as "unserved" nonetheless. This means that federal dollars may soon go towards building high-speed Internet service in communities where the federal government is already funding a different provider to deliver high-speed Internet service. That makes no sense given that there are too many parts of the country that still have no Internet service at all.

"The Commerce Department rules also pursue a mélange of extraneous political objectives that are unrelated to connecting Americans today. They include undue preferences for labor unions, government-run networks, and a Byzantine application process that will invite the imposition of additional conditions unrelated to quickly delivering high-speed service.

"In the end, the Administration's decision to pursue those political goals—rather than focusing on connecting the largest number of people as quickly as possible—will exacerbate the supply chain challenges and workforce shortages that already pose a hurdle to getting the job done."

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