

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Wireline Competition Bureau Seeks Comment on)
Emergency Connectivity Fund for Educational)
Connections and Devices to Address the Homework) WC Docket No. 21-93
Gap During the Pandemic)

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION

Thomas C. Power
Senior Vice President and General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

Matthew B. Gerst
Vice President, Regulatory Affairs

Sarah K. Leggin
Director, Regulatory Affairs

CTIA
1400 Sixteenth Street, NW
Suite 600
Washington, DC 20036
202.736.3200
www.ctia.org

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TABLE OF CONTENTS

- I. Introduction and Summary.1
- II. Mobile Wireless Broadband Services and Equipment Are Essential Tools to Connect to Remote Learning Solutions and Close the Homework Gap.4
- III. The Commission’s Rules Should Ensure that Schools and Libraries Have Access to Effective and Efficient Mobile Wireless Solutions to Achieve the Goals of the ECF.7
 - A. Mobile Wireless Broadband Services Are “Advanced Telecommunications and Information Services” That Are Needed to Support Remote Learning.8
 - B. Congress Expressed a Clear Intention for Schools and Libraries to Be Able to Apply ECF Support to Mobile Wireless Devices, Including Smartphones and Hotspots.10
- IV. The Commission Should Adopt Rules that Efficiently and Effectively Distribute ECF Support.14
 - A. The ECF Should Reimburse Schools and Libraries Directly.14
 - B. The ECF Will Support Remote Learning Connectivity Most Effectively if Focused on Existing Networks Rather than Construction of New Ones.15
 - C. The Commission Should Avoid Duplicative Funding.16
 - D. The ECF Rules Should Not Include Burdensome Administrative Requirements that Would Interfere with Schools’ and Libraries’ Ability to Select Services Available in the Competitive Market to Meet Remote Learning Needs.17
- V. Conclusion.20

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CTIA – The Wireless Association¹ respectfully submits these Comments in response to the Federal Communications Commission’s (Commission) Public Notice in the above-captioned docket.²

I. INTRODUCTION AND SUMMARY.

The COVID-19 pandemic has highlighted the pressing need to ensure that millions of students and educators have the connectivity they need to support remote learning and close the homework gap. CTIA and its member companies applaud Congress, particularly Senator Markey and Congresswoman Meng, for enabling the Commission to build upon the E-Rate program to meet these pressing needs through the Emergency Connectivity Fund (ECF). Consistent with Congress’ intent, the Commission’s ECF rules should be designed to recognize

¹ CTIA – The Wireless Association® (CTIA, www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st-century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, DC.

² *Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic*, Public Notice, DA 21-317 (rel. Mar. 16, 2021) (Public Notice).

that schools and libraries are relying extensively on mobile wireless broadband services and equipment to support remote learning today and that they will continue to do so to close the homework gap.

As detailed in a recent report by Chiefs for Change, a bipartisan network of state and local education leaders, mobile hotspots powered by the wireless industry have helped schools quickly adapt to the new remote classroom environment.³ Indeed, Acting Chairwoman Rosenworcel recently observed that “for students who don’t have internet access at home, having the school loan out a wireless hotspot is the difference between keeping up in class and falling behind.”⁴ Commissioner Starks has noted “the great work that the wireless industry has done throughout the pandemic, particularly for students from vulnerable communities, when connectivity has become more critical than ever.”⁵ Further, Commissioner Carr has called upon the Commission to “prioritize the needs of students” impacted by the COVID-19 pandemic,⁶ and Commissioner Simington has noted that “the need to stay connected during this pandemic is non-negotiable.”⁷

³ See generally *K-12 Connections: How Schools and Wireless Providers Are Partnering to Get Students Online During COVID-19*, Chiefs for Change (Dec. 2020) (Chiefs for Change Report), <https://chiefsforchange.org/wp-content/uploads/2020/12/K-12-Connections-How-Schools-and-Wireless-Providers-Are-Partnering-to-Get-Students-Online-During-COVID-19.pdf>.

⁴ Tanya Basu, *Why the “Homework Gap” Is Key to America’s Digital Divide*, MIT Tech. Rev. (Oct. 13, 2020), <https://www.technologyreview.com/2020/10/13/1010243/jessica-rosenworcel-homework-gap-key-to-americas-digital-divide/> (publishing an interview with then-Commissioner Rosenworcel).

