

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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

**REPLY COMMENTS OF THE NATIONAL ASSOCIATION  
OF TELECOMMUNICATIONS OFFICERS AND ADVISORS**

The National Association of Telecommunications Officers and Advisors (“NATOA”),<sup>1</sup> appreciates the opportunity to provide reply comments regarding the Commission’s promulgation of rules on the provision of support from the Emergency Connectivity Fund.<sup>2</sup> The Fund, established by Congress in the American Rescue Plan Act of 2021,<sup>3</sup> represents an excellent opportunity to reach low-income households to provide much-needed assistance during the national emergency. To achieve that goal, we stress three issues, all of which received robust support in the record.

First, we urge the Commission to ensure the inclusion of bulk purchasing and sponsored services, including those procured by local governments. These programs provide an incredibly effective and efficient means of reaching the students and library patrons Congress intended to be the beneficiaries of these funds.

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<sup>1</sup> NATOA’s membership includes local government officials and staff members from across the nation whose responsibility is to develop and administer communications policy and the provision of such services for the nation’s local governments.

<sup>2</sup> Public Notice, *Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic*, WC Docket No. 21-93 (March. 16, 2021) (“Notice”).

<sup>3</sup> American Rescue Plan Act, 2021, H.R. 1319, 117th Cong., tit. VII, § 7402 (2021) (“Act” or “Rescue Plan Act”).

Second, the Commission should ensure that funds may be used to provide services not only to households, but also to public places like parks, community centers and other facilities that have served and can serve as remote learning hubs.

Third, the Commission should reconsider its proposal to prohibit use of funds for self-provisioned networks.<sup>4</sup> In some circumstances these options may be the most efficient and cost-effective means of providing connectivity during the pandemic and there is no legal or policy basis to exclude them.

***1. Bulk and Sponsored Programs Should be Eligible for Funding, Whether Procured by Schools, Libraries or Local Governments***

The record shows broad and diverse support for including bulk purchasing and sponsored services programs in the Fund.<sup>5</sup> As NCTA states, these programs “provide an effective and efficient way to provide connectivity to large numbers of students ... .”<sup>6</sup> Similarly, T-Mobile notes that “a bulk-purchase option could be cost-effective, administratively efficient, and a simple way to quickly close the digital divide and homework gap.”<sup>7</sup> NATOA wholeheartedly agrees with these and other statements in the record on the significant benefits of these programs.

These same benefits apply to bulk purchasing and sponsored services programs established by local governments or other non-profits, and we urge the Commission to expressly include these programs. The record includes many examples of local governments standing up programs to ensure that students, teachers and those who rely on libraries for educational purposes continue to

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<sup>4</sup> Notice at 7.

<sup>5</sup> See, e.g., Comments of T-Mobile USA, Inc., WC Docket No. 21-93 (April 5, 2021) (“T-Mobile Comments”) at 18-19; Comments of EducationSuperHighway, WC Docket No. 21-93 (April 5, 2021) at 7-8; Comments of National League of Cities, WC Docket No. 21-93 (April 5, 2021) (“NLC Comments”) at 4-5; Comments of WTA – Advocates for Rural Broadband, WC Docket No. 21-93 (April 5, 2021) at 3-6; Comments of NCTA – The Internet and Television Association, WC Docket No. 21-93 (April 5, 2021) (“NCTA Comments”) at 3-4; Comments of Altice USA, Inc., WC Docket No. 21-93 (April 5, 2021) at 7-9; Comments of City of Los Angeles, *et al.*, WC Docket No. 21-93 (April 5, 2021) (“Local Governments’ Comments”) at 6-9.

<sup>6</sup> NCTA Comments at 3.

