

Attachment – Additional Questions for the Record

Chairman Latta

1. **NTIA further reduced the scope of the BABA waiver for optical transceiver between the proposed to the final waiver in spite of several comments stating that a sufficient supply existed within the United States. Will NTIA consider revising the NTIA BEAD BABA waiver to comply with the requirements and intentions of Congress set forth in law?**

Response: This Administration believes that if it can be made in America, it should be made in America. The National Telecommunications and Information Administration (NTIA) will strictly enforce “Build America, Buy America” (BABA) requirements outlined in the Infrastructure Investment and Jobs Act (IIJA) and the Internet for All Notices of Funding Opportunity, while delivering affordable, reliable, high-speed Internet service to everyone in America.

On February 23, 2024, the Department of Commerce (DOC) released a BABA waiver for the Broadband Equity, Access, and Deployment (BEAD) Program. This waiver takes into account comments received during the 30-day public comment period for the proposed draft waiver and provides specificity and certainty on how the Buy America preference applies to optical fiber, fiber optic cable, electronics, enclosures, and other products that will be used to build broadband networks. DOC released this waiver following over a year of careful research and extensive engagement with stakeholders across the country. DOC held more than 385 meetings with over 50 firms and 250 individuals—representing a diverse range of manufacturers, Internet service providers, trade associations, and unions among others—who are potentially impacted by the BABA waiver.

DOC will review the BEAD Program BABA waiver no less than annually, as stated in the waiver itself.

2. **Does NTIA plan to allow the BEAD program to cover the cost to locate currently existing infrastructure services (fiber optic cables, gas lines) associated with broadband expansion?**

Response: Yes, costs related to location services may be eligible under the BEAD Program. The BEAD Notice of Funding Opportunity (NOFO) defines eligible uses of program funding in connection with last-mile broadband deployment projects. Pursuant to the NOFO, utility locate costs could fall into the eligible cost category of “Construction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for backhaul, middle- and last-mile networks, and multi-tenant buildings.”¹

3. **There have been concerns around the process for developing the most recent**

¹ National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 39, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

NOFO for the Public Wireless Supply Chain Innovation Fund, namely that there was not significant industry engagement prior to the release of the document. While there was a Request for Comment that took place more than a year ago, there does not seem to have been any substantial consultation with industry since that time. Given the changes in technology and the ecosystem, as well as the opportunity to learn from the experience with the previous NOFO, it seems that the process was lacking.

- a. **Can you please share detailed information around the industry engagement that took place specific to the second NOFO?**
- b. **Can you commit to more robust consultation with industry stakeholders during the drafting of NOFO 3 and any future NOFOs?**

Response: NTIA values industry engagement and views stakeholder feedback as critical to advancing an effective, forward-looking grant program. To help inform the strategic direction of the Public Wireless Supply Chain Innovation Fund (Wireless Innovation Fund), including development of the latest Notice of Funding Opportunities (NOFO), NTIA has incorporated feedback from the December 2022 Request for Comment (RFC), January 2023 Listening Session and ongoing market analysis. The latter has proven invaluable as NTIA works to administer a program that effectively addresses the statutory objectives in a timely, efficient matter. Among other efforts, NTIA has attended industry conferences and held public discussions with a variety of industry stakeholders, including original equipment manufacturers (OEMs) and mobile network operators (MNOs). As NTIA looks to NOFO 3 and beyond, NTIA is committed to continuing to incorporate industry feedback and the latest market analysis. We share your view that stakeholder input is critical to the successful implementation of the Innovation Fund. We are actively working to stand up the Innovation Fund Advisory Committee (IFAC). The IFAC's launch, expected later this year, will augment and further strengthen our existing stakeholder outreach processes.

4. **Accelerating the deployment of trusted ORAN equipment into the US market is a critical goal for NTIA as part of the Public Wireless Supply Chain Innovation Fund grants. While the recently announced second Notice of Funding Opportunity states that it prioritizes commercialization of ORAN technology, the fund is still focused on early-stage R&D rather than promoting actual deployment and adoption of commercially ready ORAN solutions. Given the national security implications of a secure supply chain for ORAN, how can NTIA better prioritize the use of federal funding to focus on real world deployments?**

Response: A key objective of the Public Wireless Supply Chain Innovation Fund (Wireless Innovation Fund) is to strengthen the wireless supply chain and advance network security. NTIA's first two NOFOs help achieve these goals. The first NOFO focused on expanding testing and evaluation (T&E) activities and developing new and improved testing methods to advance security of these networks, as well as performance and interoperability. The focus on testing and evaluation directly reflected feedback from the RFC. For example, respondents highlighted the need for interoperability testing and certification to facilitate technology development and

broader commercial adoption – with 76% of stakeholders citing the need for the Innovation Fund to prioritize testing.

