

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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

**REPLY COMMENTS OF  
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AND ELECTRONIC PRIVACY INFORMATION CENTER (EPIC)**

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## **SUMMARY**

Public Knowledge and Benton Institute Broadband and Society (collectively “Public Knowledge, et al.”) submit these reply comments in response to the Federal Communications Commission’s (the “Commission” or “FCC”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding. Public Knowledge, et al. underscores that the Commission has the legal authority to impose affirmative obligations in order to meet its statutory mandate to prevent and eliminate digital discrimination. Additionally, Public Knowledge, et al. urges the Commission to address economic feasibility in its proposed annual report and to ensure the narrative description is a readable data set for researchers. Public Knowledge, et al. also encourages the Commission to work closely with tribal communities in its efforts to eliminate digital discrimination, such as through listening sessions, because of the unique challenges these communities face in gaining access to affordable, reliable high-speed internet. Lastly, Public Knowledge, et al. reiterates its unwavering support for the Commission to establish an Office of Civil Rights.

### **I. PUBLIC KNOWLEDGE, ET AL. SUPPORTS PROPOSALS THAT WILL PREVENT ELIMINATE DIGITAL DISCRIMINATION**

Public Knowledge, et al. supports statements in the record that urge the Commission to use the proposed annual report to address issues surrounding economic feasibility. A policy is not discriminatory if there is not a feasible alternative and proper feasibility tests help ensure this is not an issue. However, weaker feasibility tests can allow for actual discriminatory policies to slip through the cracks. Thus, the feasibility test the Commission adopts is a critical tool in enforcing the Commission’s prohibition on digital discrimination.<sup>1</sup> The Commission defines “economically feasible” as “reasonably achievable as evidenced by prior success by covered

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<sup>1</sup> FNPRM, ¶ 82, available at <https://docs.fcc.gov/public/attachments/FCC-23-100A1.pdf>.

entities under similar circumstances or demonstrated new economic conditions clearly indicating that the policy or practice in question may reasonably be adopted, implemented, and utilized.”<sup>2</sup>

This definition relies upon historic data, and therefore is likely to perpetuate historic inequities. To prevent this perpetuation, the Commission should adopt the following proposals because they will help the Commission to accurately assess whether a project is economically feasible. Public Knowledge, et al. supports the People of the State of California and the California Public Utilities Commission (“CPUC”)’s proposal that “[r]equiring annual reporting of financial information and carrier’s practices for determining the internal rate of return/return on investment target used to make deployment decisions that have resulted in disparate impact under the Commission’s rule, would support the case-by-case determination of technical and/or economic feasibility.”<sup>3</sup> This increased transparency will help to hold internet service providers accountable if they claim that a project is not economically feasible. As stated by the CPUC, “[i]n reviewing any required financial information, the Commission should assess whether providers are using unreasonable profitability standards in making deployment decisions.”<sup>4</sup> Unreasonable profitability standards can perpetuate historic digital discrimination and would keep communities on the wrong side of the digital divide.

Additionally, Public Knowledge, et al. reiterates that “[a] provider who makes buildout decisions based on income level would violate the plain terms of the statute, and allowing providers to introduce evidence of this sort would be contrary to the statute’s unambiguous

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<sup>2</sup> FNPRM Appendix A, §16.2(h), p. 104, available at <https://docs.fcc.gov/public/attachments/FCC-23-100A1.pdf>.

<sup>3</sup> Comments Of The People Of The State Of California And The California Public Utilities Commission, p. 5, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.

<sup>4</sup> Comments Of The People Of The State Of California And The California Public Utilities Commission, p. 3, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.

goals.”<sup>5</sup> In furtherance of identifying any such buildout decisions, Public Knowledge, et al. supports the CPUC’s comment that “the Commission should scrutinize if deployment to a low-income neighborhood is made contingent upon the provider’s ability to make a large profit in an unreasonably short time frame.” Section 60506 lists protected characteristics and it includes “low-income.” The Commission should scrutinize any claims that an internet service provider declines to deploy broadband to low-income neighborhoods due to such a project not being economically feasible. Such scrutiny is a crucial tool for the Commission to prevent digital discrimination based on a neighborhood being low-income.

