



May 14, 2024

The Honorable Robert Latta
Chair
Subcommittee on
Communications and Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Doris Matsui
Ranking Member
Subcommittee on
Communications and Technology
U.S. House of Representatives
Washington, DC 20515

Dear Chair Latta and Ranking Member Matsui:

The U.S. Chamber of Commerce (“Chamber”) respectfully submits the following statement for the record for the House Energy and Commerce’s Subcommittee on Communications and Technology hearing titled “The Fiscal Year 2025 National Telecommunications and Information Administration Budget.” We appreciate the Subcommittee’s continued oversight of the National Telecommunications and Information Administration (“NTIA”) to ensure NTIA’s programs are effective in closing the digital divide, and maintaining American leadership in communications, connectivity, and AI.

America’s communications networks and platforms play an essential role in boosting economic growth, protecting national security, and revolutionizing the way that people are informed, communicate with friends and family, work, and learn. Since the passage of the 1996 Telecommunications Act, the private sector has invested \$2.1 trillion into our nation’s communications infrastructure. The Chamber encourages robust oversight over key NTIA areas of work including broadband deployment funding and spectrum management. The Chamber also has concerns with several NTIA policy activities which has contributed to the Federal Communications Commission (“FCC’s”) regulatory overreach.

I. Closing the Digital Divide

The Infrastructure Investment and Jobs Act (“IIJA”) grants NTIA a leading role in implementing the IIJA’s broadband provisions to connect all Americans, primarily through the \$42 billion Broadband, Equity, Access, and Deployment (“BEAD”) Program. As NTIA continues to implement the program, the Chamber urges this Subcommittee to provide vigorous oversight to ensure taxpayer dollars are spent responsibly and that NTIA adheres to the IIJA’s statutory guardrails and Congressional intent.

Eligible entities (i.e. states and territories) are working to finalize their initial proposals for NTIA approval, and to date, a handful of states have met that objective, unlocking access to more

than \$2 billion in BEAD funding.¹ The Chamber applauds the progress made by NTIA and eligible entities to advance the program. However, we express strong concern that NTIA is reportedly requiring eligible entities to regulate rates by mandating a specific price point for an eligible entities' low-cost plan.² This clearly violates the IJJA, which prohibits NTIA from engaging in rate regulation.³ Considering BEAD is a federal program and NTIA is required to review and approve eligible entity proposals, allowing or encouraging states to rate regulate also violates the statute. We appreciate the Subcommittee's previous oversight on this issue, and we encourage further investigation in light of more eligible entity initial proposals reaching completion.⁴

In addition, the Chamber is pleased the NTIA is taking steps to reduce broadband permitting barriers. These efforts include requiring eligible entities to create thirty new National Environmental Policy Act (NEPA) categorical exclusions, building a permitting mapping tool, and providing streamlined historical preservation review.⁵ We encourage NTIA to build on this progress. Also, Congress should enact legislation to facilitate broadband permitting, by passing the American Broadband Deployment Act and closing the municipal and cooperative pole attachment loophole.

II. Ensuring American Spectrum Leadership

Sound spectrum policy is critical to the business community and its consumers, as well as to fulfill important national objectives including national and homeland security, job creation and economic growth. In March, NTIA issued the *National Spectrum Strategy Implementation Plan*, which outlines the concrete steps needed to implement the *National Spectrum Strategy* ("NSS").⁶ NTIA should continue engaging the business community on spectrum policy, be collaborative and creative in addressing the spectrum needs of all stakeholders and leverage the NSS to launch the next generation of spectrum innovation.

Spectrum planning, such as NTIA's NSS implementation plan, is instrumental to facilitating sound spectrum policy, which allows for the delivery of products and services that ensure public

¹ Press Release, Nat'l Telecomm. and Info. Admin., Biden-Harris Administration Approves Kansas, Nevada, and West Virginia's "Internet for All" Initial Proposal (April 25, 2024), <https://broadbandusa.ntia.gov/news/latest-news/biden-harris-administration-approves-kansas-nevada-and-west-virginias-internet-all>.

² Jason Lee, ATR Leads Coalition Letter Opposing NTIA's Illegal Rate Regulation, AMERICANS FOR TAX REFORM (March 7, 2024), <https://www.atr.org/atr-leads-coalition-letter-opposing-ntias-illegal-rate-regulation/>.

³ Infrastructure Investment and Jobs Act (IJJA), P.L. 117-158 § 60102(h)(5)(D) (2021).