NTIA’s second NOFO focuses on radio units, which are the largest and most costly part of the carrier network. The second NOFO is divided into two research areas, the first of which is directly focused on commercialization. The NOFO targets open radio unit commercialization by accelerating the development of open radio units to the point where they meet the needs of wireless carriers and are ready for commercial trials. In order to facilitate real-world deployment and address customer needs, applicants must include a Commercial Transition Plan and Letter of Partnership Intent under the first research area.

Through the Innovation Fund, NTIA is working to address a range of market and technical challenges that inhibit Open RAN commercial adoption. Looking forward, NTIA will build upon this foundational work as the program works to advance its statutory objectives, including accelerating commercial deployments.

- 5. The latest Notice of Funding Opportunity would restrict radio vendors from submitting more than one application in many cases. During the hearing, in response to a question about the limitation on radio vendor applications, you committed to following up with additional details. Can you explain how this restriction fulfills Congress' intent to create diverse supply chains and multi-vendor, interoperable networks if an RU vendor can only partner with one MNO?**

Response: NTIA is committed to fulfilling Congress’ intent to create diverse supply chains and multi-vendor, interoperable networks through the Wireless Innovation Fund. We developed our first and second NOFOs in pursuit of this goal and will continue to guide our work moving forward.

Under the “Open Radio Unit Commercialization” research area, an RU vendor may only submit one application. However, RU vendors have the flexibility to work with multiple MNOs – or potential customers – as part of a single application. With these requirements and provisions in place, NTIA expects to receive a number of high-quality applications, maximizing the opportunity to fund projects that produce market-ready open RUs.

Under the “Open Radio Unit Innovation” research area, applicants – including eligible RU vendors - may submit up to three applications.

The Honorable John Joyce

Based on your testimony, NTIA is reviewing each and every state's low-cost broadband proposal to determine whether the proposed prices are “affordable” in the different states. NTIA is then conditioning its approval of the states’ BEAD plans on the states changing their proposals to accommodate what NTIA considers “affordable.” Yet, according to your testimony, you and others at Commerce and NTIA don't consider that to be prohibited rate regulation.

1. **Did you or others in Commerce or at NTIA seek the advice of your legal counsel on whether NTIA’s review of each proposal and determination of affordability itself was rate regulation?**
2. **Did you or others at Commerce or at NTIA seek the advice of counsel on whether NTIA's conditioning its approval of state plans, and effectively the states' receipt of BEAD monies, on states agreeing to change their proposals to accommodate NTIA's assessment of what is affordable is rate regulation?**

Response: Consistent with the Infrastructure Investment and Jobs Act (IIJA), the National Telecommunications and Information Administration (NTIA) is not setting rates, and nothing in the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO) regulates rates. The requirement that BEAD subgrantees offer an affordable service tier for qualifying low-income subscribers is not rate regulation. Rather, it is a grant condition, as required by the statute, for participants of the BEAD Program to receive these federal funds.

The IIJA states that “[t]he persistent ‘digital divide’ in the United States is a barrier to” the nation’s “economic competitiveness [and the] equitable distribution of essential public services, including health care and education.”² Building an Internet connection to a home does not bridge the digital divide if a family cannot afford service. Providing an affordably-priced service tier for qualifying low-income households is critical for ensuring that this generational investment helps our most vulnerable populations. Recognizing this, IIJA requires BEAD Program subgrantees to “offer not less than 1 low-cost broadband service option for eligible subscribers” as a condition of receiving BEAD funding.³

NTIA is working with each Eligible Entity as it crafts a definition that best-suits its needs. NTIA has already approved Initial Proposals for Eligible Entities with a variety of approaches to the “low-cost broadband service option” definition. For example, NTIA has approved proposals that identify a range of expected costs to low-income households and permit providers to request waivers to account for areas where the costs to deploy are higher. This waiver model recognizes the geographic and economic diversity of states and territories, while ensuring affordable options are available. NTIA understands that the various approaches Eligible Entities have proposed, and NTIA has approved, reflect Eligible Entities’ balancing of a variety of interests, including affordability and robust provider participation.

BEAD Program staff are in frequent communication with NTIA’s Office of Chief Counsel (OCC). Among other things, OCC provides legal advice and counsel regarding the development and administration of NTIA policies and programs.

The Honorable Russ Fulcher

1. **Can you give me or my staff a status on how your office is working with land management agencies and historic preservation agencies when it comes to helping**

² Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. § 60101(2) (2021).

