

Congress of the United States
Washington, DC 20515

May 8, 2023

Ms. Sharon Diskin
Acting Inspector General
Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

Dear Ms. Diskin:

We write to request your review of the Federal Communications Commission’s (FCC) management of taxpayer subsidies of broadband access for low-income Americans during the 2020-21 government-imposed lockdowns. Serious concerns have been raised regarding the effectiveness of temporary broadband access programs like the Affordable Connectivity Program (ACP). Your office’s independent evaluation will help us better understand if these efforts have been a justified use of taxpayer dollars.

As you know, the FCC received more than \$17 billion through the Consolidated Appropriations Act of 2021 and the Infrastructure Investment and Jobs Act to keep Americans online during the pandemic and increase adoption of broadband by low-income Americans through the Emergency Broadband Benefit (EBB) program and its successor program, the ACP. Despite the good intentions of these programs, questions have been raised regarding their effectiveness and FCC oversight over how program dollars have been spent.

While much focus has been paid to reports of fraud—and we are grateful for your office’s role in raising awareness of the most serious incidents—it is equally if not more important to evaluate what quantifiable benefits have been delivered by the subsidies. Specifically, we seek to determine to what extent the programs have accomplished the FCC’s stated goal of “reduc[ing] the digital divide for low-income consumers”¹ and ascertain the data behind FCC Chairwoman Rosenworcel’s statement that “millions of families who previously could not get online or struggled to pay for this modern-day necessity are now connected” due to ACP.²

Unfortunately, there are strong indications that the programs have not been effective in increasing broadband adoption. According to studies of the EBB program, only five to 10

¹ *Affordable Connectivity Program and Emergency Broadband Program*, WC Docket No. 21-450, et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2, ¶ 210 (Jan. 14, 2022).

² FCC, *Over 10 Million Households Enroll in Affordable Connectivity Program*, Press Release (Feb. 14, 2022), <http://docs.fcc.gov/public/attachments/DOC-380259A1.pdf>.

percent of subsidized participants were not previously online.³ The FCC’s surveys of ACP participants similarly confirm that only 16 percent of respondents had no internet access prior to subscribing with the ACP.⁴ This data suggests that the vast majority of tax dollars have gone to those who already subscribed to broadband plans prior to the subsidy and that the programs have been poorly targeted to the stated goal of reducing the digital divide. This fact has been confirmed by telecom companies participating in the programs, too. As has been reported in the press, the largest recipient of both EBB and ACP funds recently stated, “[t]he vast majority of the [ACP] customers we have were already existing customers who are now benefiting from that benefit.”⁵

Unsurprisingly, it does not appear that the FCC has studied whether the program is successfully targeting non-adopters. For years, the Government Accountability Office (GAO) and other independent evaluators have criticized the FCC’s failure to study the Lifeline program—a separate FCC low-income subsidy program that dates back to the 1980s—and track its progress over time.⁶ Unfortunately, the FCC did not seemingly learn from its Lifeline mistakes in designing the ACP; a 2023 GAO report criticized the FCC’s “lack of specific targets and clarity” in defining performance goals and measuring the program’s progress.⁷ Moreover, to the extent that the FCC has attempted to measure success, it has focused predominantly on program participation rates. But demonstrating that the program is popular does not prove its benefits.

As Congress considers requests to extend the ACP, it is important to understand the program’s record to date. To that end, we request your help in conducting a comprehensive review of the ACP and providing written responses to the following questions by June 1, 2023.

1. Are ACP subsidies being targeted to households currently without broadband?
 - a. Of the total number of ACP subscribers, how many did not subscribe to broadband prior to participating in ACP?

³ George S. Ford, *EBB, Lifeline, and ACP: Some Guidance*, Perspectives, Phoenix Center for Advanced Legal & Economic Public Policy Studies (Jan. 13, 2022), <https://www.phoenix-center.org/perspectives/Perspective22-01Final.pdf>.

