

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Establishing Emergency Connectivity)	WC Docket No. 21-93
Fund to Close the Homework Gap)	
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ respectfully submits these comments in response to the Public Notice seeking comment on the Federal Communication Commission’s (“FCC” or “Commission”) implementation of the Emergency Connectivity Fund Congress created in the American Rescue Plan Act (the “Fund”).² The Emergency Connectivity Fund will “help schools and libraries provide connectivity to students, school staff, and library patrons during the pandemic” as they teach and learn “at locations other than a school or library.”³ The Fund is an important complement to the Commission’s actions to utilize the E-Rate Program to deploy and expand the broadband access needed for remote learning.⁴

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. Members range from small, rural carriers serving fewer than 5,000 customers, to regional and nationwide providers serving millions of customers, as well as vendors and suppliers that provide products and services throughout the wireless communications ecosystem.

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, WC Docket No. 21-93 (rel. Mar. 16, 2021) (“*Public Notice*”); see American Rescue Plan Act of 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) (the “American Rescue Plan Act,” reproduced in Appendix to *Public Notice*).

³ *Public Notice* at 1.

⁴ See *Wireline Competition Bureau Seeks Comment on Petitions for Emergency Relief to Allow the Use of E-Rate Funds to Support Remote Learning During the COVID-19 Pandemic*, Public Notice, DA 21-98, WC Docket No. 21-31 (rel. Feb. 1, 2021) (“*E-Rate Remote*

As with the recent Emergency Broadband Benefit Program, Congress has given the Commission an extremely important task and a short timeframe within which to act. CCA supports the Commission’s overall proposal for the Emergency Connectivity Fund and encourages the Commission to track the existing E-Rate program for many implementation decisions. But the Commission should also recognize the breadth of many provisions in the American Rescue Plan Act, such as its broad definitions of supported services, equipment, and connected devices, and ensure that the Fund supports a wide range of services and tools to allow Americans to learn remotely in diverse locations and situations.

I. WIRELESS SERVICES ARE CRITICAL FOR CONNECTING STUDENTS, SCHOOL STAFF, AND LIBRARY PATRONS AT LOCATIONS OTHER THAN SCHOOLS AND LIBRARIES DURING THE COVID-19 EMERGENCY PERIOD

Remote learning during the COVID-19 pandemic has been made possible by broadband. Students, teachers, other educational staff, and library patrons meet over live video feeds, prepare and complete assignments online, research topics of interest, and more. But this increased reliance on broadband internet connections to participate fully in educational settings has magnified gaps in broadband access that existed before the pandemic and persist today.⁵ The Emergency Connectivity Fund is a powerful tool to address these challenges.

The Commission should take advantage of the unique features of wireless broadband services in providing remote access to schools and libraries. Wireless connectivity often can be deployed more quickly and efficiently than wired connectivity to provide broadband service, and

Learning Public Notice”); Comments of Competitive Carriers Association, WC Docket No. 21-31 (filed Feb. 16, 2021) (“CCA E-Rate PN Comments”).

⁵ See Nicol Turner Lee, *What the Coronavirus Reveals About the Digital Divide Between Schools and Communities*, Brookings (Mar. 17, 2020), <https://www.brookings.edu/blog/techtank/2020/03/17/what-the-coronavirus-reveals-about-the-digital-divide-between-schools-and-communities/> (“*What the Coronavirus Reveals*”); see also CCA E-Rate PN Comments at 2-3.

during the COVID-19 pandemic CCA members and other broadband providers have invested in their networks to account for increased demand and to reach more members of their communities. In addition, many mobile wireless carriers were able to partner with schools and distribute wireless-connected Wi-Fi hotspots to connect students in very short time frame. Moreover, in many areas, wireless broadband is the only realistic and available service capable of supporting remote learning. Less than two-thirds of rural Americans report having a home internet connection today,⁶ and many Americans, particularly in low-income families, depend on mobile devices like smartphones and tablets to connect to the internet, rather than desktop computers or even laptops.⁷ Those mobile devices provide the flexibility to attend class and do homework in different areas of a home, in common areas of larger buildings and gathering places, and outside the home.