³ *Id.* at § 60102(h)(4)(B).

on the permitting of broadband buildouts and upgrades, particularly when it comes to lines across federal land? My staff is still hearing about the backlog and other issues at these agencies and since you raised the issue of streamlining the permitting process, I wonder if there is any way we can help you by removing obstacles to coordination with other agencies?

Response: To address permitting challenges for the Internet for All initiative, the National Telecommunications and Information Administration (NTIA) has established interagency partnerships, developed and distributed permitting tools, and fostered collaboration to improve federal broadband permitting. Specifically, NTIA developed a comprehensive contact list of real estate and environmental staff at all federal permitting agencies. NTIA held interagency broadband permitting meetings to introduce NTIA Federal and Environmental Program Officers to federal officials from other agencies who will participate in the environmental review and permitting process and initiate collaboration to support Internet for All project permitting. In addition, NTIA has provided each federal permitting agency with heat map reports identifying broadband serviceable locations that will require permits on or adjacent to federal lands and offered no-cost National Broadband Availability Map (NBAM) licenses to both agencies and Tribes. These resources assist agencies with planning and budgeting to efficiently process broadband applications. Also, at NTIA's request and following a consultation process and public comment period, the Advisory Council on Historic Preservation announced that it will make a 2017 program comment establishing streamlined historic preservation rules for communications infrastructure projects available to all federal agencies for projects on and off federal lands, immediately benefitting all Internet for All programs. This action will increase the predictability and efficiency of permit application reviews for NTIA and other federal agencies supporting high-speed Internet deployments. Finally, NTIA has collaborated on interagency agreements to coordinate reviews with the Bureau of Indian Affairs and the U.S. Forest Service, and programmatic Essential Fish Habitat conservation measures with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service. NTIA will continue to prioritize improvements in permitting efficiency as we work to achieve Internet for All and will collaborate with Congress on this shared goal.

2. I recall last year your desire to have a dedicated "federal lands desk" to help address the time and cumbersome permitting process. Any progress? Anything we can do further on our end?

Response: NTIA recognizes that broadband projects continue to face considerable permitting challenges even though their risk of significant environmental impacts is typically lower than many other types of infrastructure projects. Therefore, NTIA is adopting a proactive strategy to streamline and improve broadband permitting across NTIA's programs and maximize permitting coordination efforts and efficiency with other federal, state, and local agencies. Efforts within this strategy include improving NTIA's environmental and historic preservation review processes to maximize efficiency for grantees; establishing interagency partnerships, developing and distributing permitting tools, and fostering collaboration to improve other federal broadband permitting; and continuing to identify maximum impact measures to leverage influence and support external stakeholders in their own permitting efforts.

- 3. You noted in your testimony trying to streamline the process for building on government land. I have tried to streamline the NEPA and historic preservation processes for rural broadband installation upgrades on previously disturbed federal land by eliminating the need to go through another NEPA process and obtaining a "right of way" when these projects had already gone through and met all the environmental and historic preservation requirements. This Committee passed the American Broadband Deployment Act, which would remove many of these permitting barriers which could allow this money to stretch further and projects to be built in the required timeframe. Do you support this legislation and will you work with us to enact it into law?**

Response: NTIA has heard concerns from stakeholders that permitting complexities could lead to delays for the Internet for All programs. Therefore, NTIA is actively working to streamline processes, build resources, and coordinate with partners. For example, on April 1, 2024, NTIA announced 30 new “categorical exclusions” established to support National Environmental Policy Act (NEPA) reviews for broadband infrastructure deployments funded by the Internet for All programs. NTIA has also adopted six additional categorical exclusions from the First Responder Network Authority, an independent authority within NTIA, the nation’s communication network for first responders. NTIA has historically relied on 11 categorical exclusions established by the Department of Commerce in 2009 that remain available to support NEPA reviews. Categorical exclusions are categories of actions that a federal agency has determined, after review by the Council on Environmental Quality (CEQ), do not individually or cumulatively have a significant effect on the human environment and therefore typically require neither an environmental assessment nor an environmental impact statement. The use of categorical exclusions can reduce paperwork and save time and resources.

The Administration has not taken a position on the bill; however, NTIA staff is available to discuss proposed legislation.

- 4. You noted in your testimony new mapping tools to help grantees identify permit requirements early in their project planning. Can you expand on that?**

Response: On March 22, 2024, NTIA launched a new mapping tool, the NTIA Permitting and Environmental Information Application, to help grant recipients and others deploying infrastructure identify permit requirements and avoid potential environmental impacts when connecting a particular location to high-speed Internet service. The application is designed to help federal broadband grant recipients and subgrantees identify and understand the types of permits they will need and plan routes for their broadband deployments. Identifying permit requirements early, initiating pre-application coordination with permitting agencies, and avoiding environmental impacts help drive successful infrastructure projects. NTIA’s public release of the application supports government wide efforts to improve permitting and explore how online and digital technologies can promote efficient environmental reviews.