The Commission should also require providers to report on average cost of service in an effort to create more transparency around issues of affordability. The reporting the FCC proposes in this FNPRM focuses on deployment; however, since the adopted digital discrimination rules also focus on price, it would be more effective to understand how the actual and advertised cost of service may impact certain communities' ability to adopt broadband. As part of the Infrastructure Investment and Jobs Act (“IIJA”), the NTIA is actively working on its Broadband Equity Access and Deployment (“BEAD”) program which requires states and territories to propose a definition of “low cost broadband service” that will apply to covered subgrantees. Simultaneously, the FCC’s Affordable Connectivity Program (for which Public Knowledge, et al. supports short and long-term funding) also addresses affordability barriers in low-income households. Because of the existence of this programs, the Commission should require reporting of price data to create more transparency but to also guide federal agencies in understanding if they are meeting the goals set out by the IIJA particularly because Congress has made clear that the availability of service does not mean the service is financially accessible to low-income

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<sup>5</sup> Comments Of Public Knowledge, Benton Institute For Broadband And Society, And Electronic Privacy Information Center, February 21, 2023, p. 45, available at <https://www.fcc.gov/ecfs/document/10221096795641/1>.

communities. Further, as the Commission stated in its 2024 Section 706 Report, an examination of only broadband deployment is insufficient.<sup>6</sup> We cannot reach universal broadband goals—and prevent and eliminate digital discrimination—without the annual examination of broadband access, affordability, and adoption. The collection of this data in the proposed annual reports could help remedy the Commission’s data problem in the Section 706 report.

Additionally, Public Knowledge, et al. reiterates its own findings<sup>7</sup> and echoes CPUC’s request that the Commission require internet service providers to prove that they have “sought all available state and federal funding to overcome economic challenges.”<sup>8</sup> Such a showing is especially important where the internet service provider claims the project is not economically feasible. If the internet service provider claims the project is not economically feasible in response to allegations of digital discrimination, but has not sought all available state and federal funding to overcome economic challenges, the Commission should investigate that internet service provider’s policies and practices. The CPUC lists a series of projects which were funded with government funds and states that “[t]hese programs demonstrate that resources exist for carriers seeking to overcome technical and economic challenges to deploying broadband, and carriers without a demonstrable record of seeking to utilize all available resources to overcome these challenges should be subject to close scrutiny.” Again, the Commission should require providers to include their efforts to obtain available state and federal funding before claiming that a project is not economically feasible.

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<sup>6</sup> Federal Communications Commission. 2024 Section 706 Report, GN Docket No. 22-270, Feb. 22, 2024, available at <https://docs.fcc.gov/public/attachments/DOC-400675A1.pdf>.

<sup>7</sup> “A project plainly cannot be economically “feasible” only if a provider would choose to undertake it absent government policy—Congress did not pass a law to tell providers to do things they already were going to do.” Comments Of Public Knowledge, Benton Institute For Broadband And Society, And Electronic Privacy Information Center, February 21, 2023, p. 43, available at <https://www.fcc.gov/ecfs/document/10221096795641/1>.

<sup>8</sup> Comments Of The People Of The State Of California And The California Public Utilities Commission, p. 8, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.

## **II. THE NARRATIVE ELEMENT OF THE PROPOSED ANNUAL REPORT SHOULD INCLUDE ELEMENTS TO FACILITATE EASIER DATA ANALYTICS**

The Commission should provide an enumerated list of “project types” in addition to the requested narrative description of broadband deployment and broadband adoption projects for internet service providers to use in the proposed annual reports. This piece of the report would be a minimal addition and would result in a superior data set for use by data scientists in conducting data analytics of the reports.

The Broadband Equity, Access, and Deployment Program Notice of Funding Opportunity (“NOFO”) enumerates a list of “[e]ligible uses of funding in connection with last-mile broadband deployment projects.”<sup>9</sup> This list of allowable uses of BEAD funds provides a key opportunity for researchers to conduct data analytics on that program, and the Commission could use this to create their own list for its proposed annual reports to help prevent and eliminate digital discrimination as a way to better understand the activities of providers. In particular, the NOFO lists eligible uses of funding and that could be used by the Commission to help determine the “project type.” It includes the following:

1. “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.
2. Long-term leases (for terms greater than one year) of facilities required to provide qualifying broadband service, including infeasible right-of-use (IRU) agreements.
3. Deployment of internet and Wi-Fi infrastructure within an eligible multi-family residential building.
4. Engineering design, permitting, and work related to environmental, historical and cultural reviews.
5. Personnel costs, including salaries and fringe benefits for staff and consultants providing services directly connected to the implementation of the BEAD Program (such as project managers, program directors, and subject matter experts).
6. Network software upgrades, including, but not limited to, cybersecurity solutions.