Just as in other recent proceedings regarding programs to connect Americans to broadband internet quickly and cost-effectively during the COVID-19 pandemic, CCA urges the Commission to adopt regulations for the Emergency Connectivity Fund that allow Americans to take advantage of the unique benefits of mobile wireless services.

II. THE COMMISSION’S RULES IMPLEMENTING THE EMERGENCY CONNECTIVITY FUND SHOULD SUPPORT WIRELESS CONNECTIVITY

A. The Commission Should Adopt a Broad Approach to Service Standards and Eligible Locations that Properly Effectuates the Statutory Text

The Commission asks in the *Public Notice* how it should define “advanced telecommunications and information services” for purposes of the Emergency Connectivity

⁶ *Id.*

⁷ *Closing the K-12 Digital Divide in the Age of Distance Learning*, Common Sense Media, https://www.commonsensemedia.org/sites/default/files/uploads/pdfs/common_sense_media_report_final_7_1_3pm_web.pdf.

Fund.⁸ Because the American Rescue Plan Act defines that term to track its meaning as “used in section 254(h) of the Communications Act”⁹—*i.e.*, in the Communications Act’s direction to “establish competitively neutral rules . . . to enhance . . . access to advanced telecommunications and information services for all public and nonprofit elementary school classrooms, health care providers, and libraries”¹⁰—CCA encourages the Commission to apply the definition broadly, consistent with existing E-Rate rules. The Commission can more effectively ensure remote access to educational resources by permitting schools and libraries flexibility to determine what services will help meet the needs of their communities, rather than by setting new one-size-fits-all minimum service standards or data thresholds.¹¹

Similarly, CCA recommends that the Commission adopt an approach to identifying service locations that reflects the flexibility contained in the statute. As the Commission notes in the *Public Notice*, the American Rescue Plan Act “does not define the specific locations where students, school staff, and library patrons can use eligible equipment and services.”¹² And mobile wireless services make it possible for consumers to access the internet not only in their homes, but also in other locations. The Commission can maximize the Fund’s benefits by requiring schools and libraries to document supported connections and to avoid needless redundancies, without attempting to proscribe advance services for particular locations.

⁸ *Public Notice* at 7.

⁹ American Rescue Plan Act § 7402(d)(1).

¹⁰ 47 U.S.C. § 254(h)(2)(A).

¹¹ *See Public Notice* at 7.

¹² *Id* at 8.

B. The Commission’s Definitions for Connected Devices and Eligible Equipment Should Include Reimbursement for a Broad Range of Devices that Support Remote Learning Activities

The American Rescue Plan Act requires reimbursement for the costs of “eligible equipment,” which includes “Wi-Fi hotspots,” “[m]odems,” “[r]outers,” “[d]evices that combine a modem and router,” and “[c]onnected devices.”¹³ CCA supports the inclusion of these devices. Wi-Fi hotspots, in particular, offer consumers the flexibility to access broadband internet in a variety of locations.

CCA urges the Commission to reconsider, however, the proposal in the *Public Notice* to specifically and categorically exclude “mobile phones (i.e., smartphones) as eligible connected devices.”¹⁴ The statute defines “connected device” as “a laptop computer, tablet computer, or similar end-user device that is capable of connecting to advanced telecommunications and information services.”¹⁵ Many smartphones easily fall within that definition, as they are similar to tablet computers in their size, form, and capabilities—indeed, the key differentiating factor between many large smartphones and tablet computers is that smartphones are capable of *more* than tablets (*e.g.*, they can place calls using traditional mobile voice service, if subscribed to such a service). It is not unusual these days to take a Zoom meeting, browse the Internet, or take notes on a smartphone, and it would be arbitrary and capricious to exclude smartphones merely because they have more than the minimum required set of features.