⁵ Geoffrey Starks, Commissioner, FCC, Remarks at the CTIA 5G Summit, at 1 (Oct. 28, 2020), <https://docs.fcc.gov/public/attachments/DOC-367818A1.pdf>.

⁶ *Emergency Broadband Benefit Program*, Report and Order, FCC 21-29, at 89 (rel. Feb. 26, 2021) (Statement of Commissioner Brendan Carr Approving in Part and Concurring in Part).

⁷ *Id.* at 94 (Statement of Commissioner Nathan Simington).

Given both the important role that mobile wireless broadband services and devices have played in connecting millions of students throughout the COVID-19 pandemic, and Congress' clear intent in establishing the ECF, the Commission's rules should ensure that schools and libraries have access to effective and efficient mobile wireless technologies to help close the homework gap. To this end, the Commission should affirm that:

- As the experience of the last year has shown, mobile wireless broadband services are “advanced telecommunications and information services”. . . “that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons;”⁸ and
- Mobile devices, including smartphones with Wi-Fi hotspot capabilities and stand-alone Wi-Fi hotspots, broadly qualify as “eligible equipment” because these and other similar devices serve as Wi-Fi hotspots, modems and routers, as the American Rescue Plan Act's⁹ legislative history makes clear, and that schools and libraries should also be able to use them as connected devices at their option.

While the ECF is a major infusion of support from Congress, the ECF is a limited fund that should be managed to maximize efficiency. For this reason, the Commission also should ensure that its rules enable ECF support to be distributed efficiently and effectively by:

- Adopting the proposal to reimburse schools and libraries directly for eligible services and devices;
- Adopting the proposed presumption that ECF funding may not be used to fund the costly and time-consuming construction of new networks in areas where existing networks are available to meet distance learning needs;
- Limiting ECF support to services and devices that are not already being funded by other federal or state funding sources, such as the CARES Act;¹⁰ and
- Avoiding burdensome administrative requirements that would effectively prohibit schools and libraries from taking advantage of competitive mobile wireless offerings by

⁸ Public Notice at 5.

⁹ American Rescue Plan Act, 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) (enacted) (American Rescue Plan Act).

¹⁰ *See generally* Coronavirus Aid, Relief, and Economic Security Act, S. 3548, 116th Cong. (2020) (CARES Act).

imposing minimum service standards, speed or data limit requirements, a non-usage rule, or an overly abbreviated filing window.

II. MOBILE WIRELESS BROADBAND SERVICES AND EQUIPMENT ARE ESSENTIAL TOOLS TO CONNECT TO REMOTE LEARNING SOLUTIONS AND CLOSE THE HOMEWORK GAP.

As the Commission rightly observes, the ECF is intended to fund “equipment and services that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons.”¹¹ There is no question that mobile wireless broadband solutions are among the most efficient and effective ways of doing so.

Mobile wireless solutions have long been identified as a key part of the solution to the homework gap. In a report issued prior to the COVID-19 pandemic, the Government Accountability Office (GAO) recommended the Commission consider making mobile wireless broadband services eligible for E-Rate support.¹² The GAO’s recommendation was informed by an earlier Commission pilot program exploring the use of E-Rate support for remote learning initiatives.¹³ According to final reports submitted by pilot project participants, mobile wireless remote learning solutions positively impacted grades and other indicators of student success, especially for at-risk student populations.¹⁴ In addition, Qualcomm worked with schools in

¹¹ Public Notice at 5.

¹² See U.S. Gov’t Accountability Off., GAO-19-564, *WIRELESS INTERNET: FCC Should Assess Making Off-School-Premises Access Eligible for Additional Support* (July 2019) (GAO Report).

¹³ See *E-rate Deployed Ubiquitously 2011 Pilot Program*, Order, 26 FCC Rcd 9526 (WCB 2011) (*E-Rate Order*).