<sup>7</sup> T-Mobile Comments at 19.

have access to broadband during the pandemic. For example, the record includes descriptions of the robust and effective programs in Boston, Chicago, Washington D.C., and Montgomery County, Maryland, to name a few.<sup>8</sup> These types of programs have led to “tens, if not hundreds, of thousands of low-income households having broadband today”<sup>9</sup> and have provided tablets, hotspots and other equipment to meet the educational needs of our communities.<sup>10</sup>

These examples demonstrate that existing programs serve the purposes of the Rescue Plan Act. The Act directs the Commission to make funding available for “the provision, from amounts made available from the Emergency Connectivity Fund, of support under paragraphs (1)(B) and (2) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) to an eligible school or library, for the purchase during a COVID–19 emergency period of eligible equipment or advanced telecommunications and information services (or both) ... .”<sup>11</sup> The Act goes on to state that funding be made available to locations other than schools or libraries.<sup>12</sup>

Section 254(h)(2) of the Communications Act, in turn, directs the Commission to establish rules “to enhance ... access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms ... and libraries... .”<sup>13</sup> The Rescue Plan Act’s direction that funding be made available to locations other than schools or libraries reflects Congress’s understanding that the “classroom” goes beyond the physical school or library building. Thus, where an existing program “enhance[s] access” to broadband for students and library patrons at locations other than schools and libraries, it should be eligible for funding.

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<sup>8</sup> See Local Governments’ Comments at 6-9 and n. 9.

<sup>9</sup> *Id.* at 8.

<sup>10</sup> *Id.* at 7-8.

<sup>11</sup> H.R. 1319, tit. VII, § 7402(a).

<sup>12</sup> *Id.*

<sup>13</sup> 47 U.S.C. § 254(h)(2).

We acknowledge that the Rescue Plan Act references “the provision ... of support ... to an eligible school or library.” Nothing in this language precludes the Commission from finding that such support may be provided by a local government entity that effectively stands in the shoes of the school or library in reaching the students and patrons intended to benefit from the Fund. In many cases, the local government administers the schools and/or libraries<sup>14</sup> and thus directing funding to the local government administering the broadband program *is* the provision of support to the school or library. As such, the rules should expressly permit local governments that operate schools and/or libraries (and are otherwise eligible under the Act) to receive reimbursement from the Fund.

Where that is not the case, the rules should expressly allow an eligible school or library to procure equipment and/or services through a local government or other non-profit program.<sup>15</sup> Again, nothing in the Act precludes the Commission from allowing eligible schools and libraries to take advantage of these programs as a means of reaching students and patrons. This scenario still represents the “provision” of “support” to schools and libraries. Whether that support is provided by a local government-provided bulk or sponsored services program or a direct contract with a provider is irrelevant under the Act.

To bar such a choice would unnecessarily limit the options of eligible schools and libraries and eliminate an efficient means of reaching those in need of equipment and services. This is particularly true where there are existing local government programs that meet the goals of the Act. These existing programs have already done the hard work of reaching the students and families most in need of broadband during this pandemic, work that often requires overcoming

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<sup>14</sup> See NLC Comments at 1.

<sup>15</sup> This option also should be available in the event the Commission does not permit local governments to directly receive funding based on their relationship to a school or library as described in the previous paragraph.

trust and language barriers among other things. Requiring schools and libraries to bypass this option may mean they have to recreate this effort—a laborious process that drains already limited time and resources, and undoubtedly will end up leaving some students behind.

Local governments' bulk and sponsored services programs represent an efficient, cost-effective means of fulfilling the goals of the Fund and are consistent with the terms of the Act. We strongly encourage the Commission to expressly allow these programs to be eligible for funding either directly or as the program of choice of an eligible school or library.

## ***2. Locations Other Than Schools and Libraries Should be Broadly Construed***

Multiple commenters noted the need to ensure that funded equipment and services reach not just households, but also the many non-school/library facilities where students and patrons may access the internet during the pandemic.<sup>16</sup> As explained by the National League of Cities, public places such as parks, community centers, senior centers, day-use centers, municipally owned housing developments and shelters have stood in for schools and libraries during the pandemic.<sup>17</sup> These locations effectively serve as classrooms and libraries in the absence of access to school and library buildings. In addition to residences, these are the very locations the Act appears to contemplate in directing that funds go to students and patrons in places other than schools and libraries. The rules should expressly give schools and libraries authority to direct funds to services at these and similar locations—as well as to Wi-Fi hotspots on school buses and bookmobiles a proposed in the Notice.<sup>18</sup> As discussed above, to the extent a local government or

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<sup>16</sup> See, e.g., NLC Comments at 2-3; Comments of Mayor James Kenney, City of Philadelphia, WC Docket No. 21-93 (April 5, 2021) at 2-3; Comments of Telecommunications for the Deaf and Hard of Hearing, Inc., *et al.*, WC Docket No. 21-93 (April 5, 2021) at 5-6; Comments of the Virginia Department of Education, WC Docket No. 21-93 (April 5, 2021) at 4.