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<sup>9</sup> NOFO § IV.B.7.a.(ii), available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

7. Training for cybersecurity professionals who will be working on BEAD-funded networks.
8. Workforce development, including Registered Apprenticeships and pre-apprenticeships, and community college and/or vocational training for broadband-related occupations to support deployment, maintenance, and upgrades.”<sup>10</sup>

The NOFO’s list of eligible uses of funding which the Commission should adopt as “project type” options for non-deployment projects include:

1. “User training with respect to cybersecurity, privacy, and other digital safety matters.
2. Remote learning or telehealth services/facilities.
3. Digital literacy/upskilling (from beginner-level to advanced).
4. Computer science, coding and cybersecurity education programs.
5. Implementation of Eligible Entity digital equity plans (to supplement, but not to duplicate or supplant, Planning Grant funds received by the Eligible Entity in connection with the Digital Equity Act of 2021).
6. Broadband sign-up assistance and programs that provide technology support.
7. Multi-lingual outreach to support adoption and digital literacy.
8. Prisoner education to promote pre-release digital literacy, job skills, online job acquisition skills, etc.
9. Digital navigators.
10. Direct subsidies for use toward broadband subscription, where the Eligible Entity shows the subsidies will improve affordability for the end user population (and to supplement, but not to duplicate or supplant, the subsidies provided by the Affordable Connectivity Program).
11. Costs associated with stakeholder engagement, including travel, capacity-building, or contract support.
12. Other allowable costs necessary to carrying out programmatic activities of an award, not to include ineligible costs described [ . . . ] in Section V.H.2 of this NOFO.”<sup>11</sup>

Again, the Commission could use elements of this enumerated list to help providers describe the broadband deployment and broadband adoption projects they have undertaken and it also allows for ISPs to demonstrate the private investments that they have made to help bridge the digital divide.

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<sup>10</sup> NOFO § IV.B.7.a.(ii), available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

<sup>11</sup> NOFO § IV.B.7.a.(iii), available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.



Beyond this list, the Commission should include a “write-in” option. It should be noted that even if 10% of the projects internet service providers report do not fall into one of the enumerated project types listed above, the remaining 90% would provide incredibly useful data to researchers.

Without including a list of enumerated project types, internet service providers are likely to use different words to communicate the same meaning. For example, the California Last Mile Federal Funding Account reports grant applications which include a space for “[a] description of the major infrastructure to be deployed.”<sup>12</sup> Some examples of responses to this prompt are:

- “VARCOMM Broadband Inc. will install a combination of aerial and buried fiber optic loops and distribution plant throughout the town of Terra Bella, California.”<sup>13</sup>
- AT&T proposes construction of a Fiber-to-the-Premises (FTTP) network. AT&T will deploy approximately 132 miles of fiber, in 1 central office (s). Because this is a fiber-based network, there are no remote terminals.”<sup>14</sup>
- “The communities we aim to serve are located in Santa Barbara County. The proposed project, if awarded, would expand our current network to deploy fiber broadband internet to the unserved serviceable locations in and around the cities of Santa Barbara. To complete fiber buildout to all serviceable locations in the community, 31 miles of new fiber will be built and connected to Cox existing fiber network.”<sup>15</sup>

These detailed narratives are helpful for granular research, but they are not effective for large-scale data crunching. By adding in a “project type,” the Commission would create a data set for the above examples where the current description remains, and an additional field indicating “[c]onstruction, improvement, and/or acquisition of facilities and telecommunications equipment required to provide qualifying broadband service, including infrastructure for

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<sup>12</sup> Appendix A: Federal Funding Account Program Rules and Guidelines, p.A-13, available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M470/K481/470481278.PDF>.

<sup>13</sup> Terra Bella, Federal Funding Account Application, CPCN U7385C, available at <https://broadbandportal.cpuc.ca.gov/s/gms-application/a0K3d000002b9HzEAI/terra-bella>.

<sup>14</sup> San Diego -1B, Federal Funding Account Application, CPCN U-1001-C, available at <https://broadbandportal.cpuc.ca.gov/s/gms-application/a0K3d000002blRpEAI/san-diego-1b>.

