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May 25, 2021

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Yellen:

I write to thank you for your efforts to provide much-needed relief to the American people, and to urge you to provide flexibility in the Coronavirus State and Local Fiscal Recovery Funds Final Rule to ensure underserved communities are not inadvertently denied broadband funding.

The COVID-19 public health and economic emergency has highlighted the importance of fast, affordable broadband access for all Americans, as millions have come to rely on a reliable internet connection to access distance education, remote work, and lifesaving health care. Recognizing this, Congress explicitly permitted Coronavirus State and Local Fiscal Recovery Funds to be used for broadband investments, intentionally providing for flexibility in allocation.

I appreciate the tireless work of the dedicated staff at the Department of the Treasury (“Treasury”) to quickly stand up the Coronavirus State and Local Fiscal Recovery Funds. However, I am concerned that overly prescriptive language regarding eligibility for broadband investments in Treasury’s recently published Interim Final Rule risks excluding underserved communities from this funding and depriving them of economic opportunity. Treasury appears to have limited funding to communities that are unserved or underserved, which it defines as lacking access to a wireline broadband connection capable of reliably delivering download speeds of 25 megabits per second (Mbps) and uploads of 3 Mbps.

To assume that communities with speeds at or above 25/3 Mbps are adequately served — and to ignore cost as a factor in this consideration — would be severely misguided, and it ignores the reality on the ground for American students, working families, and businesses. The reality is that the Federal Communication Commission’s (FCC) current broadband benchmark of 25/3 Mbps is woefully outdated. The mass adoption of video calling, streaming, and other bandwidth-intensive apps by Americans during the COVID-19 pandemic has made it clear that miserly speeds and data caps are holding back telework, remote education and telehealth capacity. Simply put, it is not possible for a family of four to telework and engage in remote schooling while sharing 3 Mbps of upload bandwidth.

In fact, Treasury concluded in the Interim Final Rule that only symmetrical speeds of 100 Mbps are “sufficient to enable users to generally meet household needs, including the ability to support

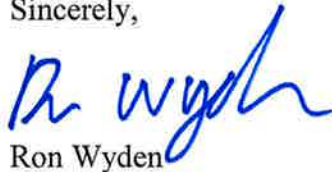
the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.” As a result, Fiscal Recovery Funds projects are expected to deliver service that reliably meets or exceeds this standard. Treasury’s conclusions regarding the inadequacy of the FCC’s broadband benchmark mirror those of both the Acting FCC Chairwoman Jessica Rosenworcel and bipartisan Members of Congress. That is why I urge Treasury to ensure any community with service that falls below its own standard of 100 Mbps upload and download speeds is eligible for this funding.

Moreover, the Administration has correctly noted that for many communities, broadband might technically be available, but at prices so high that access is out of reach for many working families. To be accessible, broadband must also be affordable.

If Treasury does not address these two concerns in the Final Rule, millions of Americans who lack access to broadband at speeds that Treasury has determined are necessary will be denied the opportunity to finally get fast, affordable and reliable broadband. This will further expand the digital divide and jeopardize our ability as a nation to build back better from the COVID-19 pandemic. Therefore, as you finalize the Coronavirus State and Local Fiscal Recovery Funds Final Rule, I urge you to clarify that underserved locations include anywhere affordable, reliable, broadband of at least 100 Mbps symmetric is not available.

I thank you for your attention to this important request, and I stand ready to assist as needed.

Sincerely,



Ron Wyden
Chairman
Committee on Finance