¹⁴ See, e.g., Sioux City Community Schools Final Report, WC Docket No. 10-222, at 5 (dated Oct. 18, 2012), <https://ecfsapi.fcc.gov/file/7520949372.pdf> (“While this project was only implemented for a single school year it does appear to have contributed to positive improvements in attendance, student discipline, student engagement, graduation rate, dropout rate, and some improvement in standardized test scores”); Aurora Online High School Final Report, WC Docket No. 10-222, at 3-5 (dated Nov. 12, 2012), <https://ecfsapi.fcc.gov/file/7520949302.pdf> (pilot program funding allowed online alternative school to increase enrollment by approximately 35% and

North Carolina to deploy Project K-Nect, which demonstrated that smartphones could help improve math scores for underperforming students without internet access at home.¹⁵

As the COVID-19 pandemic forced schools nationwide to close their doors, education systems turned to broadband-based solutions to keep students learning. While many teachers and students were able to utilize broadband services made possible by years of robust private sector investment and deployment, the shift to remote learning exposed that far too many students did not have the services, devices, and support necessary to participate in the new remote-learning era. As detailed in a recent report by Chiefs for Change – as noted above, a bipartisan network of state and local education leaders – “[t]he problem affects nearly 17 million students across the United States and disproportionately impacts children of color and those from low-income families.”¹⁶

The Chiefs for Change Report also observed that mobile wireless hotspots powered by commercial wireless networks have helped schools adapt quickly to the new remote classroom environment during the COVID-19 pandemic.¹⁷ As schools around the country remain closed or use a hybrid model of in-person and virtual learning to mitigate the risk of coronavirus, mobile

nearly double graduation rate); Riverside Unified School District Final Report, WC Docket No. 10-222, at 14 (dated Oct. 31, 2012) <https://ecfsapi.fcc.gov/file/7520949349.pdf> (participating students “scored 4% higher in math and 5% higher in language arts than the similar age group tested last year at this time. Teachers and parents report a higher level of engagement both at school and at home.”). While the FCC anticipated conducting an assessment of the 2011-12 pilot program, *E-Rate Order*, 26 FCC Rcd at 9533-34 ¶ 14, no such report was ever produced. See GAO Report at 22.

¹⁵ *Why Mobile Will Transform Learning: The Classroom of the Future*, Qualcomm OnQ Blog (Oct. 10, 2012), <https://www.qualcomm.com/news/onq/2012/10/10/why-mobile-will-transform-learning-classroom-future>.

¹⁶ Chiefs for Change Report at 2.

¹⁷ *Id.* at 2; *id.* at 3-4 (subsection entitled “Wireless Hotspots: The Fastest Way to Get Students Connected to the Internet”).

wireless providers are helping to give students the tools they need to participate in distance learning and remain engaged with their classmates and teachers. Since the start of the COVID-19 pandemic, the wireless industry has helped connect 2.4 million students by providing hotspots, other devices, and broadband service.¹⁸ For example:

- AT&T has offered discounted connectivity services for students and teachers to more than 135,000 public and private K-12 schools, colleges, and universities in all 50 states and the District of Columbia.¹⁹
- T-Mobile has connected more than 1.6 million students through its Project 10Million, a \$10.7 billion initiative to provide wireless hotspots, high-speed data and access to laptops and tablets, at cost.²⁰
- Through its Distance Learning Program, Verizon has offered discounted connectivity to more than 38 million students across 40 states and the District of Columbia since September 2020.²¹

And companies throughout the wireless industry continue to complement these initiatives with additional donations, discounts, and devices.²² Through proactive efforts and innovative partnerships, the wireless industry has enhanced existing initiatives to distribute new wireless hotspots to students throughout the country, ensuring that more than two million students can

¹⁸ See, e.g., *id.* at 2 (“Without wireless hotspots and emergency assistance, many more students would be locked out of learning.”) *id.* at 4 (“Over the past nine months, education chiefs and wireless industry leaders have made a real difference, connecting more than 2.4 million students during COVID-19.”).

¹⁹ See, e.g., News Release, AT&T, *Enabling Connected Learning with Discounted Wireless Data Plans and Free Wi-Fi Hotspots* (Nov. 12, 2020), <https://about.att.com/story/2020/education.html>.

²⁰ See, e.g., News Release, T-Mobile, *T-Mobile Launches Project 10Million, Historic \$10.7B Initiative Aimed at Closing the Homework Gap and Connecting Students to Opportunity – for Free* (Sept. 3, 2020), <https://www.t-mobile.com/news/community/tmobile-launches-project-10million-initiative>.

²¹ See generally News Release, Verizon, *Verizon enables distance learning for up to 1.7M students in Oregon and Washington* (Sept. 10, 2020), <https://www.verizon.com/about/news/-verizon-distance-learning-oregon-washington>.

