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APPROPRIATIONS
BANKING, HOUSING, AND
URBAN AFFAIRS
BUDGET
FOREIGN RELATIONS

United States Senate

July 7, 2021

The Honorable Janet Yellen
U.S. Secretary of Treasury
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20520

Dear Secretary Yellen,

On March 11, President Biden signed the American Rescue Plan Act of 2021 (“ARP”) legislation designed to provide relief to the American people in response to the coronavirus epidemic. The ARP authorized the \$350 billion Coronavirus State and Local Fiscal Recovery Fund and the \$10 billion Capital Projects Fund for state, local, territorial, and tribal governments. Both funds can be used for various infrastructure projects, including expanding access to affordable and reliable broadband to communities hit hard by COVID-19. This funding provides a unique opportunity for state and local governments to leverage federal funding to address digital inequities. I encourage the Department of Treasury (“the Department”) to create a Final Rule that will provide local leaders maximum flexibility to craft solutions to ensure that residents of their communities have access to reliable and affordable high-speed internet.

The coronavirus pandemic has revealed and deepened the profound disparities in our country. Schools and businesses closed and millions of Americans became reliant on the internet to perform daily tasks that previously were conducted in person. This new reality was especially difficult for low-income Americans to navigate. Americans without access to fixed, reliable, and affordable home broadband have trouble accessing telemedicine appointments, online education platforms, and fully participating in a society dependent on internet connectivity. Research conducted prior to the pandemic concluded that the lack of internet access at home puts students at a competitive disadvantage and created a homework and achievement gap. Since the onset of the coronavirus, this homework gap has turned into a full-fledged learning gap for some students.

Although infection rates are dropping and many localities have lifted stay-at-home orders, the reliance on high-speed broadband is unlikely to decrease. As user needs evolve and new applications become integral and necessary, access to high-speed broadband shifts from being a luxury to becoming a necessity. While local governments tried to ensure that students and families had access to high-speed internet during the pandemic, many localities dealt with the reality that their markets were unserved or underserved. Due to obsolete technology, market forces, and a lack of competition, some residents' options were limited to low-quality high-cost services.

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The funding authorized by the ARP will allow local governments to address these issues. Localities will have the opportunity to step in where private industries have not and provide affordable and equitable broadband access to their residents. The Department must ensure that the Final Rule allows local jurisdictions, especially urban and suburban jurisdictions, autonomy to invest in their communities. The choices will look different depending on each community's needs. In some communities where private competition is limited because of regulatory barriers to entry or the high fixed costs of infrastructure investment, localities can build their own middle-mile networks and offer competitive access to the private sector. Other communities may leverage public-private partnerships to ensure that their low-income residents have the same access to quality high-speed broadband as their affluent residents.

The Department should clarify in the rules that eligible projects are not required to solely provide service to unserved and underserved locations and that if a jurisdiction lacks unserved or underserved areas, that jurisdiction may still use funds for broadband infrastructure. Eligible projects should also include areas with existing wireline 25/3 Mbps service to meet project feasibility requirements, provided that they prioritize addressing the needs of residents disproportionately impacted by the COVID-19 pandemic. This is especially important for underserved communities where the digital divide between low and high-income communities is especially disparate. In those communities, affluent neighborhoods have access to high-speed broadband from multiple providers while investment in low-income communities is non-existent.

The Department should not limit localities to the Federal Communication Commission's ("FCC") definition of "served" because the data used by the FCC is deeply-flawed. While the FCC has been charged with creating modern and updated maps, the Department should not bind localities to outdated data. Earlier this month, the National Telecommunications and Information Administration ("NTIA") released their new Broadband Need interactive broadband map which includes public and private data and information on high poverty areas, usage patterns and lack of computer access. Some of the areas identified as high-need on the NTIA map are considered served based on the FCC's mapping criteria. Many state and local governments know exactly who do and do not have access to reliable high-speed broadband within their communities and some states have created their own maps with granular data. The Department should allow states to use their insights to ensure that federal dollars are efficiently targeted and leveraged.

In addition, the FCC's definition of "served" does not include affordability. Access to broadband becomes less important if users cannot afford the service. According to Pew Reports, over a third of low-income Americans had difficulty paying for their broadband services in the past year.¹ A quarter of the U.S. population still does not have a broadband internet connection at home and cost is a significant deterrent. Equal access to high-quality broadband encourages digital literacy and economic growth.² Localities should be able to factor affordability as they consider investments in broadband infrastructure.

I commend the Department for its speed in releasing Interim Final Guidance and providing updated

¹ Colleen McClain, "34% of lower-income home broadband users have had trouble paying for their service amid COVID-19," *Pew Research Center*, June 2021, available at <https://www.pewresearch.org/fact-tank/2021/06/03/34-of-lower-income-home-broadband-users-have-had-trouble-paying-for-their-service-amid-covid-19/>

² Andrew Perrin, "Mobile Technology and Home Broadband 2021," *Pew Research Center*, June 2021, available at <https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/>

FAQs to stakeholders. The funding provided in the ARP provides an opportunity for our country to build back better and close the digital divide. I encourage the Department to issue a Final Rule that is not overly prescriptive but rather empowers local governments and allows them to determine their needs as they work to guarantee that their residents are connected and full participants in our digital world.

Sincerely,

A handwritten signature in blue ink, reading "Chris Van Hollen". The signature is fluid and cursive, with the first name "Chris" being the most prominent.

Chris Van Hollen
United States Senator