- 5. Can you provide me with an assessment of the BEAD program both at the national level and state levels? What’s your read on the level of cooperation when it comes to federal agencies working with state Broadband offices to ensure obstacles are**

removed to help local broadband providers?

Response: NTIA is proud of the progress it has made implementing the Broadband Equity, Access, and Deployment (BEAD) Program. Critical to that progress has been close collaboration with Eligible Entities as well as coordination with our Federal partners. For example, NTIA has held joint webinars with the Federal Highway Administration to ensure that State Departments of Transportation are aware of relevant rules regarding fiber in transportation rights of ways. Additionally, the BEAD Notice of Funding Opportunity requires Eligible Entities to submit to NTIA in their respective Initial Proposals the “steps that the Eligible Entity will take to reduce costs and barriers to deployment, promote the use of existing infrastructure, promote and adopt dig-once policies, streamlined permitting processes and cost-effective access to poles, conduits, easements, and rights of way, including the imposition of reasonable access requirements.”⁴ NTIA is committed to helping remove obstacles to robust provider participation and achieving our shared goal of Internet for All.

- 6. In May of last year, NTIA released a data-driven report demonstrating the successes of the shared licensed model called the Citizens Broadband Radio Service, or CBRS. The report notes that shared licensed approaches akin to CBRS can make spectrum even more valuable for both current and future applications. In your view, why are approaches to promoting spectrum through shared licensed policies that promote coexistence so important to the future of spectrum policy? Where do you see CBRS in future bands?**

Response: Given the lack of unencumbered Federal spectrum bands that can be easily reallocated for non-Federal use, dynamic spectrum sharing—when possible—is one key tool to meet the increasing spectrum needs of both the private-sector and Federal agencies. CBRS has been a very successful example of such sharing and, in fact, continues to improve through refinements to its sharing framework. NTIA, the Department of the Navy and the FCC announced in June 2024 that we successfully collaborated to expand the unencumbered service area for CBRS by modifying the aggregate interference model used in the 3.5 GHz band, reducing the size of Dynamic Protection Area neighborhoods along coastlines and around federal facilities throughout the country. This enables CBRS to provide uninterrupted access to mid-band spectrum that supports wireless Internet and other services to approximately 72 million more people, expanding the total unencumbered CBRS area to roughly 240 million people nationwide. We understand that one important emerging use of CBRS spectrum is for private networks—often used in modern manufacturing and other business facilities.

- 7. Why is it so important that our federal agencies like NTIA, the FCC, and DOD continue to work together, as well as involve a wide and diverse range of non-Federal stakeholders?**

Response: As a result of ongoing innovations in wireless technologies, demand for spectrum access continues to grow rapidly. In the private sector, next-generation Wi-Fi networks, large

⁴ National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 32, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

satellite constellations in low Earth orbit, rapidly increasing space launch cadences, 5G and 6G broadband networks, private wireless networks, autonomous vehicles, and other advanced systems are driving demand for wireless bandwidth. Federal spectrum access requirements to meet government missions are also growing. As recognized by the National Spectrum Strategy and the Presidential Memorandum on Spectrum, Federal agencies—including NTIA, the FCC, and DoD—must work closely together with non-Federal stakeholders to promote innovation and U.S. leadership in wireless technologies. This approach will unlock innovations that benefit everyone in America, while ensuring necessary access to spectrum for agencies and private-sector users, such as for scientific, public safety, critical infrastructure, and national security uses, now and into the future. For example, Federal Agencies with equities in the 7/8 GHz band will co-lead the study effort, including being funded and empowered to lead those portions of the studies relevant to individual agency mission requirements for the systems supported by the incumbent spectrum assignments in the band to ensure potential impacts to Federal Spectrum is fully addressed.

The Honorable August Pfluger

Subsea cables are a critical part of our global telecommunications infrastructure and carry the vast majority of international traffic. They have received increased attention as they have become attractive targets for foreign adversaries and terrorist groups seeking to disrupt, intercept, or manipulate communications networks.

NOAA plans to designate a 134-mile stretch of the California coastline as a national marine sanctuary. In the selected area is a subsea cable landing with eight existing cables. Without an exemption for undersea cables, any planned additions or maintenance would come with significant bureaucratic red tape and cost.