²² See, e.g., *Connecting America’s Students*, CTIA, <http://connectingkids.ctia.org/> (last visited Apr. 5, 2021); see also *Connecting Kids Initiative*, CTIA (CTIA Connecting Kids Initiative), <https://www.ctia.org/connecting-kids-initiative> (last visited Apr. 5, 2021).

continue to learn and virtually attend school during the COVID-19 pandemic. Further, CTIA maintains a portal where schools and districts can submit information about their connectivity needs and CTIA will work to connect them to a participating provider, including the nationwide wireless providers, as well as regional providers around the country.²³

Mobile wireless connectivity has proven particularly critical to remote learning over the past year and it will remain a central part of the solution to the homework gap during the remainder of the Emergency Period (and beyond). By enabling students to access online educational resources and connect with teachers and other students in any setting, mobile wireless solutions are key to keeping students connected to the classroom wherever they are learning, particularly outside of the school and home. The Commission's rules for the ECF must therefore reflect the important role of mobile wireless broadband services in fulfilling the American Rescue Plan Act's purpose.

III. THE COMMISSION'S RULES SHOULD ENSURE THAT SCHOOLS AND LIBRARIES HAVE ACCESS TO EFFECTIVE AND EFFICIENT MOBILE WIRELESS SOLUTIONS TO ACHIEVE THE GOALS OF THE ECF.

Given the clear directive in the American Rescue Plan Act to support connectivity and devices for remote learning at locations other than the school or library, CTIA supports the Public Notice's proposal to limit ECF support to "equipment and services that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons"²⁴ As discussed above, the first twelve months of the pandemic have shown that mobile wireless broadband solutions are the backbone of remote connectivity, and the Commission's rules should reflect that by adopting the following recommendations.

²³ See CTIA Connecting Kids Initiative.

²⁴ Public Notice at 5.

A. Mobile Wireless Broadband Services Are “Advanced Telecommunications and Information Services” That Are Needed to Support Remote Learning.

Under longstanding Commission precedent, mobile wireless broadband service is recognized as broadband internet access service,²⁵ and thus should qualify as an ECF-eligible “advanced telecommunications and information service.” CTIA supports the Public Notice’s proposal to “provide funding only for equipment and services that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons.”²⁶ Further, as described above, mobile wireless broadband services play a critical role in supporting remote learning and meet the statutory criteria for the ECF.

The legislative history shows that Congress intended for mobile wireless broadband to be included as an eligible service for the ECF. The Conference Report notes that the ECF “will ensure that students and low-income Americans have access to reliable high-speed internet in locations other than schools and libraries through different technological solutions, including ... through Wi-Fi hotspots, either *incorporated into mobile phones* or provided on a standalone basis.”²⁷ This finding is well-justified since, as discussed above, the pandemic has shown that mobile wireless broadband solutions are often the most effective solutions for remote learning.²⁸ And mobile wireless broadband solutions are also practically effective, as they are already

²⁵ See, e.g., *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901, 5902 ¶ 2 (2007).

²⁶ Public Notice at 5.

²⁷ H.R. Rep. No. 117-7, at 306-307 (2021) (Conference Report).

²⁸ See, e.g., *Communications Marketplace Report*, 2020 Communications Marketplace Report, FCC 20-188, ¶ 45 (rel. Dec. 31, 2020) (finding that mobile wireless broadband data prices have fallen steadily year over year due to competitive pressures).

broadly available today to meet remote learning needs.²⁹ It should be no surprise, then, that mobile wireless broadband solutions have been crucial elements in schools’ and libraries’ efforts over the past year to keep students learning during the pandemic.

Given the American Rescue Plan Act’s clear intention to support remote learning off of school property, the ECF rules should not import the E-Rate requirement that eligible schools and libraries must allocate the costs of connectivity used off of school or library property.³⁰ Similarly, for purposes of the ECF, the Commission should recognize that the most cost-effective connectivity for remote learning may be different from that used to support on-campus learning. Thus, the Commission should not import the E-Rate requirement that applicants proposing to use mobile wireless broadband solutions make an additional cost-effectiveness showing in order to receive ECF support.³¹

For these reasons, the Commission’s rules should make clear that schools and libraries may use ECF support for purchases of mobile wireless broadband service as “advanced telecommunications and information services” to meet distance learning needs during the pandemic without making any further cost-effectiveness showing to do so.

²⁹ See, e.g., *id.* ¶ 74, Fig. II.A.34 (demonstrating that mobile wireless broadband service using 4G LTE technology or better is available to over 99 percent of American consumers).