⁴ Letter from Robert Latta, Chairman, House Subcomm. on Commc'ns and Tech., to Alan Davidson, Assistant Sec'y, NTIA (Dec. 15, 2023), https://d1dth6e84htgma.cloudfront.net/12_15_23_Letter_to_NTIA_re_Rate_Regulation_42bbb6fbf4.pdf.

⁵ Jill Springer, Permitting Progress to Support Internet for All, NAT'L TELECOMM. AND INFO. ADMIN. BLOG (April 16, 2024), <https://www.ntia.gov/blog/2024/permitting-progress-support-internet-all>.

⁶ NAT'L TELECOMM. AND INFO ADMIN., UNITED STATES DEP'T OF COM., NATIONAL SPECTRUM STRATEGY IMPLEMENTATION PLAN (2024).

safety, protect national security, create economic opportunity, and support a free flow of ideas.⁷ As NTIA executes the implementation plan, the Chamber encourages the Subcommittee to provide robust oversight over NTIA's spectrum activities to ensure continued progress and minimize delays. Further, Congress should provide the NTIA with the resources needed for NSS implementation.

III. Addressing NTIA's Promotion of Regulatory Overreach

The NTIA, in its role as the President's telecommunications and information policy advisor, has actively encouraged and supported regulatory overreach at the FCC. For instance, the issuance of President Biden's 2021 *Promoting Competition in the American Economy* Executive Order ("Competition E.O.") led to the issuance of several FCC rulemakings, which raises a question about the FCC's independence.⁸ Moreover, these regulatory efforts contradict NTIA and the Administration's stated objectives of effectively closing the digital divide and enabling pro-consumer public policies. We encourage the Subcommittee to closely scrutinize NTIA's role in facilitating the FCC to promote public-utility Title II classification of broadband, micromanagement of fees, and exceeding the FCC's regulatory authority under the IIA. We register our concerns with these examples of overreach below. Several examples include:

- Title II Reclassification: The Competition E.O. called on the FCC to reinstate Title II classification akin to the 2015 Open Internet Order.⁹ NTIA filed *ex parte* comments on March 21st to the FCC praising the Title II rulemaking and noting that it aligns with the Biden Administration's Competition E.O. On April 25th, the FCC voted to classify broadband under Title II of the Communications Act largely based on the Open Internet Order and consistent with the NTIA position.¹⁰
- Administration Junk Fee Initiative: Since 2022, the Administration has been pursuing an economy-wide campaign to address so-called "junk fees" in the economy, including in the communications marketplace.¹¹ The Competition E.O. encouraged the FCC to ban early termination fees and regulate broadband pricing contracts in multi-tenant environments

⁷ Chamber of Com. of the U.S., Comment Letter on Request for Comments, National Telecommunications and Information Administration; Development of a National Spectrum Strategy (88 Fed. Reg. 16,244-16,247) (filed April 17, 2023).

⁸ Exec. Order No. 14,036, 88 Fed. Reg. 36,987 (July 9, 2021) ("Competition E.O.")

⁹ See Competition E.O., Sec. 5(l)(i).

¹⁰ Nat'l Telecomm. and Info. Admin., Ex Parte Comment Letter on Safeguarding and Securing the Open Internet, WC Docket No. 23-320 (filed March 20, 2024); David Shepardson, Net Neutrality Rules Restored by US Agency, Reversing Trump, REUTERS (April 25, 2024), <https://www.reuters.com/technology/us-agency-vote-restore-net-neutrality-rules-2024-04-25/>.

¹¹ Hannah Lang, Doina Chiacu and Trevor Hunnicutt, Biden targets hidden 'junk fees' from banks, cable TV, concert tickets, REUTERS (Oct. 22, 2022), <https://www.reuters.com/business/finance/surprise-overdraft-depositor-fees-are-likely-unlawful-us-consumer-agency-says-2022-10-26/>.

(i.e. apartments, condominiums), which were included in Administration Fact Sheets on junk fee accomplishments.¹² Subsequently, the FCC issued a notice of proposed rulemaking earlier this year to prohibit certain video service fees, including early termination fees, which will raise prices for all consumers. The FCC is also circulating a NPRM that would ban bulk billing arrangements in multi-tenant environments, which would violate landlord property and contractual rights.¹³

- Digital Discrimination Order: On October 6th, NTIA filed a proposal in the digital discrimination rulemaking docket encouraging the FCC to adopt broadband price controls and an application of a ‘disparate impact standard’ to evaluate digital discrimination claims, both of which the FCC adopted in the *Digital Discrimination Order*.¹⁴ NTIA’s comment came just weeks away before the FCC’s completion of the rulemaking despite having ample opportunity to submit during the comment period, depriving stakeholders an sufficient opportunity to respond.¹⁵ In sharp contrast to price controls, the Chamber has supported the Affordable Connectivity program which is designed to close the digital divide in economically disadvantaged communities and rural areas.