As the *Public Notice* explains, the Commission determined in the *Emergency Broadband Benefit Program Order* that it “could not include such devices as eligible under the program”

¹³ American Rescue Plan Act §§ 7402(b), (d)(6).

¹⁴ *Public Notice* at 5-6.

¹⁵ American Rescue Plan Act § (d)(3).

because it “concluded that Congress explicitly declined to include mobile phones in its definition of a ‘tablet.’”¹⁶ The difference in the statutory language creating the Emergency Broadband Benefit and the American Rescue Plan Act, however, demonstrates why the Commission *should* include support for smartphones. The Consolidated Appropriations Act defined “connected device” for purposes of the Emergency Broadband Benefit Program only as “a laptop or desktop computer or a tablet.”¹⁷ Here, by contrast, Congress defined connected device more broadly: “a laptop computer, tablet computer, *or similar end-user device*.”¹⁸ Thus, the Commission need not—and should not—apply its determination in the Emergency Broadband Benefit Program to exclude mobile phones to the Emergency Connectivity Fund.

The legislative history of the American Rescue Plan Act also supports reimbursement for smartphones alongside similar equipment. In particular, the committee report explained that the funding in the legislation would “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 WiFi hotspots, *either incorporated into [a] mobile phone or provided on a standalone basis*, among other things.”¹⁹ The American Rescue Plan Act expressly identifies Wi-Fi hotspots as eligible equipment, and smartphones—capable of operating as Wi-Fi hotspots—readily fall within the definition of connected device.

The *Public Notice* suggests that smartphones should not be included for support because they “do not sufficiently allow students, school staff, and library patrons to meaningfully

¹⁶ *Public Notice* at 6 n.27; see *Emergency Broadband Benefit Program*, Report and Order, FCC 21-29, WC Docket No. 20-445, ¶¶ 79-80 (rel. Feb. 26, 2021).

¹⁷ Consolidated Appropriations Act, 2021, H.R. 133, 116th Cong. div. N, tit. IX, § 904(a)(4) (2020).

¹⁸ American Rescue Plan Act § 7402(d)(3) (emphasis added).

¹⁹ H.R. Rep. No. 117-7, tit. III, at 306-07 (2021) (emphasis added).

participate in remote learning activities and thus do not qualify as ‘similar’ devices” under the statute.²⁰ That is not the best reading of the statute. Smartphones can access broadband internet connections, host video calls, operate as Wi-Fi hotspots, and more—just like many tablet computers. While a smartphone may not be sold with an accompanying hard keyboard, the same can be said of a tablet. More importantly, the nature of synchronous and asynchronous remote learning make smartphones a useful tool in the remote-learning toolbox. A household with multiple children, for example, may not need one laptop per child if the household also has a connected mobile phone—one child may need to write a book report on the home’s existing laptop, while another child uses a smartphone to join her classroom over video conference or view pre-recorded lessons.

Including smartphones as eligible for Fund support creates flexibility and empowers schools, libraries, and parents and caregivers to make informed choices about which devices serve their needs. Rather than rule smartphones out in a way that the American Rescue Plan Act specifically does not, the Commission should simply require that any connected device supported by the Fund must meet common-sense minimum system requirements like Wi-Fi capability and video and camera functions.²¹

III. THE COMMISSION SHOULD IMPLEMENT THE EMERGENCY CONNECTIVITY FUND FLEXIBLY TO PROVIDE RELIEF AS EFFICIENTLY AND QUICKLY AS POSSIBLE

Just as with the Emergency Broadband Benefit Program, Congress provided the Commission only 60 days after the enactment of the American Rescue Plan Act to promulgate

²⁰ *Public Notice* at 6.

²¹ *See id.*

implementing regulations for the Emergency Connectivity Fund.²² The Emergency Connectivity Fund is designed to complement existing E-Rate authority, however, and many of the Commission’s implementing decisions for the Fund can and should track the E-Rate program. At a high level, however, the Commission’s objectives for this emergency program should be to deliver support to schools and libraries flexibly, efficiently, and quickly.

