

July 28, 2020

The Honorable Roger Wicker  
Chairman  
555 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Maria Cantwell  
Ranking Member  
511 Hart Senate Office Building  
Washington DC 20510

The Honorable Frank Pallone  
Chairman  
2107 Rayburn House Office Building  
Washington, DC 20515

The Honorable Greg Walden  
Ranking Member  
2185 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Wicker, Ranking Member Cantwell, Chairman Pallone, Ranking Member Walden:

On behalf of America's innovative broadband providers in all corners of the country, we write to express our deep concern with proposed legislation to prospectively eliminate the eligible telecommunication carrier (ETC) designation for certain broadband providers seeking to compete for funding through the FCC's imminently upcoming Rural Digital Opportunity Fund (RDOF) auction.

ETC status was created by Congress in the Telecommunications Act of 1996 as a measure to ensure accountable oversight of recipients of Universal Service Fund support, and those receiving such funding today – providers who have made substantial and continuing investments to serve the nation's most rural communities – and are still required to adhere to that requirement, and the many obligations that come with it.

To the extent some believe the ETC designation process may be outdated or in need of recalibration to better reflect a broadband world, this is a policy discussion worth having – and reasonable minds may disagree on the extent of change needed or the value proposition of this accountability measure. But that discussion should neither alter nor undermine the course of an auction process that is already substantially underway, nor should it do so in a way that benefits only some program participants and not others. At bottom, this is a question that requires careful deliberation about how to best serve consumers in rural America—communities we've been proudly serving for over a century in some cases.

As our companies prepare for and plan their bidding strategies in the carefully-designed RDOF reverse auction which is scheduled to take place in just a few short months, any such eleventh-hour disruptive change to participation requirements in the auction process benefiting only certain potential bidders would be both anti-competitive and anti-consumer. It also would put at risk the very integrity and underlying fairness of the auction itself, particularly given that the deadline for applying to participate in the auction has *already passed*.

As a matter of common sense, a prerequisite for any successful auction, not to mention the effective administration of federal funding programs, is a requirement that all participants compete on a level playing field and be subject to the same rules. This fundamental principle is essential before, during, and after any process (*e.g.* a reverse auction) by which companies compete for federal funds to serve eligible areas.

The proposal would upend the careful balance struck by the FCC in the RDOF Order, and negate the rigorously transparent public comment process that informed it, which specifically considered and rejected calls to eliminate the ETC requirement, “even if some interested parties may prefer not to become ETCs *with all of the associated obligations.*”<sup>11</sup> In reality, as proposed, the request would serve no purpose other than to ensure that some providers are immune from existing accountability and service obligations that their potential auction competitors have been subject to for decades, all while leaving those competitors – and only those competitors -- subject to the obligations that come with ETC designation. In a competitive marketplace this regulatory asymmetry makes no sense, is problematic for a fair auction and runs counter to the fundamental notion of competitive neutrality.

This is very much a solution in need of a problem in the context of the imminently upcoming RDOF auction. After its exhaustive work over many months in considering questions such as auction design and participation requirements, the FCC recently initiated the auction and potential bidders have *already* submitted their applications. While the list of approved auction participants has not yet been publicly announced, any suggestions that the ETC designation process will prevent participation in the auction is belied by the fact that companies have, in fact, already signed up to participate. Rewriting the rules “mid-game” to make a substantial change in the auction’s eligibility framework would introduce the prospect of delay in a process that promises to deliver 21<sup>st</sup> century broadband to millions of Americans.

In the context of the current RDOF auction, we therefore urge Congress to stay the course and ensure this potentially game-changing initiative moves forward as carefully designed and currently scheduled by the FCC. Separately, we welcome a discussion that will cover what further changes may be appropriate and necessary within our nation’s Universal Service Fund mechanisms to advance and accelerate our common goal of delivering connectivity to all Americans, no matter where, no matter what.

Sincerely,



Jonathan Spalter  
President and CEO  
USTelecom – The Broadband Association



Shirley Bloomfield  
Chief Executive Officer  
NTCA – The Rural Broadband Association



Kelly Worthington  
Executive Vice President  
WTA — Advocates for Rural Broadband

---

<sup>11</sup> RDOF Order at ¶ 92 (emphasis added).