IV. Artificial Intelligence

The Chamber has been a strong advocate for the development of safe and trustworthy artificial intelligence. For this reason, we responded to NTIA’s request for comment on *Dual Use Foundation Artificial Intelligence Models with Widely Available Model Weights*.¹⁶ Within those comments, the Chamber highlighted technology’s importance for small and medium-sized businesses. A recent Chamber report¹⁷ highlighted that 87%” of small businesses believe that

¹² See Competition E.O., Sec. 5(l)(iv) and (vii); Press Release, Exec. Off. of the President, Fact Sheet: President Biden Announces New Actions to Lower Costs for Americans by Fighting Corporate Rip-Offs (March 5, 2024).

¹³ Promoting Competition in the American Economy: Cable Operator and DBS Provider Billing Practices, Notice of Proposed Rulemaking, MB Docket No. 23-405 (rel. Dec. 14, 2023); Press Release, Chairwoman Jessica Rosenworcel, FCC Chairwoman Announces Push to Lower Broadband Costs & Increase Choice for Families Living in Apartment Buildings (Mar. 5, 2024), <https://docs.fcc.gov/public/attachments/DOC-400915A1.pdf>.

¹⁴ Nat’l Telecomm. and Info. Admin., Ex Parte Comment Letter on Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69 (filed Oct. 6, 2023); Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, GN Docket No. 22-69, Report and Order, FCC 23-100 (rel. Nov. 20, 2023) (“Digital Discrimination Order”).

¹⁵ Matt Furlow, Understanding NTIA’s Plan to Impose Command and Control Broadband Regulation, U.S. CHAMBER OF COM. ABOVE THE FOLD (Oct. 24, 2023), <https://www.uschamber.com/technology/broadband/understanding-ntias-plan-to-impose-command-and-control-broadband-regulation>.

¹⁶ Federal Register Notice; Request for Comment; Dual Use Foundation Artificial Intelligence Models With Widely Available Model Weights; <https://www.federalregister.gov/documents/2024/02/26/2024-03763/dual-use-foundation-artificial-intelligence-models-with-widely-available-model-weights>

¹⁷U.S. Chamber of Commerce Technology Engagement Center; Empowering Small Business: The Impact of Technology on U.S. Small Business <https://www.uschamber.com/small-business/smallbusinessstech>

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technology platforms have helped their business operate more efficiently and that 71% plan to adopt the latest technology, including AI.

The Chamber also highlighted in our comments to NTIA that open-source “AI has many benefits, as the technology allows developers to build, create, and innovate in marketing, communication, cybersecurity, medicine, and other fields. We further highlighted that access to model weights can be a boon to driving safety and security improvements to artificial intelligence by providing greater transparency and allowing flaws to be quickly addressed.¹⁸” However, the Chamber is concerned that the short comment period provided to industry can lead to misinformed conclusions, which is why we along with other trades sent a letter asking for a 60-day extension.¹⁹ We continue to express the need for NTIA to provide further opportunities for feedback and discussion on this critical issue.

V. Conclusion

The Chamber appreciates the Subcommittee’s continued oversight of the NTIA. We look forward to working with Congress to provide for a policy environment that encourages the investment needed to close the digital divide and for the innovation necessary for the responsible deployment of AI.

Sincerely,



Tom Quaadman
Executive Vice President
Chamber Technology Engagement Center
U.S. Chamber of Commerce

cc: Members of the Subcommittee on Communications and Technology

¹⁸Chamber of Com. of the U.S., Comment Letter on Request for Comments, National Telecommunications and Information Administration; Dual Use Foundation Artificial Intelligence Models Widely Available Model Weights (89 Fed. Reg. 14,059-14,063, February 26, 2024) <https://americaninnovators.com/advocacy/u-s-chamber-files-comments-to-ntia-on-dual-used-foundation-open-models/>

¹⁹ Multi-Trade Association Letter; Comment Extension Request on NTIA's Dual Use Open Model RFI; <https://www.uschamber.com/technology/u-s-chamber-multi-association-comment-extension-request-on-ntias-dual-use-open-model-rfi>