<sup>17</sup> NLC Comments at 3. See also Comments of the State Educational Technology Directors Association, WC Docket No. 21-93 (April 5, 2021) at 5.

<sup>18</sup> Notice at 9.

non-profit program serves these facilities, the rules should authorize a school or library to designate that program as the provider of services to students or patrons at these locations.

### ***3. Self-Provisioning Should be Funded***

NATOA urges the Commission to reconsider its preliminary conclusion that self-provisioned networks are not eligible for funding. Here, too, there is broad support in the record for providing the flexibility to ensure that funds may be used in the most effective manner for a given location, including self-provisioning.<sup>19</sup> Where these options are the most cost-effective means of providing broadband to students and library patrons during the pandemic, they should be eligible for funding.

The Notice suggests excluding self-provisioning based on the “underlying assumption that the construction of new networks is not supported by the statutory text enumerating eligible equipment in section 7402 of the American Rescue Plan.”<sup>20</sup> However, the Act authorizes funding for “eligible equipment or advanced telecommunications and information services (or both) . . . .”<sup>21</sup> In other words, funding is not limited to equipment. It is also available for the provision of services, and there is no express limit on how those services may be provided. We agree with Motorola that when Congress expressly incorporated the definition of “advanced telecommunications and information services” from Section 254(h), it did so knowing the Commission has found that self-provisioning fulfills the mandate of Section 254(h)(2)(A).<sup>22</sup>

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<sup>19</sup> See, e.g., Comments of New America’s Open Technology Institute (OTI), the National Hispanic Media Coalition, the National Digital Inclusion Alliance, Next Century Cities, Public Knowledge, the Institute for Local Self-Reliance, Access Humboldt, Digital Tribal Village and X-Lab, WC Docket No. 21-93 (April 5, 2021) (“OTI, *et al.* Comments”) at 12-30; Comments of State of South Carolina, WC Docket No. 21-93 (April 5, 2021) (“South Carolina Comments”) at 6; Comments of Motorola Solutions, Inc., WC Docket No. 21-93 (April 5, 2021) (“Motorola Comments”); Comments of Milwaukee Public Library, WC Docket No. 21-93 (April 5, 2021) at 2; Comments of ADTRAN, Inc., WC Docket No. 21-93 (April 5, 2021) at 10.

<sup>20</sup> Notice at 7.

<sup>21</sup> Section 7204(a).

<sup>22</sup> Motorola Comments at 2-5.

Comments that self-provisioning should be excluded because these projects would take too long are based on faulty assumptions.<sup>23</sup> There is no basis to assert that every self-provisioning project would be a lengthy construction project. To the contrary, the record includes examples of projects that are currently operational, require simple upgrades or otherwise could be implemented in short order.<sup>24</sup> Further, as pointed out by the State of South Carolina, in many cases where students lack broadband it is because of a lack of infrastructure and thus the only way to remedy the issue is new deployments.<sup>25</sup> Neither timing nor the fact that an entity is self-provisioning the network justifies the exclusion of what may be the most cost-effective (and perhaps only available) tool to reach an unserved location.

The pandemic has shown us that flexibility to meet unique local needs is critical, whether we are standing up testing and vaccination sites or working to get broadband to every corner of our communities. We urge the Commission to incorporate that flexibility into the rules for the Fund.

#### ***4. Conclusion***

NATOA appreciates the efforts of Congress and the Commission in establishing the Fund to help provide connectivity to those most in need amid this national emergency. We urge the Commission to adopt rules that expressly authorize bulk purchasing and sponsored services programs, including those run by local governments; allow services and equipment to off-campus locations that include households as well as public places; and include self-provisioning where it otherwise meets the requirements of the Act.

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<sup>23</sup> See Comments of USTelecom—The Broadband Association, WC Docket No. 21-93 (April 5, 2021) at 6-7.

<sup>24</sup> See, e.g., OTI, *et al.* Comments at 15-23; Motorola Comments at 6-7; South Carolina Comments at 6.

<sup>25</sup> South Carolina Comments at 6.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nancy L. Werner', with a long horizontal flourish extending to the right.

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