- 1. What is NTIA doing to ensure subsea cables are recognized as the critical infrastructure they are? Did the NTIA communicate to NOAA about potential economic or national security concerns of not providing an exemption for undersea cables?**
 - a. NOAA excluded a section of the sanctuary for possible future offshore wind infrastructure. Why did possible future infrastructure get carved out and not existing critical infrastructure?**

Response: Undersea cables play a critical role in broadband infrastructure, and NTIA has conferred with NOAA on its proposed designation of the Chumash Heritage National Marine Sanctuary. Staff for NTIA and NOAA met earlier this year to discuss telecommunications cables in the sanctuary region, NOAA’s permitting processes for subsea telecommunications cables, and how the proposed sanctuary could co-exist with the telecommunications industry. The National Marine Sanctuaries Act (16 U.S.C. § 1431 et seq.) governs designation and management of national marine sanctuaries and requires NOAA to facilitate all public and private uses of the resources of these marine areas to the extent compatible with the primary objective of resource protection. The Act further requires that any sanctuary designation will not terminate or grant the Secretary the right to terminate, among other things, any valid lease, permit, or license in

existence on the date of designation of a national marine sanctuary. NTIA continues to work with NOAA regarding this and other sanctuary designations.

b. On the topic of subsea cables, can you elaborate on NTIA's role within the Supply Chain Resiliency Center that DHS has established regarding subsea cables?

Response: NTIA participates in and collaborates with the DHS Supply Chain Resiliency Center, established in late 2023, including attending meetings, responding to requests for information, and providing policy expertise. NTIA looks forward to working with DHS on this effort in addition to maintaining our excellent collaboration in areas of shared interest, such as foreign investment in telecommunications licensing, sharing information and communications technology and services (ICTS) supply chain risk information with small and medium internet service providers, and information security policies.

2. Following up on my line of questioning in the hearing, as the head of the NTIA and tasked with solving interagency conflicts, and since there are severe disagreements between DoD and FAA over self-certification of Link-16 technologies in this band, what will NTIA do to comply with new FY24 laws on Link-16 to resolve this issue?

Response: Link-16, a military tactical communications system, operates in shared spectrum used by the FAA on a primary basis for some aircraft navigational aids. Both missions are critically important. Currently, this spectrum sharing is supported by a long-standing DoD/FAA bilateral agreement. NTIA is working with DoD and FAA to improve execution under that agreement while encouraging a fresh look to expand sharing opportunities without compromising air safety missions.

In your written testimony you mention that NTIA will be co-leading another study on the lower 3 gigahertz band with DoD about the development of a Dynamic Spectrum Sharing pilot. I agree that more research is needed on Dynamic Spectrum Sharing, however my understanding is that Dynamic Spectrum Sharing is still 5-10 years away from primetime.

3. When do you think we can see the dynamic spectrum sharing system NTIA is developing put into use?

a. If it's going to take 5-10 years, then it seems as though we are doing nothing to address the critical mid-band spectrum deficit between the United States and China in the near term. What guarantee is there that your spectrum strategy will result in a single megahertz of mid-band spectrum being reallocated for full-power commercial licensed use in the near term?

Response: The National Spectrum Strategy (NSS) calls for near-term, in-depth study of spectrum bands, including key mid-band spectrum in the Lower 3 GHz and 7/8 GHz ranges. Work on these study efforts has commenced, and agencies continue to work toward the goal of beginning the studies by the end of October 2024, as stated in the Implementation Plan. NTIA is establishing Spectrum Study Groups, which will govern and oversee the groups conducting the

technical work. For the Lower 3 GHz, DoD is a co-lead of the study and, along with other involved federal agencies for both band studies, is seeking funding for the studies from the Spectrum Relocation Fund. Distribution of these pipeline funds to the agencies, anticipated to occur Fall 2024, will trigger a two-year countdown to complete the band studies and then issue reports. This summer, in partnership with relevant agencies, we also will be standing-up external stakeholder meetings related to these band studies. Under the schedule for Lower 3 GHz set forth in the NSS Implementation Plan, “[a]fter receiving input based on completion of [the Dynamic Spectrum Sharing] initiative by DoD,” the band study will “consider how the DSS effort can augment the sharing studies” in October 2025. The agencies have agreed that there will also be an effort to study other opportunities for private-sector access in the band under several different scenarios (relocation, repacking, sharing, and a combination of different approaches). NTIA is confident in the NSS process.

Mr. Davidson, the IIJA required states to collaborate and coordinate with local and regional entities as they created their BEAD plan. States complied in good faith. After accepting public input on draft plans, they submitted a BEAD plan to NTIA, which provided feedback to "cure" the state's plan. In the hearing, a major topic was the NTIA requiring rate regulation by for state plans and a lack of transparency in the BEAD plan process. The federal government is spending 42 billion dollars on the BEAD program, but the IIJA explicitly exempted NTIA BEAD decisions from transparency requirements under the Freedom of Information Act (FOIA).

