

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Protecting Against National Security) WC Docket No. 18-89
Threats to the Communications Supply)
Chain Through FCC Programs)

**REPLY COMMENTS OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in response to comments filed in the above-referenced proceeding.² Commenters universally supported the tentative conclusion by the Federal Communications Commission (“the Commission”) that the Consolidated Appropriations Act, 2021 (“CAA”) established prioritization categories for reimbursement funding and the CAA does not provide the Commission with authority to modify those categories.³ Similarly, commenters overwhelmingly supported the Commission’s proposal to reimburse providers for eligible equipment purchased on or before June 30, 2020, the date of the Commission’s Orders designating covered equipment,

¹ NTCA represents approximately 850 independent, community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

² *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, Third Further Notice of Proposed Rulemaking, WC Docket No. 18-89 (Feb. 22, 2021) (“*Notice*”).

³ See, e.g., Comments of Competitive Carriers Ass’n, WC Docket No. 18-89 (April 12, 2021), p. 3 (“CCA Comments”); Comments of Mediacom Communications Corp., WC Docket No. 18-89 (April 12, 2021) (“Mediacom Comments”); Comments of USTelecom – The Broadband Ass’n, WC Docket No. 18-89 (April 12, 2021).

as consistent with the CAA.⁴ NTCA supports these recommendations as consistent with the CAA and in the best interest of providers and the communities they serve.

II. THE COMMISSION’S PROPOSAL TO PRIORITIZE REIMBURSEMENT FOR PROVIDERS WITH TWO MILLION OR FEWER CUSTOMERS IS CONSISTENT WITH THE CAA AND NECESSARY FOR SMALL PROVIDERS.

The Commission proposed in the *Notice* to adopt the reimbursement prioritization scheme set forth in the CAA, which includes allocating funding to providers with two million or fewer customers.⁵ No commenters opposed this proposal. As NTCA pointed out in earlier comments, smaller providers likely do not have the financial ability to remove and replace covered equipment in their networks apart from their normal upgrade cycle.⁶ This sentiment was echoed by the Competitive Carriers Association, which pointed out that a loss of funding to small providers that serve the most rural and sparsely populated areas of the country “would have an immediate and detrimental effect on the carriers’ ability to provide services and, thus, access to rural America.”⁷ Likewise, Mediacom commented that ensuring providers with two million or fewer customers receive reimbursement funding first “appropriately recognizes that those providers need the greatest assistance because they have more limited resources.”⁸

⁴ See, e.g., Comments of the Rural Wireless Ass’n, WC Docket No. 18-89 (April 12, 2021), p. 5 (“RWA Comments”); Comments of Mark Twain Communications Corp., WC Docket No. 18-89 (April 12, 2021), p. 1; Comments of Northern Michigan Univ., WC Docket No. 18-89 (April 12, 2021), p. 1.

⁵ *Notice* at ¶ 22.

⁶ See Comments of NTCA – The Rural Broadband Ass’n, *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89 (Feb. 3, 2020), p. 4 (“Few, if any, ETCs have the funds available to remove and replace existing equipment outside of the normal upgrade cycle.”).

⁷ CCA Comments at p. 7.

⁸ Mediacom Comments at p. 3.

Prioritizing small providers does not preclude larger or other eligible providers from receiving reimbursement. As Latam Communications noted, Congress expressly directed the Commission to notify lawmakers if additional reimbursement funds are needed.⁹ Additional funding will almost certainly be necessary to reimburse all eligible providers due to the fact that Congress and the Commission based the amount identified by providers in response to the Commission’s information collection. The amount identified by that information collection only covered eligible telecommunications carriers – other affected providers could, but were not required to, submit cost estimates.¹⁰ Furthermore, the CAA extends reimbursement eligibility to providers not previously contemplated by the Commission’s rules.

Prioritizing small providers will also provide the Commission with time to obtain reimbursement cost estimates from eligible providers added by the CAA in order to identify as closely as possible the additional amount of funding to seek from Congress. Additionally, spreading out the reimbursement schedule will better ensure smaller providers have access to the equipment and experienced technicians needed to remove and replace covered equipment within the timeframe established by the Commission. As USTelecom noted, providers of all sizes are experiencing delays in obtaining equipment of all types for their networks.¹¹ Furthermore, as

⁹ See Comments of Latam Telecommunications, LLC, WC Docket No. 18-89 (April 12, 2021), p. 6. See also Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601–1609) at § 4(d)(5)(B) (“Secure Networks Act”).

¹⁰ See, e.g., Mediacom Comments at p. 4. See also *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423, 11482 at ¶ 164 (2019).

¹¹ USTelecom Comments at p. 5. See also Comments of NTCA – The Rural Broadband Ass’n, *Application of Section 4 of the Secure and Trusted Communications Networks Act of 2019 to the Commission’s Rulemaking on Protecting Against National Security Threats to the Communications Supply Chain*, WC Docket No. 18-89 (May 20, 2020), p. 3 (“providers will likely need more lead time than usual to acquire replacement equipment due to fulfillment delays related to COVID-19”).

NTCA members are already seeing delays generally when trying to source fiber, electronics, and other telecom equipment, smaller providers would be further disproportionately affected if they were “competing” with larger providers for the same equipment at the same time because sellers often prefer a few very large contracts over many smaller ones. Additionally, skilled technicians are in short supply throughout the industry. As a result, smaller providers would be even further challenged if faced with installing new equipment while in a race with larger operators based in urban areas to hire and retain skilled labor. Accordingly, adhering to the prioritization scheme set forth in the CAA allows those most heavily affected by the requirement to replace covered equipment to receive the funding necessary to secure their networks in a timely manner.

III. REIMBURSING PROVIDERS FOR EQUIPMENT INSTALLED ON OR BEFORE JUNE 30, 2020, ALIGNS WITH THE DESIGNATION ORDERS.

Throughout the *Notice*, the Commission notes that the CAA amends the Secure Networks Act to align the use of reimbursement funds with the Commission’s findings in the Designation Orders. To maintain the consistency established by the CAA, NTCA agrees with other commenters in support of the Commission’s proposal to make all covered equipment or services obtained on or before June 30, 2020, eligible for reimbursement. As the Rural Wireless Association pointed out, June 30, 2020, is the date on which the Commission designated Huawei and ZTE as covered entities; prior to that date, even those providers who were aware the Commission was considering adopting rules that would require providers to remove and replace Huawei and ZTE equipment and services could not remove such equipment or services without breaching their contracts and incurring prohibitive replacement costs.¹²

¹² RWA Comments at p. 6.

IV. CONCLUSION

NTCA encourages the Commission to prioritize providers with two million or fewer customers as commenters consistently supported. Such prioritization not only is consistent with the CAA but also best ensures funds are readily available to allow the most heavily affected smaller providers to remove and replace necessary equipment and services. NTCA also supports commenters' recommendation that the Commission reimburse providers for equipment and services identified in the Designation Orders that were installed on or before June 30, 2020, pursuant to the CAA and consistent with the date on which the Commission officially prohibited the use of equipment and services manufactured by the covered entities.

Respectfully submitted,



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