The Honorable Maria Cantwell  
Chair  
Committee on Commerce, Science, and Transportation  
United States Senate  
428 Dirksen Senate Office Building  
Washington, DC  20510

Dear Madam Chair:

On April 25, 2023, the Government Accountability Office (GAO) released a report entitled “Broadband Speed: FCC Should Improve its Communication of Advanced Telecommunications Capability Assessments.” (Report No. GAO-23-105655) The report examines (1) the extent to which the Federal Communications Commission (FCC) has communicated how it reviews its minimum fixed-broadband speed benchmark, and how it determines whether to update the benchmark; and (2) the extent to which the minimum speed requirements of selected federal and state broadband programs differ from the FCC’s benchmark, and stakeholders’ views on any implications of these differences.

In the report, the GAO observes that section 706 of the Telecommunications Act of 1996 requires the FCC to assess broadband deployment by issuing a notice of inquiry and determining whether advanced telecommunications capability is being deployed in a reasonable and timely fashion to all Americans. As the GAO states, the FCC currently uses a speed benchmark to help measure when a fixed broadband service (e.g., fiber, cable) is providing advanced telecommunications capability. As part of past notices of inquiry, the FCC has solicited public comment on the status of broadband deployment and the fixed speed benchmark, among other topics. At the same time, as the GAO points out, section 706 does not explicitly require the FCC to set a speed benchmark to measure deployment of advanced telecommunications capability or to follow a set process for measuring deployment.

The Infrastructure Investment and Jobs Act included a provision requiring the GAO to review the FCC’s establishment, review, and update of the fixed broadband speed benchmark. The resulting GAO report concludes that the “FCC’s reporting of the analysis and data it considers when assessing whether to raise the speed benchmark has been inconsistent and falls short of FCC’s goal of having a transparent process.” According to the GAO, “by reporting publicly on its analysis, the public would better understand FCC’s decision making and be less likely to see decisions regarding the benchmark as arbitrary.” The GAO states that it reviewed relevant laws, regulations, and agency documents, and compared the FCC’s efforts to assess broadband deployment to the FCC’s strategic plan and relevant internal controls. The GAO also
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I appreciate the opportunity to comment on the GAO’s report, and I would be happy to answer any further questions and provide you with updates in the future.

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Jessica Rosenworcel

cc: Senate Committee on Agriculture, Nutrition, and Forestry
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House Subcommittee on Financial Services and General Government
The Honorable Cathy McMorris Rodgers  
Chair  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, DC  20515

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House Subcommittee on Financial Services and General Government
The Honorable Gary Peters  
Chairman  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
340 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Peters:

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    House Committee on Transportation and Infrastructure
    House Subcommittee on Financial Services and General Government
The Honorable Rand Paul  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
442 Hart Senate Office Building  
Washington, DC  20510

Dear Ranking Member Paul:

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The Honorable James R. Comer  
Chairman  
Committee on Oversight and Accountability  
U.S. House of Representatives  
2157 Rayburn House Office Building  
Washington, DC  20515

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The Honorable Jamie Raskin  
Ranking Member  
Committee on Oversight and Accountability  
U.S. House of Representatives  
2471 Rayburn House Office Building  
Washington, DC  20515

Dear Ranking Member Raskin:

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The Honorable Steve Womack  
Chairman  
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Subcommittee on Financial Services and General Government  
U.S. House of Representatives  
2000 Rayburn House Office Building (G Floor)  
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Dear Chairman Womack:

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In the report, the GAO observes that section 706 of the Telecommunications Act of 1996 requires the FCC to assess broadband deployment by issuing a notice of inquiry and determining whether advanced telecommunications capability is being deployed in a reasonable and timely fashion to all Americans. As the GAO states, the FCC currently uses a speed benchmark to help measure when a fixed broadband service (e.g., fiber, cable) is providing advanced telecommunications capability. As part of past notices of inquiry, the FCC has solicited public comment on the status of broadband deployment and the fixed speed benchmark, among other topics. At the same time, as the GAO points out, section 706 does not explicitly require the FCC to set a speed benchmark to measure deployment of advanced telecommunications capability or to follow a set process for measuring deployment.

The Infrastructure Investment and Jobs Act included a provision requiring the GAO to review the FCC’s establishment, review, and update of the fixed broadband speed benchmark. The resulting GAO report concludes that the “FCC’s reporting of the analysis and data it considers when assessing whether to raise the speed benchmark has been inconsistent and falls short of FCC’s goal of having a transparent process.” According to the GAO, “by reporting publicly on its analysis, the public would better understand FCC’s decision making and be less likely to see decisions regarding the benchmark as arbitrary.” The GAO states that it reviewed relevant laws, regulations, and agency documents, and compared the FCC’s efforts to assess
broadband deployment to the FCC’s strategic plan and relevant internal controls. The GAO also interviewed FCC employees; selected federal and state officials; industry associations; broadband providers; and research organizations to obtain their views on the FCC’s process for determining the deployment of advanced telecommunications capability.

As a result of its conclusions, the GAO recommends that the FCC Chair “should provide consistent communication in [the FCC’s] reporting of how it determines whether advanced telecommunications capability is being deployed and when updating the related metrics it uses to assess broadband speeds and deployment.” As stated in the April 4, 2023 comments to the draft GAO report, the FCC agrees that transparency and consistency are important principles to follow as we determine whether advanced telecommunications capability is being deployed in a reasonable and timely fashion to all Americans. Moreover, the FCC is committed to data-driven decisions on the advanced telecommunications capability evaluation metrics, as well as vigorous engagement with the record that is developed as part of the public comment process. Toward that end, in July of last year, I circulated to my fellow Commissioners a draft Section 706 Report Notice of Inquiry that would seek comment from the public on whether advanced telecommunications capability is being deployed in a reasonable and timely fashion. In response to GAO’s recommendation, on July 19, 2023, I shared a revised draft Section 706 Report Notice of Inquiry which seeks comment on ways the FCC can provide consistent and transparent communications to the public about how it reviews, and determines whether to update, the advanced telecommunications capability evaluation metrics required by Section 706. On October 25, 2023, the Commission adopted the Seventeenth Section 706 Report Notice of Inquiry, and will provide 30 days for comments, and 45 days for reply comments, following publication in the Federal Register. The Commission expects a robust record in this proceeding.

I appreciate the opportunity to comment on the GAO’s report, and I would be happy to answer any further questions and provide you with updates in the future.

Sincerely,

Jessica Rosenworcel

cc: Senate Committee on Agriculture, Nutrition, and Forestry
Senate Committee on Commerce, Science, and Transportation
Senate Committee on Environment and Public Works
Senate Subcommittee on Financial Services and General Government
House Committee on Agriculture
House Committee on Energy and Commerce
House Committee on Transportation and Infrastructure
House Subcommittee on Financial Services and General Government
The Honorable Steny H. Hoyer  
Ranking Member  
Committee on Appropriations  
Subcommittee on Financial Services and General Government  
U.S. House of Representatives  
1036 Longworth Office Building  
Washington, DC  20515

Dear Ranking Member Hoyer:

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House Subcommittee on Financial Services and General Government
The Honorable Bill Hagerty  
Ranking Member  
Committee on Appropriations  
Subcommittee on Financial Services and General Government  
United States Senate  
125 Hart Senate Office Building  
Washington, DC  20510

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