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May 1, 2024

The Honorable Ben Ray Luján
Chair
Subcommittee on Communications, Media and Broadband
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

The Honorable John Thune
Ranking Member
Subcommittee on Communications, Media and Broadband
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Chair Luján, Ranking Member Thune, and members of the subcommittee:

Thank you for your decision to hold a hearing on May 2, 2024, titled “The Future of Broadband Affordability.” My name is Jonathan Cannon, and I am Policy Counsel on the Technology and Innovation team at the R Street Institute. The R Street Institute is a non-partisan think tank dedicated to free markets and limited, effective government. One of our priorities is to seek solutions to address broadband challenges and to lower barriers to help Americans seize the opportunity of the digital economy. To that end, we would like to reiterate our support for the Affordable Connectivity Program and work with this subcommittee to find a long-term sustainable path for the extension of this important program.

Prior to joining the R Street Institute, I was an attorney advisor in the Office of Legislative Affairs at the Federal Communications Commission (FCC) in 2020 when the Emergency Broadband Benefit Program was started by the CARES Act.¹ I saw how quickly and effectively Congress and the FCC mobilized to implement this program and connect those left on the wrong side of the

¹ H.R. 133, 116th Cong.

digital divide during the COVID-19 pandemic. The program’s success was so evident that it was extended as the Affordable Connectivity Program (ACP). This has been a bipartisan program since its inception, and it should remain so moving forward.

The ACP is a light-touch, market-friendly broadband affordability program that has enabled 23 million households to connect and stay connected online. The program can be updated and modified by Congress to account for changes to both customer needs and market demands. Ultimately, the goal of the program is to help families get off of ACP and become an integral part of our digital economy. So far, the data to that effect looks promising.

As R Street analysis has highlighted on several occasions, the ACP is “a model of success.”² The ACP addresses the affordability gap enabling existing customers to remain connected, while also helping customers connect to the digital economy for the first time. There are currently over 23,000,000 households in the US enrolled in ACP.³ These households are using the technology-neutral voucher to receive a \$30-per-month discount for either mobile, fixed, fixed wireless, or even satellite.⁴

Although we recognize that there are genuine concerns with the ACP, we do not see these as fatal flaws of the program. Instead, we see these concerns as an opportunity to further refine and improve it. Some have raised concerns about the ACP’s negative impact on the marketplace, but all evidence demonstrates the opposite. According to recent studies, the most popular broadband speed tier plan prices dropped by 18.1 percent during ACP implementation.⁵ ACP is a bootstrap program that connects families to the digital economy and its results speak for itself.

A prevailing concern raised by critics of the ACP is that the program is subsidizing providers, and providing limited, if any, benefits to customers. Fortunately, studies disprove that notion. Recently-published research found that not only do Internet Service Providers (ISPs) pass cost savings on to their customers, but they also are “not inflating prices to appropriate government subsidies, and the ACP is successfully reducing the cost of internet plans for eligible households.”⁶

²Jonathan Cannon, The Affordable Connectivity Program: When Government Spending is Good, R Street Institute (Apr 19, 2023), <https://www.rstreet.org/commentary/the-affordable-connectivity-program-when-government-spending-is-good/>

³ Additional ACP Data, Universal Service Administrative Company, <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/additional-acp-data/> (last visited Apr. 30, 2024)

⁴ *Id.*

⁵ Arthur Menko, 2023 Broadband Pricing Index Broadband Prices Continue to Decline, USTelecom <https://ustelecom.org/wp-content/uploads/2023/10/USTelecom-2023-BPI-Report-final.pdf> (last visited Apr. 30, 2024).

⁶ Schieberl, River and Ahmadi, Nikki, Measuring the Success of the Affordable Connectivity Program (July 31, 2023) <https://ssrn.com/abstract=458690> or <https://dx.doi.org/10.2139/ssrn.4528690>

The purpose of the study was to determine “if there is a statistically significant difference in the price of an internet plan when the ISP offers enrollment into the Affordable Connectivity Program.”⁷ The study revealed that the cost of an internet plan when offering enrollment into the ACP decreased by \$3.27, not including the \$30/\$75 discount offered by the program.⁸ Notably, the study concludes that providers “are passing on cost savings to their customers... and the prices are not being artificially raised to appropriate government subsidies.”⁹

Some have written critiques of the program that appear at first blush to contradict the results of this paper and study.¹⁰ However, this analysis fails to compare the price of both fixed and wireless broadband services. With the majority of ACP recipients utilizing the benefit for mobile broadband, the data looks at only fixed broadband when making the determinations about costs. It further admits to using a small dataset and it is not clear whether the results hold as the percent of the population receiving ACP benefits increases. This critique does not examine the ACP program in comparison to alternative efforts to expand broadband access. The ACP program fares well by comparison and is less intrusive, and less likely to distort the broadband marketplace.

With the large variability of service price offerings and prices across the country, a small sample is hardly a good predictor of the cost of services. Another critique of the program in the paper is the lack of new subscribers. This further undercuts the argument. If the program were only supplementing existing customers with a neutral voucher, it is unlikely that would have any impact on the market or the cost of broadband services.

