

United States Senate  
WASHINGTON, DC 20510

February 3, 2023

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

The Honorable Jessica Rosenworcel  
Chairwoman  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

Dear Assistant Secretary Davidson and Chairwoman Rosenworcel:

We are writing to request information regarding the National Telecommunications and Information Administration (NTIA) and Federal Communications Commission's (FCC) recent denial of bipartisan requests to give states, localities, tribes, and the public more time to submit challenges to the accuracy of the new National Broadband Map. After the FCC took almost two years to create this map, which will be used to determine broadband funding allocations for states, we are concerned that your agencies provided only fewer than two months to challenge the accuracy of the map's data and then refused to extend this unreasonably short deadline by a modest 60 days.

For years, lawmakers, stakeholders, and the FCC's own commissioners have recognized that the old National Broadband Map, first created by the American Recovery and Reinvestment Act of 2009, was imprecise and inadequate. As then-Commissioner Rosenworcel wrote in 2019, "[o]ur wired maps have serious inaccuracies" and "[o]ur wireless maps are so suspect they are the subject of an ongoing investigation."<sup>1</sup>

To address this situation, Congress in 2020 passed the Broadband DATA Act and gave the FCC almost \$100 million to establish a new National Broadband Map. This new, centralized map was designed to provide a more accurate, granular picture of broadband deployment. Incorporating lessons from prior mapping efforts, Congress required the FCC to develop a process for states, localities, tribes, and the public to weigh in on the map. Furthermore, Congress expected that

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<sup>1</sup> Oversight of the Federal Communications Commission (FCC): Hearing Before the Senate Committee on Commerce, Science, and Transportation, 116th Cong. (June 12, 2019) (statement of FCC Commissioner Jessica Rosenworcel), <https://www.commerce.senate.gov/services/files/318C3880-7A5B-4BF9-9562-EF2F6B37DA2F>.

federal, state, and local programs that use taxpayer money to pay for broadband deployment would rely on this new map to minimize duplicative funding and wasteful overbuilding. Indeed, Congress made that expectation explicit in the Infrastructure Investment and Jobs Act (IIJA), which tied \$42.45 billion in Broadband Equity, Access, and Development (BEAD) funding to the results of the new National Broadband Map.

Despite repeated assurances from Chairwoman Rosenworcel that the FCC could update the National Broadband Map in a matter of months, it took the FCC until November 2022 to release the first draft of the new National Broadband Map.<sup>2</sup> What is more, after taking almost two years to create the map, the NTIA and FCC gave states, localities, tribes, and the public just 56 days over the Thanksgiving, Christmas, and New Year's Day holidays to submit challenges to the accuracy of the map's data. Given the significant level of work required to submit challenges and the need to ensure that states are not unfairly deprived of their share of taxpayer BEAD funding, this time frame was overly condensed. Assistant Secretary Davidson seemingly acknowledged this fact when he publicly stated in December 2022 that he was "incredibly uncomfortable" with this short deadline.<sup>3</sup> However, when a bipartisan group of federal, state, and local elected officials<sup>4</sup> asked for a mere 60-day extension of the deadline, the NTIA and FCC flatly rejected their requests.<sup>5</sup>

We are concerned by the NTIA and FCC's lack of cooperation with elected officials and stakeholders given the amount of work required and the short-term nature of the relief requested. The NTIA and FCC should allow for more time to submit challenges, particularly when the map itself was so long in the making. As members of the Senate Commerce Committee and senators representing constituents who have asked for more time to submit challenges, we ask your agencies to explain their decisions and provide a clear plan for addressing concerns relating to the curtailed challenge process, specifically for purposes of ensuring fair allocation of BEAD

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<sup>2</sup> In March 2020, then-Commissioner Rosenworcel testified in the Senate that the FCC could "radically improve" its broadband map "within three-to-six months." Review of the FY2021 Budget Request for the FCC: Hearing Before the Subcommittee on Financial Services & General Government of the Senate Committee on Appropriations, 116th Cong. (Mar. 10, 2020) (response of FCC Commissioner Rosenworcel to Sen. Lankford). In March 2020, she also testified in the House that the agency could fix its map in "just a few months." FCC Budget Request for FY2021: Hearing Before the Subcommittee on Financial Services & General Government of the House Committee on Appropriations, 116th Cong. (Mar. 11, 2020) (statement of FCC Commissioner Jessica Rosenworcel). A year later, in a March 2021 when the map had still not been updated, the Senate Commerce Committee was told that the map would be ready by summer 2021.