<sup>15</sup> SB 154, Federal Funding Account Application, CPCN U-5684, available at <https://broadbandportal.cpuc.ca.gov/s/gms-application/a0K3d000002cvzTEAQ/sb-154>.

backhaul, middle- and last-mile networks, and multi-tenant buildings.”<sup>16</sup> Such a consistent, filterable dataset would be incredibly useful for data scientists and Commission staff to create equitable, inclusive policies.

### **III. ARGUMENTS THAT THE FCC HAS NO ENFORCEMENT AUTHORITY ARE UNSUPPORTED, CONTRARY TO CANONS OF INTERPRETATION, AND INTERNALLY CONTRADICTORY**

Comments arguing that the FCC has no enforcement authority are simply a replay of the arguments the Commission rejected in the first Report and Order.<sup>17</sup> The Commission has direct authority to “adopt final rules to facilitate equal access to broadband internet access service,” and to “prevent digital discrimination.”<sup>18</sup> This is a clear statutory mandate. CTIA makes the bare assertion, supported by little beyond citations to its own comments and letters, that the Commission does not have the authority to follow the law if doing so imposes “affirmative obligations.”<sup>19</sup> If Congress meant that, it would have said it. Instead, it issued a direct mandate stating that the Commission “shall adopt final rules” to accomplish its policy goals, it gave the Commission the authority to determine what those would be, and to “identify necessary steps for the Commission to take to eliminate discrimination.”

Further, the Commission has an additional basis of authority in Section 4(i) of the Communications Act, which as the Supreme Court has explained, is part of the Commission’s

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<sup>16</sup> NOFO § IV.B.7.a.(ii)(1), available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

<sup>17</sup> 89 FR 4128 (01/22/2024).

<sup>18</sup> Infrastructure Investment and Jobs Act (IIJA) §60506.

<sup>19</sup> CTIA Comment, GN Docket 22-69, March 4, 2024, pp. 11-12, available at <https://www.fcc.gov/ecfs/document/1030599658314/1>.

“general rulemaking authority.”<sup>20</sup> Commonly invoked as part of the ancillary authority doctrine,<sup>21</sup> albeit applicable in direct authority cases as well, Section 4(i) was enacted as part of the 1934 Communications Act precisely to rule out arguments such as the ones put forward by CTIA. It grants the Commission the authority to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this chapter, as may be necessary in the execution of its functions.” If the Commission determines that affirmative obligations, or reporting requirements, or some other measures are “necessary in the execution” of Section 60506 then it may, supported by a proper record, enact them. Further, while most of the Commission’s functions are “described under other provisions of the Act,”<sup>22</sup> Section 4(i) applies to any of the Commission’s “functions,” regardless of how or where they are codified.<sup>23</sup>

The Commission is charged with preventing discrimination and this requires monitoring the market and future deployments. Providers are already required to prepare substantially similar information for the Section 706 broadband report to ensure that broadband is deployed in

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<sup>20</sup> *FCC v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 790 (1978).

<sup>21</sup> *Comcast Corp. v. FCC*, 600 F.3d 642, 646 (D.C. Cir. 2010). Section 4(i) was enacted by Congress as part of the 1934 Communications Act, Pub. L. 416-73D, Sec. 4(i), while ancillary authority is “a label that derives from three foundational Supreme Court decisions” in 1968, 1972, and 1979. *Comcast* at 646. While “ancillary authority” is a capacious concept, it is typically invoked to extend FCC authority to areas where the Commission “has no express statutory authority over such practices,” *id.* at 644, such as the FCC’s regulation of cable television prior to the enactment of the 1984 Cable Act. Here, by contrast, the Commission has direct statutory authority to prevent discriminatory practices. Reporting requirements, “affirmative obligations,” and the like are far afield of the broader invocations of the doctrine that extend FCC authority to areas in its general jurisdiction of communication by wire and radio, *American Library Ass’n. v. FCC*, 406 F.3d 689, 692-93 (D.C. Cir. 2005), but where Congress has not spoken with particularity.

<sup>22</sup> *Southwestern Bell Tel. Co. v. FCC*, 168 F.3d 1344, 1350 (D.C. Cir. 1999).

<sup>23</sup> See *Building Owners and Managers Ass’n Int. v. FCC*, 254 F.3d 89, 94-95, n.6 (discussing Section 4(i) and noting that just because a provision “was not codified in the United States Code does not detract from [its] legal authority.”).

a timely manner. Even without section 1754,<sup>24</sup> the Commission should collect this information as part of its general broadband market report to ensure timely deployment to all Americans.