- 4. If someone wants to see what the NTIA has asked a state to change on their BEAD plan, where can they find that? Will you commit to (a) publishing all of the curing comments that NTIA has made to states; and (b) publicly posting all future curing comments?**

Response: NTIA understands the importance of transparency for the success of the Internet for All initiative. In accordance with the Broadband Equity, Access, and Deployment (BEAD) Notice of Funding Opportunity, Eligible Entities have publicly posted drafts of their Initial Proposals.⁵ NTIA is working with states on a redaction process before publishing final versions of states' application materials, to ensure that proprietary information or any personally identifiable information is redacted from items like proposed budgets. Moving forward, NTIA plans to make public Eligible Entities' approved Initial Proposals, as well as additional documentation pertaining to awards, compliance, and other programmatic details.

In 2002, a GAO report analyzing the WRC process concluded that the United States preparatory process for WRCs has raised concerns that the U.S. delegation may not be in the best position to promote U.S. positions as effectively as possible.

In 2023, another report by GAO analyzing the WRC process came to a similar conclusion: the inability to reach an agreement affected the U.S.'s ability to present a unified position for the WRC. It is clear that we need to take immediate action to improve our coordination

⁵ National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 9, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

and preparation for future WRCs.

Over the past twenty years, the WRC process has not seen significant improvements. The lessons we learned from WRC 23 are clear: the U.S. must engage and coordinate early in these international standard-setting bodies to effectively counter China's influence.

- 5. Planning for WRC 27 is already underway, and your staff recently attended the CITEL meeting. How did you coordinate with stakeholders and other agencies before this CITEL meeting, and how will you coordinate preparation for WRC items in the future?**
 - a. What are you doing to improve the WRC process, and what tools can Congress give the NTIA to succeed at WRCs in the future?**

Response: NTIA engaged with others within the U.S. government to develop positions and engage other governments at the CITEL. NTIA also engaged with industry stakeholders, the Federal Communications Commission (FCC), and the U.S. Department of State (State) to ensure the United States had sound positions on all input contributions to the meeting and had strong contributions on organization and chairmanships for WRC-27 and its related agenda items. NTIA is engaged with the FCC and State to ensure proper coordination of any issues and will escalate problems as required to ensure federal positions and equities are represented and protected.

While I have been at NTIA, we have taken substantial steps to improve coordination among relevant federal stakeholders, including an update of our MOU with the FCC and the issuance of a National Spectrum Strategy that provides an improved structure for reaching consensus. We believe these enhanced coordination, planning, and dispute resolution mechanisms will help identify and resolve challenges earlier in the process. The international WRC coordination process is done on a consensus basis to the extent possible. Early coordination with administrations is key to coming to agreement as we approach WRC-27.

The NTIA's most important roles are as the sole spectrum manager for federal agencies and acting as the sole advisor to the President on spectrum matters. Both are clearly stated in current law.

- 6. While federal agencies may have competing interests in spectrum use and their own assessment of how spectrum should be managed, how can NTIA do its job if any agency thinks its mission is more important or its voice should be heard above others?**
 - a. Wouldn't NTIA effectively cede its congressionally directed role to others if it allowed any one federal agency to direct or unduly influence what NTIA did?**
 - b. Worse, wouldn't it undermine NTIA's role and authority if any federal agency were permitted to act as a free agent and advocate for a particular spectrum-related outcome separate from NTIA?**

Response: NTIA has the statutory obligation to represent the Executive Branch before the FCC on spectrum and telecommunications matters. This is an important job. The Presidential Memorandum on Modernizing U.S. Spectrum Policy and the National Spectrum Strategy establish an improved spectrum decision-making process both within the Executive Branch and

between the private sector and the public sector. We regularly are engaging with other federal agencies so that they understand executive branch objectives and that NTIA can be an effective advocate for all federal missions – many of which are statutorily mandated. Federal agencies that have concerns before FCC must go through the NTIA for consideration.

7. **As the nation considers how to meet the ever-expanding need for spectrum-powered connectivity, NTIA will be tasked to evaluate whether federal spectrum can be reallocated or shared for commercial use. Indeed, NTIA has already committed to doing that for some spectrum bands and may be asked to do more of that in the future. As it does that work, I expect that NTIA's constituents - federal agencies - will try to convince NTIA that their particular use of spectrum is the most important - that the spectrum they use, the people's spectrum - should not be shared or reallocated.**
 - a. **Can you assure us that NTIA will perform as we think it should - as a neutral, honest broker for the American people and that it will not be unduly influenced by those agencies that speak the most or the loudest?**

Response: Yes.