During the COVID-19 pandemic internet demand exploded, and providers not only met that demand, but were able to reduce prices, offer faster speeds, and keep Americans connected.¹¹ Broadband prices have decreased by 42% since 2016, including by as much as 60% on the highest-speed plans. And that’s to say nothing of the increase in speeds available to customers.¹² With the overall trend of broadband prices decreasing over time, as noted in several studies, there is stronger evidence to suggest that ACP has at least done little to manipulate the market broadband prices. If anything it has done little to effect the trend of faster speeds at lower price points.

⁷ *Id.* at 4

⁸ *Id.* at 5

⁹ *Id.* at 7

¹⁰ Bidenomics Goes Online: Increasing the Cost of High-Speed Internet, Paul Winfree, Economic Policy Innovation Center, <https://epicforamerica.org/publications/bidenomics-goes-online-increasing-the-costs-of-high-speed-internet/>

¹¹ COVID-19 Overview, NCTA, <https://www.ncta.com/covid-19-overview>, (last visited, apr. 30, 2023)

¹²New Study: US Broadband Prices Fell 42% Since 2016, Roslyn Layton, Forbes (Feb 28, 2022), <https://www.forbes.com/sites/roslynlayton/2022/02/28/new-study-us-broadband-prices-fell-42-since-2016/>

Unfortunately, the ACP, like many federal programs, has been the victim of arbitrage and subject to waste, fraud, and abuse.¹³ However, the FCC’s Office of Inspector General has readily identified and addressed these issues. For example, in September of last year, the IG completed an investigation that led to providers voluntarily repaying \$49.4 million that was improperly used.¹⁴ As Congress looks to extend and reform the ACP program, they are well suited to continue to refine and strengthen it to reduce opportunities for waste, fraud, and abuse.

As we highlighted in comments submitted before the Universal Service Working Group, “Before any long-term solution is considered, Congress should at least ensure a short-term extension of the ACP,” which would provide Congress an adequate opportunity “to examine the program’s eligibility criteria to potentially lower the cost of the benefit and ensure that the ACP targets customers who depend on it to remain connected.”¹⁵ Congress is in the perfect position to “make meaningful changes to ensure [ACPs] longevity and sustainability.”¹⁶ As Congress looks to extend the ACP, Congress should consider rolling it into the future Universal Service Fund (USF) programs.

Senator Cruz, in a recent whitepaper, noted that ACP and Lifeline “should be streamlined and reformed to target subsidies to those who truly need them to get online.”¹⁷ As his paper highlighted, the Government Affairs Office has identified 133 broadband programs across 15 agencies.¹⁸ There is an enormous mission creep across government agencies that needs to be addressed to ensure that we are maximizing every dollar spent on broadband and taking steps to close the digital divide. While both Republicans and Democrats are rightfully frustrated by the significant cost and duplicity of federal broadband programs, they are in a perfect position to meet these challenges head-on, consolidate existing broadband programs, and prioritize ACP as “one broadband program to rule them all.”¹⁹

¹³John Thune, Thune Cruz Statment on the FCC’s Mismanagement of a Taxpayer Funded Broadband Subsidy Program (Jan 25, 2023), <https://thune.senate.gov/public/index.cfm/2023/1/thune-cruz-statement-on-the-fcc-s-mismanagement-of-a-taxpayer-funded-broadband-subsidy-program>

¹⁴ FCC Inspector General Announces Major ACP Provider Voluntarily Repaid Nearly \$50 Million and Issues Advisory Regarding ACP Provider Compliance with Program Usage Rules, Federal Communications Commission (Sept. 28, 2023), <https://docs.fcc.gov/public/attachments/DOC-397332A1.pdf>

¹⁵Jonathan Cannon, Comments to the Senate Universal Service Working Group (Aug. 15, 2023) <https://www.rstreet.org/outreach/r-street-submits-comments-to-senate-universal-service-fund-working-group/>

¹⁶ *Id.*

¹⁷ Ranking Member Ted Cruz, Protecting Americans From Hidden FCC Tax Hikes, Blueprint for Universal Service Fund Reform <https://www.commerce.senate.gov/services/files/5CA218F4-384D-4DCA-8678-6885885209DC> (Last visited Apr. 30, 2024).

¹⁸ Government Accountability Office, Broadband: A National Strategy Needed to Coordinate Fragmented, Overlapping Federal Programs, GAO-23-106818 (2023).

¹⁹Jonathan Cannon, The Conservative Case for the Affordable Connectivity Program, R Street (Sept. 2023) <https://www.rstreet.org/events/the-conservative-case-for-the-affordable-connectivity-program/>

Thank you again for holding this important hearing and for your consideration of my views. Should you have any questions or wish to have further discussion, please do not hesitate to contact me.

Sincerely,

/s/

Jonathan Myles Laurier Cannon
Policy Counsel Tech and Innovation
R Street Institute