In the Restoring Internet Freedom Order,<sup>25</sup> the Commission found that the requirement to issue a quadrennial report on barriers to entry for small business pursuant to then Section 257 provided ample authority – when combined with Section 4(i) – to require ISPs to disclose their network management practices. RIFO ¶¶ 232-33. *Affirmed sub nom. Mozilla v. FCC. Accord Comcast v. FCC.* As the Commission explained there, the ongoing obligation of the Commission to eliminate market barriers to entry provided adequate authority to impose ongoing disclosure requirements on ISPs so that the Commission (and would-be providers of services) could ascertain the existence of market barriers and address them accordingly.

The same logic applies here. Section 60506 obligates the Commission to issue rules “preventing” digital discrimination and with “identifying necessary steps for the Commission to take” to “eliminate” existing discrimination. This language is remarkably similar to the language in Section 257(a) on which the Commission relied in the RIFO.<sup>26</sup> The similar language conveys similar authority.

Public Knowledge, et al. contests the Free State Foundation’s interpretation of section 60506 because the Commission is charged with preventing discrimination. In its own comment, the Free State Foundation inaccurately states that “Section 60506 does not contain clear congressional authorization for redrawing the regulatory landscape of broadband services.”<sup>27</sup> In fact, the FCC has direct authority to enforce Section 60506 (47 USC 1754) pursuant to 4(i).

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<sup>24</sup> 47 U.S.C. § 1754.

<sup>25</sup> 33 FCC Rcd 311 (1).

<sup>26</sup> 47 U.S. Code § 257(a) (“for the purpose of identifying and eliminating . . . market entry barriers for entrepreneurs and other small businesses”).

<sup>27</sup> The Free State Foundation, Comments, p. 2, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/103042804800033/1>.

Finally, to the extent the FCC found inherent authority in the language of the statute, it should cover these annual reporting requirements.

#### **IV. ANNUAL REPORTS ARE NOT UNDULY BURDENSOME AND PROMOTE TRANSPARENCY**

The inclusion of the Commission's proposed annual report to help prevent and eliminate digital discrimination is not unduly burdensome as providers are already collecting information for their own internal records on where they have deployed or upgraded broadband infrastructure. Because of this, these annual reports will not require significant resources. Further, the submission of this data is reasonable and will help promote transparency that can prevent digital discrimination. Similar to the tech industry, which is working to develop processes to ensure emerging technologies align with ethical standards that do not harm protected communities, providers will be able to show they are committed to responsible practices. It is not sufficient simply to trust the word of providers because overpromising on broadband expansion projects, affordability initiatives, and adoption programs have left certain communities unable to fully participate in our 21st century society. The reports submitted to the Commission are critical for building an equitable communications ecosystem.

Separately, it should be noted that data collection is the first step in determining if disparities exist and subsequently remedying said issues. As the Center for American Progress has stated in support of comprehensive data collection across the federal government as a tool for civil rights enforcement, without data collection, "policymakers cannot determine whether disparities or discrimination exist, fully understand the scope of the problem, or identify which communities are in need of protection."<sup>28</sup>

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<sup>28</sup> Center for American Progress, March 2, 2020, "Who We Measure Matters: Connecting the Dots Among Comprehensive Data Collection, Civil Rights Enforcement, and Equality" available at <https://www.americanprogress.org/article/measure-matters-connecting-dots-among-comprehensive-data-collection-civil-rights-enforcement-equality>.

**V. THE COMMISSION SHOULD CONSULT WITH TRIBAL COMMUNITIES AND REQUIRE ALL PROVIDERS TO SUBMIT ANNUAL REPORTS TO COMBAT DIGITAL DISCRIMINATION IN REMOTE LOCATIONS**

**A. The FCC should conduct listening sessions with tribal communities**

The FCC should regularly engage in discussions with tribal communities through the Office of Native Affairs and Policy (“ONAP”) to address digital discrimination claims that they may experience. These continued discussions will help the Commission understand how best to approach issues like tribal sovereignty, including ownership of infrastructure, spectrum ownership, and tribal consent. Tribal communities have historically been marginalized and meaningful partnerships in these communities can help the Commission identify how best to address their distinct needs to bridge the digital divide.