³⁰ 47 C.F.R. § 54.502(c)(6); see also, e.g., Letter from Michael Calabrese, Director, Wireless Future Project, New America’s Open Technology Institute et al., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 21-31, 21-93 & 17-310, at 2 (filed Mar. 17, 2021) (OTI Letter).

³¹ See *Modernizing the E-Rate Program for Schools and Libraries*, Order, 35 FCC Rcd 13793, 13795 n.17 (WCB 2020) (“Wireless data plans and air cards for mobile devices are only eligible when applicants have demonstrated that they are the most cost-effective option compared to a fixed wireless broadband connection.”) (citing *Modernizing the E-Rate Program for Schools and Libraries*, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15600 ¶ 156 (2014)).

B. Congress Expressed a Clear Intention for Schools and Libraries to Be Able to Apply ECF Support to Mobile Wireless Devices, Including Smartphones and Hotspots.

As the Public Notice observes, the American Rescue Plan Act defines “eligible equipment” as Wi-Fi hotspots, modems, routers, devices that combine a modem and a router, and connected devices.³² The Public Notice particularly seeks comment on whether additional specificity is required in the definition of eligible equipment,³³ and proposes to exclude mobile phones (i.e., smartphones) from the definition of connected devices.³⁴

The American Rescue Plan Act’s legislative history makes clear that Congress intended for ECF to support mobile phones, and the Commission should ensure its ECF rules are consistent with congressional intent. As noted above, the Conference Report expresses Congress’ intention that the ECF will support “Wi-Fi hotspots, either *incorporated into mobile phone[s]* or provided on a standalone basis.”³⁵

The Commission should affirm that mobile devices such as standalone mobile hotspots and smartphones that include Wi-Fi hotspot, modem, and/or router functionality are “eligible equipment.” Mobile hotspot devices are clearly included because they are, by definition, Wi-Fi hotspots. In addition, smartphones that include Wi-Fi hotspot, modem, and/or router functionality are also “eligible equipment.” In fact, most smartphones include a tethering mode that allows them to be used as Wi-Fi hotspots. Indeed, the Commission’s rules require that smartphones distributed in conjunction with Lifeline service include Wi-Fi hotspot

³² Public Notice at 5.

³³ *Id.* at 5.

³⁴ *Id.* at 6.

³⁵ Conference Report at 306-07 (emphasis added).

functionality.³⁶ Smartphones also generally incorporate the functions of a modem and a router.³⁷ Such smartphones share all of the functionality of a covered Wi-Fi hotspot, with the added features that smartphones provide, and therefore should qualify as “eligible equipment.”

Given the wide utility of smartphone devices to support both connectivity and remote learning solutions, schools and libraries should also be permitted to select mobile devices such as smartphones as “connected devices” at their option. In so doing, the Commission can maximize the efficiency of the ECF program by permitting schools and libraries to utilize smartphones for all-in-one connectivity and connected devices where appropriate for specific learning situations.

While the Public Notice posits that smartphones “do not sufficiently allow students, school staff, and library patrons to meaningfully participate in remote learning” – and thus are not sufficiently “similar” to tablets and laptops to be included as “connected devices,”³⁸ this assertion is unsupported. In fact, the record in the Commission’s recent Emergency Broadband Benefit proceeding shows that there is no clear practical line between a smartphone and a tablet, and that most modern smartphones, just like tablets, offer full two-way video conferencing capability that students may need to participate in remote learning.³⁹ There is no reason for the

³⁶ See 47 C.F.R. § 54.408(f)(1)-(3).

³⁷ To provide mobile wireless broadband capability, smartphones include components that exchange information with the internet (modem functionality) and connect the rest of the smartphone (or other devices) to the modem (router functionality). See, e.g., Whitson Gordon, *Modem, Router, and Access Point: What’s the Difference?*, *PC Magazine* (Aug. 24, 2020), <https://www.pcmag.com/how-to/modem-router-and-access-point-whats-the-difference>.

³⁸ Public Notice at 6.

³⁹ See, e.g., Comments of CTIA, WC Docket No. 20-445, at 9-10 (filed Jan. 25, 2021); Comments of Competitive Carriers Association, WC Docket No. 20-445, at 4 (filed Jan. 25, 2021); Reply Comments of the Internet Society, WC Docket No. 20-445, at 14-15 (filed Feb. 16, 2021); Reply Comments of TracFone Wireless, Inc., WC Docket No. 20-445, at 8 (filed Feb. 16, 2021); Letter from Michele K. Thomas, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, at 4-5 (filed Feb. 5, 2021).