<sup>3</sup> David B. McGarry, *NTIA's Davidson Touts FCC Map, Expresses Worry about Challenge Deadline*, Broadband Breakfast (Dec. 16, 2022), <https://broadbandbreakfast.com/2022/12/ntias-alan-davidson-touts-fcc-map-expresses-worry-about-challenge-deadline/>.

<sup>4</sup> See, e.g., Letter from Chairwoman Maria Cantwell, et al. to FCC Chairwoman Jessica Rosenworcel and Assistant Secretary of Commerce Alan Davidson (Dec. 22, 2022), <https://subscriber.politicopro.com/f/?id=00000185-3b28-de47-a3e7-7fa847f90000>; Letter from Texas Comptroller Glenn Hegar to FCC Chairwoman Jessica Rosenworcel and Assistant Secretary of Commerce Alan Davidson (Dec. 13, 2022).

<sup>5</sup> National Telecommunications and Information Administration (NTIA), *Advancing Internet for All*, NTIA Blog (Jan. 13, 2023), <https://www.ntia.doc.gov/blog/2023/advancing-internet-all>.

dollars among states. Please give responses to the following questions no later than February 10, 2023:

1. How will the NTIA and FCC ensure that each state is not deprived of its fair share of BEAD funding due to National Broadband Map inaccuracies and the truncated challenge process timeline?
2. Given that the FCC took 691 days to release the first draft of the new National Broadband Map, why did each agency believe that 56 days was a sufficient amount of time for states, localities, tribes, and other stakeholders to submit challenges to the map that will be used to allocate BEAD funding among states?
3. Please explain why states, localities, tribes, and other stakeholders were given only 56 days to challenge the data submitted by hundreds of broadband Internet service providers, while those service providers were given more time (60 days) to respond to challenges about their own data sets.
4. Given the specific concerns highlighted by lawmakers and localities regarding the need to ensure each state is allocated its fair share of BEAD funding, why did each agency deny bipartisan requests to extend the challenge process by 60 days?
  - a. Please explain the decision-making process each agency used to decide to decline the requests for an extension beyond January 13<sup>th</sup>, including whether the two agencies reached a consensus on the issue.
5. The NTIA has targeted June 30, 2023 as the date by which it will announce funding allocations under the IIJA's BEAD program. In a recent blog post, the NTIA claimed that "a delay in the timeline would mean a delay in providing funding to communities who desperately need it . . . ." <sup>6</sup>
  - a. What specific problems would arise if the June 30, 2023 target is extended into July or August 2023?
  - b. Does the NTIA have target dates for releasing BEAD funds? If so, what are those targets and how would they be affected by a 60-day extension of the challenge deadline?
6. In a recent blog post, the NTIA stated that the request for more time "will not address many of the process concerns we have heard." <sup>7</sup>
  - a. Please list all of the process concerns the NTIA has heard regarding the January 13<sup>th</sup> deadline.

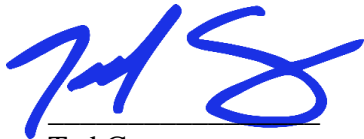
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<sup>6</sup> *Id.*

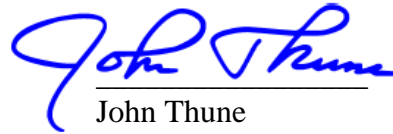
<sup>7</sup> *Id.*

- b. Please identify specifically those concerns that no additional amount of time could address, even in part.
7. Many stakeholders believed they had until January 13<sup>th</sup> to submit location challenges to the Broadband Serviceable Location Fabric that will be considered in allocating state BEAD funding.
- a. Please specify the final date, or approximate final date, on which Fabric location challenges had to be submitted to be factored into the calculation of state BEAD allocations.
  - b. What specific outreach efforts did the NTIA and the FCC perform to ensure states, localities, tribes, and other stakeholders were aware of this deadline?

Sincerely,



Ted Cruz  
United States Senator



John Thune  
United States Senator