



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Implementing the Infrastructure Investment and) GN Docket No. 22-69
Jobs Act: Prevention and Elimination of Digital)
Discrimination)
)

Reply Comments of the American Consumer Institute

The American Consumer Institute Center for Citizen Research (ACI) submits these reply comments in response to the Notice of Inquiry released by the Wireline Competition Bureau (Bureau) of the Federal Communications Commission (Commission) in the above-referenced docket. Through the Notice of Inquiry, the Bureau solicits input on the requirements encompassed in section 60506 of the Infrastructure Investment and Jobs Act, with the intent of informing a forthcoming Notice of Proposed Rulemaking on preventing and eliminating digital discrimination.

The American Consumer Institute Center for Citizen Research (ACI) is a 501(c)(3) non-partisan, educational, and public policy research organization, with the mission to identify, analyze, and project the interests of consumers in selected legislative and rulemaking proceedings in matters that affect the consumers. We have worked extensively on this issue to inform consumers and policymakers on broadband infrastructure deployment.

The Bureau’s stated goal in the Notice of Inquiry is to commence a proceeding “to ensure that all people of the United States benefit from equal access to broadband internet access service,” with the intention of preventing and identifying steps the Commission should take to eliminate “digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin,” consistent with Congress’s directive in section 60506 of the Infrastructure Investment and Jobs Act.¹ ACI strongly supports this goal.

¹ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (Infrastructure Act). Section 60506 of the Infrastructure Act is codified at 47 U.S.C. § 1754, Digital Discrimination.

ACI appreciates the Bureau looking for ways to achieve the purported goals and in light of the other parties' initial filings who compellingly argued how the Commission can best pursue these goals, ACI urges the Bureau to consider the following with regards to what data the Commission should rely on as it considers addressing the issue of digital discrimination.

First, commenters suggesting the Commission make a finding of discrimination argue merely by anecdote, which can only lead to policies that are to the detriment of consumers. Specifically, commenters relying on referenced studies by the Greenlining Institute,² the Communications Workers of America,³ and the Electronic Frontier Foundation, presenting the USC Annenberg study,⁴ are misguided and have substantial limitations that render them unreliable. Specifically, these reports are methodologically faulty as they rely mostly on anecdotes and selective misinterpretations of isolated data points from third-party studies, and they fail to control for relevant variables.

ACI agrees with some commenters that the three referenced reports do not offer a credible record of evidence to conclude that discrimination based on race or socioeconomic status is driving ISPs' broadband deployment decisions. Instead, the Commission should request scientific peer-reviewed examinations.

Second, we urge the Commission to keep its focus on delivering on its goal by focusing on what benefits consumers, and not on prescribing business models that can lead to costly consequences for consumers.

We hope the Commission gives the recommendations discussed above serious reflection while revisiting how it can best pursue its goals. We appreciate the opportunity to comment on this Notice.

Respectfully,
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² "Greenlining, On the Wrong Side of the Digital Divide, Live without Internet Access, and Why We must Fix It in the Age of COVID-19," (Jun. 2, 2020), <https://greenlining.org/publications/onlineresources/2020/on-the-wrong-side-of-the-digital-divide/#introduction>.

³ Communications Workers of America and the National Digital Inclusion Alliance, "AT&T's Digital Redlining: Leaving Communities Behind for Profit" (Oct. 2020), <https://cwaunion.org/sites/default/files/20201005attdigitalredlining.pdf>.

⁴ USC Annenberg Research Network for International Communication & USC Price Spatial Analysis Lab, "Who Gets Access to Fast Broadband? Evidence from Los Angeles County," 2014-17 (2019), <https://arnicusc.org/wp-content/uploads/2019/10/Policy-Brief-4-final.pdf>.