Commission to undertake a complicated factual inquiry into the difference between a smartphone and a tablet here, given this record and the demonstrated utility of smartphones for remote learning. And as noted above, there is no rational justification to exclude smartphones that include the functionality of hotspots that are covered.

Rather, the Commission should empower educators to make decisions about what specific technology solutions will best meet their students' remote learning needs. In certain cases, a smartphone that supports specific applications may be just as effective of a learning tool as a laptop or tablet. For example, as noted above, Qualcomm reported that its smartphone-based pilot project in North Carolina showed significant benefits in improving students' math scores, which led to an increase in overall math proficiency of 30 percent.⁴⁰ It would be contrary to Congress' intent for the Commission to broadly pre-judge the connectivity and learning needs of millions of students ahead of educators' on-the-ground understanding. For all of these reasons, schools and libraries should be permitted to efficiently utilize ECF support for the mobile wireless devices that best meet their students' connectivity and learning needs, including smartphones.

In order to maximize the efficiency of ECF, CTIA also agrees with the proposal in the Public Notice to limit supported services (connections) and devices to one per student, school staff member, or library patron.⁴¹ This limitation recognizes that mobile wireless broadband can support students and educators wherever they are learning. The Commission is correct not to propose a one-connection-per-household standard because that would limit students' ability to

⁴⁰ See *supra* note 15.

⁴¹ Public Notice at 8.

use mobile wireless solutions when they are engaged in remote learning outside the home (e.g., at the home of a caregiver or in a library).

While students, educators, and library patrons with disabilities have unique needs, mobile wireless services and equipment have become key connectivity and communications tools for people with disabilities and there is no need for the Commission to adopt ECF specific accessibility requirements.⁴² Not only are connected devices such as laptops, tablets, and smartphones generally covered by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),⁴³ the wireless industry has built upon the spirit of the CVAA to provide accessible products and services to people with disabilities.⁴⁴ Indeed, the Commission's latest CVAA Biennial Report concluded that mobile wireless devices generally are accessible to people with disabilities.⁴⁵ For these reasons, the Commission should encourage eligible schools and libraries to harness the existing accessibility features of mobile wireless services and equipment to efficiently and effectively utilize ECF to support students and educators with disabilities remote learning needs.

⁴² *Cf. id.* at 6.

⁴³ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.); Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA); *see also* 47 U.S.C. § 618(b).

⁴⁴ *See, e.g., Wireless Celebrates 30 Years of the ADA and a More Accessible Future for All*, CTIA Blog (July 23, 2020), <https://www.ctia.org/news/blog-wireless-celebrates-30-years-of-the-ada-and-a-more-accessible-future-for-all>.

⁴⁵ *See generally Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Biennial Report to Congress as Required by the Twenty-First Century Communications and Video Accessibility Act of 2010, 35 FCC Rcd 11227 (CGB 2020) (finding mobile devices generally accessible to people with disabilities, with the exception of low-end feature phones not relevant to this proceeding).

In sum, the Commission’s ECF rules should affirm that mobile wireless broadband service are “advanced telecommunications and information services” “that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons.” Further, the Commission’s ECF rules should recognize that mobile wireless devices, including smartphones with Wi-Fi hotspot capabilities and stand-alone Wi-Fi hotspots, broadly qualify as eligible equipment, and that schools and libraries may use them as connected devices at their option. In so doing, the Commission’s ECF rules can fulfill Congress’ clear directive in the American Rescue Plan Act and enable eligible schools and libraries to harness efficient and effective mobile wireless services and equipment to meet today’s remote learning connectivity challenges for millions of students.

IV. THE COMMISSION SHOULD ADOPT RULES THAT EFFICIENTLY AND EFFECTIVELY DISTRIBUTE ECF SUPPORT.

As the Public Notice observes, the Commission goal in this proceeding is to adopt rules “to most efficiently and effectively distribute funding” to achieve Congress’s intentions for the ECF.⁴⁶ To do so, the Commission should take the following steps.