The Honorable Jay Obernolte

1. **What steps has NTIA taken to consider the potential downstream impacts on individuals, academics, researchers, and small businesses of restricting AI models that provide access to their model weights?**

Response: NTIA was tasked in the Executive Order (EO) on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence to solicit input and deliver a report to the President on July 26th (270 days after the publication of the EO) on the “potential benefits, risks, and implications of dual-use foundation models for which the model weights are widely available, as well as policy and regulatory recommendations pertaining to those models.” Pursuant to this tasking, NTIA published a public Request for Comment, which received over 330 comments, including many from individuals, academics, researchers, and small businesses. NTIA also held two public events to discuss the topic, along with significant direct outreach to a diverse range of stakeholders. NTIA is currently on track to deliver its report and recommendations to the President.

2. **How does NTIA intend to monitor developments in the field of open-source AI and ensure efforts to mitigate risk do not jeopardize innovation and entrepreneurialism?**

Response: *See* response to question 1. Additionally, NTIA has undertaken a thorough review of publicly available information and literature, attended conferences and events, and engaged in rigorous expert consultations. NTIA does not have the authority to enforce mitigations, but instead has been tasked with providing policy recommendations pertaining to dual-use foundation models with widely available model weights. In doing so, NTIA is striving to ensure that these recommendations balance the need to manage risk along with the imperative to promote innovation and entrepreneurialism.

The Honorable Debbie Dingell

Approximately 30% of Michigan households are impacted by the digital divide. In March, NTIA awarded Michigan over \$20 million from the Digital Equity Capacity Grant Program – a critical investment that will support efforts to bridge this gap. This funding will empower communities by providing the necessary tools, skills, and opportunities for equitable access to high-speed internet.

- 1. Can you share some specifics about the kinds of initiatives that you anticipate from this program? What more can we expect from it this year?**

Response: Under the Digital Equity Capacity Grant Program Notice of Funding Opportunity, this program will provide funds to States and U.S. Territories to implement the State Digital Equity Plans developed pursuant to the State Digital Equity Planning Grant Program. The Digital Equity Plans identify the barriers to achieving digital equity faced by covered populations and include measurable objectives to promote: (1) the availability and affordability of access to broadband technology; (2) online accessibility and inclusivity of public resources and services; (3) digital literacy; (4) awareness of online privacy and cybersecurity; and (5) the availability and affordability of consumer devices and technical support for those devices. Initiatives funded under Digital Equity Capacity Grant Program will vary depending on the unique needs of each State and Territory. NTIA expects to begin issuing awards from the program this summer.

Earlier this year, NTIA released the National Spectrum Strategy implementation plan. The implementation plan sets out timeline milestones and responsible agencies for the study of 2,786 megahertz of spectrum.

- 2. Can you provide us with an update on where NTIA is with its spectrum studies?**

Response: On the band studies, NTIA has changed the pipeline plan process for how federal agencies obtain funding from the Spectrum Relocation Fund (SRF)—what is commonly referred to as “pipeline” funding—for their studies to address the breadth and complexity of the NSS band studies. Right away, we are using this SRF process for both the Lower 3 GHz band and the 7/8 GHz band studies. At least 10 federal agencies are seeking funding. Distribution of the pipeline funds to the agencies, anticipated to occur Fall 2024, will trigger a two-year countdown to complete the band studies and then issue reports. This summer, in partnership with relevant agencies, NTIA also will be standing-up external stakeholder meetings related to these band studies.

With each new generation of wireless technology, network speeds have significantly improved, and the number of connected devices has significantly increased. As Co-Chair of the 5G and Beyond Caucus, I am a strong supporter of innovative technologies and the need to strengthen network security.

- 3. Could increased investment in domestic and allied wireless equipment enhance our supply chain resilience and minimize network vulnerabilities? And would**

fostering competition and domestic development in this sector increase industry standards for network security?

Response: Yes. The Wireless Innovation Fund aims to not only foster competition, drive innovation, and lower costs for consumers and network operators, but importantly, strengthen the 5G and successor wireless technology supply chain. A key objective of this program is to help unlock opportunities for innovative companies from the U.S. and allied countries to compete in a market historically dominated by a few suppliers, some of which present a high security risk.

Further, open and interoperable equipment can enhance network security by providing better visibility for operators, enabling the rapid mitigation of potential risks, and facilitating easier software updates or patches, while the increase in competition will help bolster supply chain resilience. Fostering competition and advancing domestic development in this sector does not alone lead to additional industry security standards. These factors, however, can support more players developing security standards aligned with current needs.