**B. Rural internet service providers, regardless of size or number of subscribers, should be subject to this reporting requirement**

The Commission should remove any threshold for triggering the requirement to report on broadband projects. Otherwise, many rural communities would be too small to trigger the reporting requirement and would not benefit from the reports designed to identify digital discrimination. Most importantly, it would be contrary to Congress’s intent to exempt rural service providers. Historically, rural communities have not received the investments necessary to close the digital divide. Because some of these areas are served by smaller, local ISPs, the Commission should also extend transparency requirements to those companies.

Additionally, the Commission should consider more granular tracking beyond census blocks so that the investments made in very rural and tribal communities are better understood. More specifically, the Commission could also use the measurement of miles covered in a deployment project, without regard to the density of the service area. In rural spaces, a service provider may follow geographic features like a river or a stream when installing broadband

infrastructure, and the reporting requirement should be able to accept such a designation. More specifically, in addition to a service provider reporting that their service is available to a particular census tract, the service provider should be able to report that they have installed fiber along a specific body of water, mountain range, etc.

## **VI. THE FCC SHOULD CREATE AN OFFICE OF CIVIL RIGHTS**

Public Knowledge, et al. reaffirms its strong support for the Commission to establish an Office of Civil Rights, echoing the sentiments expressed by the civil rights community and the California Public Utilities Commission in response to this FNPRM.<sup>29</sup> An Office of Civil Rights would enhance collaboration across local, state, and federal authorities and ensure the digital divide is closed equitably.

PK supports the CPUC's theory that this office should work with state and local authorities responsible for distributing broadband deployment funds to monitor and enforce complaints as appropriate.<sup>30</sup> The Leadership Conference for Civil and Human Rights ("LCCHR") Media and Telecom Taskforce states that an Office of Civil Rights would provide the Commission with additional civil rights expertise to facilitate enforcement of digital discrimination rules and promote equitable broadband adoption plans.<sup>31</sup> Furthermore, PK supports NCNW's claims that "[a]n OCR's mission would be to protect the civil rights of all

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<sup>29</sup> The Leadership Conference on Civil and Human Rights, Comment, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304071208786/1>; The National Council of Negro Women, Reply to Comments, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304035880856/1>; Comments of The People of The State of California and The California Public Utilities Commission, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.

<sup>30</sup> Comments of The People of The State of California and The California Public Utilities Commission, p. 10, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.

<sup>31</sup> The Leadership Conference on Civil and Human Rights, Comment, pp. 1-2, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304071208786/1>.

Americans within the communications sector, regardless of any specific group affiliation. It would be crucial for the OCR to operate with transparency and accountability to ensure it serves the needs of all citizens effectively."

Public Knowledge, et al. also agrees with NCNW that an Office of Civil Rights could foster collaboration with other federal agencies and civil rights organizations, which would enable a more coordinated approach to addressing digital discrimination.<sup>32</sup> Centralized data collection and analysis by the Office of Civil Rights would offer valuable insights into the scope and nature of the problem, informing future policy decisions. Further, as stated by NCNW, "This centralized approach would ensure consistent and efficient enforcement of civil rights within the communications sector that we believe would not take away from already established offices but bolster the efforts of all."<sup>33</sup>

## **CONCLUSION**

The Commission should require additional reporting elements to enable the agency in more thoroughly scrutinizing economic feasibility defenses. Further, the Commission should additionally require internet service providers to report the "project type" of each broadband project to assist researchers that analyze the data. As Public Knowledge, et al. has argued previously, the Commission has the authority to proactively address digital discrimination. Further, the Commission should work through ONAP to ensure unique experiences by tribal communities are addressed in complaints about digital discrimination. Finally, Public

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<sup>32</sup> The National Council of Negro Women, Reply to Comments, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304035880856/1>.

<sup>33</sup> The National Council of Negro Women, Reply to Comments, p. 2, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304035880856/1>.



Knowledge, et al. agrees with the civil rights organizations<sup>34</sup>, and the California and California Public Utilities Commission,<sup>35</sup> in support of establishing an Office of Civil Rights.

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<sup>34</sup> The Leadership Conference on Civil and Human Rights, Comment, pp 1-2, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304071208786/1>; The National Council of Negro Women, Reply to Comments, pp. 1-2, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304035880856/1>.

<sup>35</sup> Comments of The People of The State of California and The California Public Utilities Commission, GN Docket 22-69, March 4, 2024, available at <https://www.fcc.gov/ecfs/document/10304061612646/1>.