The *Public Notice* asks “whether the Commission should reimburse for purchases of eligible equipment and services made by eligible schools and libraries since January 27, 2020.”²³ That approach would be consistent with the American Rescue Plan Act, which directs the Commission to provide support for purchases “during a COVID-19 emergency period”—*i.e.*, from January 27, 2020, through the date on which the emergency period ends.²⁴ Moreover, retroactive reimbursement recognizes both that schools and libraries have made significant purchases in the 14 months since the COVID-19 emergency period began and that broadband providers have made significant investments in their networks to provide and maintain connectivity despite substantial economic and logistical challenges.

The *Public Notice* also proposes not to require new competitive bidding for eligible equipment and services already covered by contracts between schools or libraries and service providers.²⁵ For prospective purchases of equipment and services, CCA does not oppose a streamlined bidding process²⁶; the Commission can use its considerable experience to promote efficiency and to prevent waste, fraud, and abuse in the bidding process. Competitive bidding

²² See American Rescue Plan Act § 7402(a).

²³ *Public Notice* at 10.

²⁴ American Rescue Plan Act § 7402(a).

²⁵ *Public Notice* at 10-11.

²⁶ See *id.* at 11.

also addresses the issues the Commission identifies when asking whether it should establish a range of costs or caps on funding for particular services or devices.²⁷ Costs for devices and services can vary significantly depending on the geographic area and the overall needs of a particular school district or library. At most, the Commission should layer on the existing lowest corresponding price rules from E-Rate.

The *Public Notice* asks whether it should require that equipment and services purchased with Emergency Connectivity Fund support “be primarily for educational purposes,” and if so, how to impose such a requirement.²⁸ CCA recognizes that the purpose of the Emergency Connectivity Fund is to support remote learning. But schools and libraries face significant challenges during the COVID-19 pandemic and requiring them (or service providers) to function as the primary enforcers of, for instance, which person accesses a connected device inside a home, creates a specter of needless compliance costs and enforcement risks.

The *Public Notice* also asks several questions about Fund administration, such as how to prioritize funding requests, process reimbursements, and regulate disposal of equipment purchased using Fund support.²⁹ CCA agrees with the Commission that it should “structure the process to provide funds to schools and libraries as quickly as possible to assist with the challenges presented by the pandemic” and “reduce the burdens on applicants during this challenging time.”³⁰ The existing E-Rate discount methodology is a sensible approach for prioritizing Emergency Connectivity Fund requests if necessary. For reimbursements, CCA supports a simple, streamlined approach such as submission of basic invoices. As for treatment

²⁷ *See id.* at 11-12.

²⁸ *Id.* at 9-10.

²⁹ *See id.* at 13.

³⁰ *Id.*

of equipment during and after the COVID-19 emergency period, CCA encourages the Commission generally to track the familiar E-Rate approach. Moreover, just as with the Emergency Broadband Benefit program, CCA urges the Commission to create mechanisms that ensure transparent administration of the Emergency Connectivity Fund by USAC so that schools and libraries can structure their decisions based on the status of available funds.

Finally, CCA agrees with the Commission regarding the importance of “protect[ing] the Emergency Connectivity Fund against waste, fraud, and abuse.”³¹ Common-sense certifications and requirements for the submission and retention of invoices and other records consistent with current E-Rate program rules will go a long way to that end. As in other areas, however, the Commission should steer clear of overly regulatory requirements that could impose unnecessary compliance costs and potentially discourage schools and libraries from participating in the Fund.

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CCA appreciates the Commission’s hard work to implement the important emergency relief and support mechanisms Congress has created during the ongoing COVID-19 pandemic. The Emergency Connectivity Fund will deliver important support for remote learning. CCA encourages the Commission to implement the Fund in a manner that allows schools and libraries to take advantage of flexible broadband services from wireless providers as discussed above. We are ready and able to work with the Commission as it builds the framework for this important program.

³¹ *Id.* at 15.

Respectfully submitted,

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