A. The ECF Should Reimburse Schools and Libraries Directly.

CTIA agrees that the Commission can maximize the efficiency of the program by providing funding directly to schools and libraries rather than to the providers of services or devices.⁴⁷ As the Public Notice observes, reimbursing schools and libraries directly will reduce burdens on applicants and ensure that funds are used for appropriate purposes. Further, the provider-focused funding process used in E-Rate is rooted in a different statute with different purposes and should not be replicated for ECF. In E-Rate, the Commission historically provided

⁴⁶ Public Notice at 3.

⁴⁷ *Id.* at 13-14.

funding to service providers in the first instance, but this is because of language in Section 254(h) that is not present in the American Rescue Plan Act.⁴⁸ Over time, the Commission has simplified the process of providing E-Rate funding directly to applicants through the Billed Entity Applicant Reimbursement or “BEAR” process,⁴⁹ recognizing that paying schools directly is a logical and simple approach. Funding schools and libraries directly will help promote the ability of those entities to choose the offerings that best meet their students,’ staff’s, and patrons’ remote learning needs.

B. The ECF Will Support Remote Learning Connectivity Most Effectively if Focused on Existing Networks Rather than Construction of New Ones.

The Public Notice appropriately proposes to support, as “advanced telecommunications services,” those services “that are needed to provide the connectivity required to enable and support remote learning for students, school staff, and library patrons” during the emergency period,⁵⁰ and only broadband services “that can be supported and delivered with eligible equipment as defined in the American Rescue Plan (i.e., Wi-Fi hotspots, modems, routers, devices that combine a modem and a router, and connected devices).”⁵¹ The Public Notice therefore properly proposes to exclude “the construction of new networks, including the construction of self-provisioned networks.”⁵²

⁴⁸ Compare 47 U.S.C. § 254(h) with American Rescue Plan Act § 7401 *et seq.*

⁴⁹ See *Modernizing the E-rate Program for Schools and Libraries*, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8963-64 ¶ 233 (2014) (allowing direct invoicing of schools and libraries that paid service providers for eligible services).

⁵⁰ Public Notice at 5.

⁵¹ *Id.* at 7.

⁵² *Id.*

CTIA agrees that the statutory text does not support funding the construction of new networks as eligible equipment. New network facilities, whether wireline or wireless, would not meet the definition of Wi-Fi hotspots, modems, routers, devices that combine a modem and a router, or connected devices. Further, the statute states that it is intended to fund the “purchase” of “services” or “eligible equipment.”⁵³ There is no provision in the American Rescue Plan Act to fund the construction of network facilities to *provide* covered “services.”

From a practical perspective, using the ECF to fund the construction of new networks will not address the American Rescue Plan Act’s purpose of responding to remote learning needs “during a COVID-19 emergency period.”⁵⁴ Where existing network facilities are available for purchase, pressing connectivity needs can be addressed most efficiently and effectively, consistent with the statute, by funding the purchase of capacity on existing networks, rather than the construction of new ones.⁵⁵

The Commission therefore should adopt the Public Notice’s proposal not to allow ECF support to be used to fund the construction of new networks—wireline or wireless—in areas where broadband services are commercially available.

C. The Commission Should Avoid Duplicative Funding.

Prior to the enactment of the American Rescue Plan Act, Congress, the Commission, and States provided significant funding to enable schools and libraries to address the immediate remote learning needs brought by the pandemic response. For example, the CARES Act set

⁵³ American Rescue Plan Act § 7402(a).

⁵⁴ *Id.*

⁵⁵ Indeed, even parties that urge the Commission to allow for E-Rate funding to be used for the construction of wireless networks off of school property focus on “students without adequate internet access at home” – i.e., those in areas without access to existing broadband networks. *See, e.g.*, OTI Letter at 3.

aside approximately \$13.2 billion for the Elementary and Secondary School Emergency Relief (ESSER) Fund, which can be used for purchasing educational technology (including hardware, software, and connectivity) among other things. Given the finite availability of ECF support, the Commission should maximize the impact of the ECF by prioritizing support for schools and libraries to purchase new services and equipment to connect the millions of students without sufficient access to remote learning solutions. To the extent that the Commission concludes that the Act requires ECF support for purchases previously made since the pandemic began,⁵⁶ CTIA agrees that the Commission should limit ECF disbursements to devices and services that are not funded through other federal or state programs.⁵⁷ As the Commission notes, this will avoid duplicative funding and allow the finite ECF funding to have the greatest impact.⁵⁸

D. The ECF Rules Should Not Include Burdensome Administrative Requirements that Would Interfere with Schools' and Libraries' Ability to Select Services Available in the Competitive Market to Meet Remote Learning Needs.