⁴ GAO, *FCC Could Improve Performance Goals and Measures, Consumer Outreach, and Fraud Risk Management*, GAO-23-105399 (Jan. 18, 2023), <https://www.gao.gov/assets/gao-23-105399.pdf>.

⁵ Nicole Ferraro, *FCC data shows Charter is largest ACP provider at \$910M*, Light Reading (May 1, 2023), [https://www.lightreading.com/broadband/fcc-data-shows-charter-is-largest-acp-provider-at-\\$910m/d/d-id/784641](https://www.lightreading.com/broadband/fcc-data-shows-charter-is-largest-acp-provider-at-$910m/d/d-id/784641). This inefficiency seems to be partly attributable to flaws in the programs’ statutory eligibility criteria, which were based on income and participation in federal assistance programs. These criteria appear to be incredibly imprecise as proxies for targeting non-adopters, sweeping in 40% of all U.S. households, over 70% of whom were already broadband subscribers prior to the ACP. Daniel Lyons, *Assessing Broadband Affordability Initiatives*, American Enterprise Institute (January 2023), <https://platforms.aei.org/wp-content/uploads/2023/01/Assessing-Broadband-Affordability-Initiatives.pdf>.

⁶ GAO, *FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program*, GAO-15-335 (Mar. 2015), <https://www.gao.gov/assets/gao-15-335.pdf>.

⁷ GAO, *supra* note 4.

- b. What processes, if any, has the FCC developed to identify low-income households that do not already subscribe to broadband service?
 - c. Has the FCC collected and analyzed information about low-income households that currently lack broadband subscriptions to determine why those households do not purchase broadband?
 - d. What policies and processes has the FCC developed to ensure that ACP subsidies are targeted to households without broadband?
 - e. Has the FCC taken steps to enroll and/or expand ACP participation among households that already have broadband service?
 - f. What steps has the FCC taken to ensure that providers are targeting subsidies to those who lack broadband, rather than primarily enrolling their existing broadband subscribers onto an ACP plan?
 - g. How many ACP subscribers were on a pre-existing private low-income program like Comcast's Internet Essentials prior to enrolling in ACP?
2. Has the FCC developed specific goals and metrics to track the ACP's effectiveness and progress over time?
- a. What specific and defined targets has FCC developed for ACP and how is the FCC measuring progress relative to those metrics?
 - b. Are these targets focused on increasing adoption among households without broadband?
 - c. In 2016, the Universal Service Administrative Company contracted Grant Thornton Public Sector LLC (Grant Thornton) to conduct an independent program evaluation of Lifeline. Did the FCC implement the Grant Thornton report's recommendations on performance metrics and goals when designing ACP?⁸
 - d. Has the FCC implemented GAO recommendations to improve performance goals and measures in ACP?
 - e. In gauging the performance of ACP, is the FCC adequately distinguishing the respective effects of ACP and Lifeline with respect to broadband adoption?
 - f. Has the FCC's Office of Economics and Analytics conducted a cost-benefit analysis of ACP?

⁸ 2020 Lifeline Program Evaluation Prepared by Grant Thornton for the Universal Service Administrative Company (Feb. 5, 2021), <https://www.neca.org/docs/default-source/wwpdf/public/7121usac.pdf>.

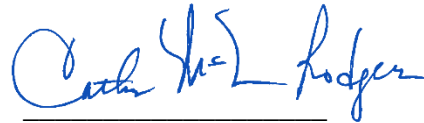
3. Has the FCC adequately communicated with participating providers to prepare for potential lapses in ACP funding?
 - a. How is FCC planning to ensure that as current funding expires, subscribers who would otherwise lose broadband service are prioritized?

Thank you for your attention to this matter.

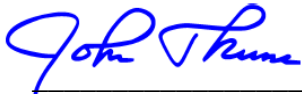
Sincerely,



Ted Cruz
Ranking Member
Committee on Commerce
Science, and Transportation



Cathy McMorris Rodgers
Chair
Committee on Energy and Commerce



John Thune
Ranking Member
Subcommittee on Communications, Media
and Broadband



Robert E. Latta
Chair
Subcommittee on Communications
and Technology