The Honorable Tony Cardenas

- 1. What concrete actions is NTIA taking to make clear that the Administration will not permit its BEAD-related broadband deployment goals to be impeded by barriers to efficient pole and permit access procedures?**

Response: While pole attachment rates largely fall outside of the National Telecommunications and Information Administration’s (NTIA’s) jurisdiction, NTIA is tracking this as an important issue. Some rates are regulated by the Federal Communications Commission, while states have that authority in other instances. That is why the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity makes clear that states and territories must identify the steps it will take to ensure “cost-effective access to poles, conduits, easements, and rights of way, including the imposition of reasonable access requirements.”⁶ States, Internet service providers, and other stakeholders should be cognizant of both the cost of pole attachment rates and time impact of “make-ready” requirements—in other words, alterations to a pole to make room for new wires—as they consider project bids and timelines. NTIA has already seen states put forth creative solutions in their Initial Proposals for the BEAD Program.

The Honorable H. Morgan Griffith

During my oral questioning I inquired about what I understand to be NTIA's second set of curing comments which are posted publicly on the Commonwealth of Virginia's Department of Housing and Community Development website as part of Virginia's unapproved Broadband Equity, Access, and Deployment (BEAD) Program Initial Proposal Volume 2 document. Specifically, I asked you about NTIA's comments:

2.12.1a As a response to the letter to the Assistant Secretary: The Assistant

⁶ National Telecommunication and Information Administration; Notice of Funding Opportunity; Broadband Equity, Access, and Deployment Program at 32, available <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

Secretary must be able to determine the impact to a customer at the Initial Proposal stage - it isn't enough to know as of the Final Proposal. Thus the low-cost option must be established in the Initial proposal as an exact price or formula.

And Virginia's Response:

This feedback requests that Virginia include one of two things in its required definition of its lowest cost option in its Volume 2:

- 1. An exact price for what will be the only acceptable low-cost option for BEAD-funded broadband service regardless of provider or location in Virginia, or**
- 2. A formula which one could apply and thereby derive an exact price for what will be the only acceptable low-cost option for BEAD-funded broadband service regardless of provider or location in Virginia.**

Both of the above can be found on pages 52-56 which are attached.

- 1. Is Virginia correct in its assessment of the above that Virginia's BEAD proposal will not be approved unless NTIA unless a specific rate, or specific rate derived from a formula is set?**

Response: Consistent with the Infrastructure Investment and Jobs Act (IIJA), the National Telecommunications and Information Administration (NTIA) is not setting rates, and nothing in the Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity (NOFO) regulates rates. The requirement that BEAD subgrantees offer an affordable service tier for qualifying low-income subscribers is not rate regulation. Rather, it is a grant condition, as required by the statute, for participants of the BEAD Program to receive these federal funds.

The IIJA states that “[t]he persistent ‘digital divide’ in the United States is a barrier to” the nation’s “economic competitiveness [and the] equitable distribution of essential public services, including health care and education.”⁷ Building an Internet connection to a home does not bridge the digital divide if a family cannot afford service. Providing an affordably-priced service tier for qualifying low-income households is critical for ensuring that this generational investment helps our most vulnerable populations. Recognizing this, IIJA requires BEAD Program subgrantees to “offer not less than 1 low-cost broadband service option for eligible subscribers” as a condition of receiving BEAD funding.⁸

NTIA is working with each Eligible Entity as it crafts a definition that best-suits its needs. NTIA has already approved Initial Proposals for Eligible Entities with a variety of approaches to the “low-cost broadband service option” definition. For example, NTIA has approved proposals that

⁷ Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. 60101(2) (2021).

⁸ *Id.* at § 60102(h)(4)(B).

identify a range of expected costs to low-income households and permit providers to request waivers to account for areas where the costs to deploy are higher. This waiver model recognizes the geographic and economic diversity of states and territories, while ensuring affordable options are available. NTIA understands that the various approaches Eligible Entities have proposed, and NTIA has approved, reflect Eligible Entities' balancing of a variety of interests, including affordability and robust provider participation.

2. If the answer to question one is no, then how many days will it take NTIA to approve the Virginia BEAD proposal?

Response: NTIA is committed to providing Eligible Entities with flexibility regarding BEAD Program implementation, while ensuring compliance with IIJA and the BEAD NOFO. NTIA is in the process of reviewing and approving Eligible Entities' BEAD Program Initial Proposals with urgency and care.

3. If the proposal is not approved, is NTIA in compliance with:
a. **The letter of the Bipartisan Infrastructure Law? Or**
b. **The spirit of the Bipartisan Infrastructure Law?**

Response: IIJA requires BEAD Program subgrantees to “offer not less than 1 low-cost broadband service option for eligible subscribers” as a condition for choosing to participate in the BEAD Program.⁹ NTIA is implementing the BEAD Program accordingly and working with Eligible Entities to ensure they comply with IIJA and the BEAD NOFO.

⁹ *Id.*