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May 5, 2021

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

Re: Emergency Connectivity Fund (WC Docket No. 21-93)

Dear Ms. Dortch:

On May 5, 2021, the Council of the Great City Schools (CGCS) emailed the attached letter to Acting Chairwoman Jessica Rosenworcel and Chief of Staff Travis Litman.

The letter outlines our concerns with the exclusion of the significant expenditures made by school districts for student connected devices and expanded broadband services during the initial months of the pandemic. Under the draft Order, expenditures for eligible items and services that were made when remote learning began would not be reimbursed because the purchases occurred prior to July 1, 2020.

Respectfully submitted,

Michael Casserly
Council of the Great City Schools

ATTACHMENT



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Council of the Great City Schools®

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May 5, 2021

The Honorable Jessica Rosenworcel
Acting Chairwoman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Acting Chairwoman Rosenworcel:

The Council of the Great City Schools, the coalition of the nation’s largest urban school districts, appreciates the opportunity to provide our perspective on the draft Report and Order for the Emergency Connectivity Fund (WC Docket No. 21-93). The Council also appreciates the immense work of Commissioners and staff in a short amount of time, and the transparency of the Chair’s decision that “extraordinary circumstances” allowed the release of a draft Report and Order on the implementation of the Emergency Connectivity Fund (ECF). The Council will appropriately report this follow-up letter.

That said, the Great City Schools are concerned with the exclusion of the significant expenditures made by school districts for student-connected devices and expanded broadband services during the initial months of the pandemic when there were widespread school closures in the last few months of school year 2019-2020. The Council notes that nothing in the provisions of Emergency Connectivity Fund of the American Rescue Plan Act (ARP) authorizes an expenditure period during which otherwise eligible remote learning expenditures for devices and connectivity are excluded. In fact, the draft order acknowledges the “imperative to focus the Emergency Connectivity Fund Program on the equipment and services specified by Congress.” Moreover, section 7402(d)(5) of the American Rescue Plan expressly delineates the emergency period as beginning with the HHS declaration of the public health emergency (January 27, 2020) for the Emergency Connectivity Fund. The Commission’s discretion to further restrict or vary the reimbursement period for schools and libraries appears to be precluded by section 7402 of the ARP. There is no ambiguity in the statute directing the Commission to promulgate regulations “for the purchase during a COVID-19 emergency period of eligible equipment or advanced telecommunications services (or both).”

As noted in the Council’s submitted comments and in the draft order, due to the extraordinary circumstances of COVID-19, districts made a rapid transformation from school-based to home-based learning when schools were shut down nationwide. The Council, therefore, is puzzled by the proposed July 1, 2020 start date in the draft order, despite the order specifically acknowledging the early action and best efforts of school districts in the pre-July “shift from in-person instruction to remote learning,” as well as the expenditure of “scarce resources for purchasing devices and Internet connections for students and staff to help bridge the gap.” The draft order further underscores the goal to help “meet the need for connected devices and broadband services to facilitate remote learning during the COVID-19 pandemic” and to provide “reimbursement for the reasonable costs that school districts have already incurred.” The recognition of these early efforts by school districts to transition to online instruction seems strangely disconnected from the prohibition on reimbursements for that same period in the draft order.

The July 1, 2020 start date in the draft order and in the proposed rules bears no clear relationship to the pandemic-related purpose of the Emergency Connectivity Fund. The July 1, 2020 date is rationalized with a passing reference to administrative convenience in the FCC application and review process and by a timetable linked only to the tangentially related E-Rate discount program. The Council maintains that the start date for reimbursement of eligible expenditures under the ECF should adhere to the emergency period specified in section 7402 of the ARP, or at least have some connection to the pandemic-related closure of schools and libraries and the accompanying shift to remote services in late March 2020 or following the March 13, 2020 National Emergency Declaration.

The Council of the Great City Schools respectfully requests that the Commission reconsider the draft order and proposed rules to align the Emergency Connectivity Fund with the COVID-19 emergency period in the statute, or to allow for pandemic-related eligible expenditures to be reimbursed at least back to the initiation of the widespread school and library closures -- perhaps the most critical phase of the pandemic impact on schools and students.

Recommendations:

The Council recommends revision of the draft report and order in paragraphs 79, 80, and 84, and proposed 47 CFR 54.1708(b) to reflect the statutory emergency period beginning on January 27, 2020 from section 7402 of the ARP as the start date for Emergency Connectivity Fund reimbursement of eligible expenditures, as well as making conforming changes in other applicable provisions and footnotes in the draft order and report, proposed rules, and eligible services list.

In the alternative, if the Commission continues to proclaim the discretion to restrict the start date of the ECF reimbursements, the Council then recommends revision of the draft order in paragraphs 79, 80, and 84, and proposed 47 CFR 54.1708(b) to establish a start date that approximates the beginning of the nationwide school closures, or even as late as April 1, 2020, in addition to making conforming changes in other applicable provisions and footnotes in the draft order and report, proposed rules, and eligible services list.

Thank you for considering this requested revision from the Council of the Great City Schools. Please let me know if there are questions or clarifications needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Casserly". The signature is fluid and cursive, written over a white background.

Michael Casserly
Executive Director