

United States Senate

WASHINGTON, DC 20510

February 17, 2022

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

Dear Chairwoman Rosenworcel:

We write to you regarding the implementation of the Infrastructure Investment and Jobs Act (IIJA), which makes historic investments in broadband infrastructure, broadband affordability, and digital equity to ensure every American has access to affordable, resilient, and secure high-speed broadband. Under the law, the Federal Communications Commission (FCC or Commission) will play a key role in making this goal a reality by requiring Internet Service Providers (ISPs) display consumer labels showing essential pricing information so that consumers can make informed choices when purchasing internet plans.¹ In order to best support this, we urge the Commission to independently collect data on pricing information—including monthly fees, one-time fees, and promotional rates—in order to verify and audit the information ISPs include in the broadband labels mandated by the legislation. This is especially pressing given the FCC’s recent Notice of Proposed Rulemaking on this issue.² We know this is an important issue for you, and the discussion at the January open meeting was an important step forward on these issues.

Pricing data is critical to ensure that the broadband market is competitive and affordable. Americans living in rural and low-income neighborhoods reportedly pay the same for broadband as Americans living in wealthier enclaves, yet receive slower broadband speeds.³ Worse, many Americans have no options. 88 million Americans have only one choice for a broadband provider, so they are forced to pay for sub-par speed with no options.⁴ Without accurate and comprehensive pricing data, the scope of this problem will remain hidden, and the country’s most vulnerable consumers will continue to pay the highest prices for the slowest service.⁵ This

¹ Infrastructure Investment and Jobs Act, P.L. 117-58; H.R. 3684; §60504.

² “FCC FACT SHEET: Empowering Broadband Consumers Through Transparency.” Notice of Proposed Rulemaking, Jan. 6, 2022. CG Docket No. 22-2; <https://docs.fcc.gov/public/attachments/DOC-378983A1.pdf>

³ “Do You Pay Too Much for Internet Service? See How Your Bill Compares.” Inti Pacheco and Shalani Ramachandran. *Wall Street Journal*, Dec. 24, 2019. <https://www.wsj.com/articles/do-you-pay-too-much-for-internet-service-see-how-your-bill-compares-11577199600>

⁴ <https://www.theverge.com/22177154/us-internet-speed-maps-competition-availability-fcc>

⁵ “The Cost of Connectivity 2020.” Becky Chao and Claire Park. *New America*, July 15, 2020. <https://www.newamerica.org/oti/reports/cost-connectivity-2020/>

is significant since high cost also remains one of the chief reasons cited for not having a home broadband subscription.⁶ Increasing broadband affordability is a critical part of closing the digital divide.

Congress acted to protect American consumers who faced a complex web of hidden costs such as equipment fees and activation charges.⁷ The IJIA explicitly requires the FCC to adopt “Open Internet Broadband Consumer Labels” as described in a rule initially proposed and unanimously supported by industry and consumer interests of the Commission’s Consumer Advisory Committee (CAC). This rule now requires ISPs disclose to consumers information regarding broadband internet access service plans, including plan pricing.⁸ The Broadband Consumer Label is a safe-harbor format for displaying this information in a consistent, simple-to-understand structure that would enable consumers to compare services of different broadband providers.⁹

In addition to the Broadband Consumer Labels, Congress required that the Commission issue rules regarding annual collection of price and subscription rates for providers participating in the Affordable Connectivity Program.¹⁰ Transparent pricing data is important for protecting consumers. As the FCC Office of Inspector General noted in its most recent semi-annual report to Congress, the Commission should ensure that any new regulations implementing programs newly authorized by Congress should “guard against fraud, waste and abuse.”¹¹ The Commission’s independent collection of pricing data is critical to preventing these types of abuses.

We also recognize that the Commission already made concrete progress towards turning these requirements into realities for consumers. With its recent Notice of Proposed Rulemaking on consumer labels, the FCC started considering important questions, such as whether the rule initially proposed by the Commission’s Consumer Advisory Committee should be updated, how the Commission can ensure the accuracy of the information in the labels, and how the labels can be designed to be as accessible as possible to consumers.¹² Following the Commission’s January

⁶ “Measuring the Gap.” John Horrigan. National Digital Inclusion Alliance, February 2020.

<https://www.digitalinclusion.org/measuring-the-gap/>

⁷ “Broadband Costs too Much.” Kevin Taglang. *Benton Institute*, July 20-24, 2020.

<https://www.benton.org/blog/broadband-costs-too-much>; “How Cable Companies Use Hidden Fees to Raise Prices and Disguise the True Cost of Service.” Jonathan Schwantes. *Consumer Reports*, October 2019. <https://advocacy.consumerreports.org/wp-content/uploads/2019/10/CR-Cable-Bill-Report-2019.pdf>

⁸ Public Notice, April 4, 2016. Consumer And Governmental Affairs, Wireline Competition, and Wireless Telecommunications Bureaus Approve Open Internet Broadband Consumer Labels. Federal Communications Commission. GN Docket No. 14-28. DA 16-357.

⁹ Protecting and Promoting the Open Internet, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601, 5881, para. 585 (2015) id. at 5672, paras. 162-63.

¹⁰ Infrastructure Investment and Jobs Act, P.L. 117-58; H.R. 3684; §60502(c)

¹¹ “Semiannual Report to Congress.” Federal Communications Commission Office of Inspector General, April 1, 2021—September 30, 2021. https://www.fcc.gov/sites/default/files/fcc_oig_sar_09302021.pdf

¹² “FCC FACT SHEET: Empowering Broadband Consumers Through Transparency.” Notice of Proposed Rulemaking, Jan. 6, 2022. CG Docket No. 22-2; <https://docs.fcc.gov/public/attachments/DOC-378983A1.pdf>

Open Meeting, we now encourage the Commission to further explore how to ensure the data ISPs provide to consumers is accurate and reliable.

Establishing accurate and detailed consumer labels and increasing the FCC's collection of pricing data will not only help inform Congress and the FCC going forward, but will empower consumers to demand better service and fair prices. With the passage of IIJA, we have an opportunity to build equitable broadband infrastructure for all Americans. Such equity, however, requires transparency and competition in both high density and rural markets. It is critical that the Commission hold ISPs accountable on both fronts.

We look forward to working with you on this important matter as you continue to make progress in this area.

Sincerely,



BEN RAY LUJÁN
United States Senator



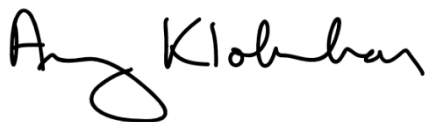
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