The Public Notice seeks comment on whether to impose minimum service standards, data thresholds, or a non-usage rule for services funded by the ECF,⁵⁹ but such requirements may preclude schools and libraries from using services currently available in the market to meet their students,' staffs' and patrons' connectivity needs. Instead, the Commission should allow schools and libraries to determine how best to use the ECF funding to purchase commercially available services and equipment that support the diverse modes of remote learning they enable.

⁵⁶ *Id.* at 10.

⁵⁷ Public Notice at 15.

⁵⁸ *Id.*

⁵⁹ *Id.* at 7-8.

Speed Thresholds. The Public Notice asks whether the Commission’s current fixed 25/3 Mbps broadband threshold is sufficient for remote learning.⁶⁰ While the Commission has used 25/3 Mbps as a threshold for assessing fixed broadband in its Section 706 Reports,⁶¹ this is not likely to be a useful benchmark for identifying existing networks that can be used to solve the homework gap during the Emergency Period. It is important for schools and libraries to be able to use the ECF to fund broadband service *during the Emergency Period*—i.e., today and in the next several months. This means it is necessary for schools and libraries to have the discretion to use the ECF for services provided over existing networks that may not provide 25/3 Mbps service in all instances, if they so choose, including mobile wireless networks and networks in rural areas. An arbitrary speed benchmark also would not account for other factors that are relevant to the utility of a broadband service to addressing diverse remote learning needs of students, such as mobility. Indeed, to the extent that the Commission adopts any minimum service standards for the ECF, mobility should be a required feature because of the enormous value that it brings to students’ ability to engage in remote learning wherever they may be.

Data Caps. Similarly, some of the broadband services available in the market today, including mobile wireless broadband services, may include data caps. The Commission should not preclude schools and libraries from using the ECF to purchase these services where the school or library determines that service plans with data limits are the most efficient solutions to meet their students’ remote learning needs.

⁶⁰ *Id.* at 7.

⁶¹ See, e.g., *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Fourteenth Broadband Deployment Report, FCC 21-18, ¶ 11 (rel. Jan. 19, 2021).

Non-Usage Rule. The Public Notice seeks comment on whether to require service providers to notify schools and libraries if an eligible service has not been used in a given month and not allow the school or library to seek reimbursement for the service during that month.⁶² While this approach may have some nominal allocative benefit and the Commission should take other measures to promote efficient use of the ECF as noted above, the benefits of this approach are unlikely to outweigh the costs. Not all providers will have the ability to identify non-usage. Those that can identify non-usage may not be able to do so in sufficiently real time to be able to notify schools in libraries before they invoice the Universal Service Administration Company (USAC) for eligible services. Even where the provider has systems in place to identify non-usage in real time, a rule non-usage rule would require participating schools, libraries, and providers to develop and implement real-time communication channels to inform schools and libraries of non-usage in time for the schools and libraries to seek reimbursement from USAC. These and other administrative burdens would outweigh any potential benefits from the rule.

Filing Window. The Public Notice proposes that the Commission direct USAC to open a 30-day ECF filing window to allow eligible schools and libraries to apply for funding for eligible equipment and services.⁶³ In order to ensure that schools can choose among competitive service offers, the Commission should ensure that the filing window provides sufficient time for schools to identify commercially available services and equipment to use ECF support to meet remote learning needs.

⁶² Public Notice at 16.

⁶³ *Id.* at 12.

V. CONCLUSION.

The ECF has the potential to enable schools and libraries to address significant inequities in broadband access to remote learning for millions of students. Mobile wireless solutions already are playing a significant role in addressing the homework gap, and are positioned to play an even larger role with the efficient, effective deployment of the ECF to support mobile wireless broadband services and equipment. To maximize the likelihood of the program's success, CTIA urges the Commission to establish rules consistent with these comments.

Respectfully submitted,

/s/ Matthew B. Gerst
Matthew B. Gerst
Vice President, Regulatory Affairs

Thomas C. Power
Senior Vice President and General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

Sarah K. Leggin
Director, Regulatory Affairs

CTIA
1400 Sixteenth Street, NW
Suite 600
Washington, DC 20036
202.736.3200
www.ctia.org

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