

U.S. Senator Maria Cantwell

Opening Statement at Senate Commerce Committee Hearing entitled “Recent Federal Action to Expand Broadband: Are We Making Progress?”

Witnesses: Dr. Christopher Ali, Associate Professor, Department of Media Studies, University of Virginia

Mr. Justin Forde, Senior Director, Government Relations, Midco

The Honorable Michael O’Rielly, Former Commissioner, Federal Communications Commission

Mr. Jon Wilkins, Partner, Quadra Partners

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Cantwell: Good morning. The Commerce Committee will come to order. I want to welcome our witnesses to today's hearing, “Recent Federal Action to Expand Broadband: Are We Making Progress?” We have a distinguished list of witnesses today to help us discuss what we've most recently done on a variety of broadband programs and access and increasing services, and also ideas and frameworks for how we should move forward. We welcome the witnesses today to be here.

The last year has been a very stark reminder about how important broadband connectivity is to Americans. As we’ve faced a pandemic, the internet has become the place to go to work, to attend school, to see friends, to help visit the doctors, and do many of the day-to-day things that we've all had to do in our lives. We've had to struggle throughout the pandemic, but imagine what life would have been like if we didn't have the internet during that time period. For millions of Americans, they don't have to imagine, because some of them really didn't have access to the internet.

I know we're going to hear from our witnesses today, like Dr. Ali, who's saying that the diagnosis and understanding of our most recent spending, that still there's 37% of rural Americans who could be paying more for internet connectivity than their counterparts in urban areas. That truly is unacceptable. We need our rural communities to be on a level playing field. And as our other witnesses, Mr. Forde, will be with us, I think virtually, will also point out that what we do next has to be done right, otherwise we could be in a situation where those who are currently lacking service could, after more spending, continue to lack service.

We cannot allow that reality to happen. If we're going to make investments, which I think we should, we need to make sure that we are really going to cut the digital divide. The stories that I hear from my home state in Washington are heartbreaking. A principal from the Columbia School District, near Spokane, recently described the impact of remote learning to her school, only to find that close to 70% of the students and their families lacked consistent access to broadband internet. Even those who did have access often lacked a strong enough signal for more than one of their children to attend virtual class, putting the parents in an impossible dilemma of who's going to go to school that day. And that problem didn't stop within the households either. Neighborhoods and multiple children trying to attend their digital classrooms, the signal failed to hold up, leaving them with many challenges. The principal's conclusion reads like a wake up call for policy in this space: “the need for appropriate internet and

cellular coverage in Stevens County,” the principal said, “is now glaring at us like a neon light.” I couldn't agree more that it's glaring at us, and we need to get the next phase right.

Today we're going to review some of the recent extensive programs the FCC developed and implemented. the Rural Digital Opportunity Fund and RDOF auction. Congress created the Re-connect broadband grant and loan program for rural counties. The NTIA administration is working on rules for Tribal and rural grant programs from the December COVID package. And the American Rescue Plan just recently signed by the President Biden, a new Treasury program targeted infrastructure.

I'm pretty sure all four witnesses will remind us today that coordination, something that Senator Wicker has been resolute about, and helped us get some initial language into previous laws – that the lack of coordination between these programs and federal agencies also needs to be strengthened, and I appreciate his previous legislation on that. So, I'm sure all witnesses are going to tell us that better coordination between these resources, also, is very important.

We'll also hear how the FCC predicted that it might take as much as \$80 billion to close the digital divide. And I know that we're going to hear a lot of different inputs about that this morning. My hope is that the committee can develop a strong bipartisan framework to look at this issue as we move forward because, as our witnesses say, we can't afford to invest this money, and then still have communities without access moving forward. I hope that today we will hear from the broad depth of experience that each of our witnesses have, and they will talk about the necessary things before us on getting access to those underserved communities. But I do think that affordability, resiliency, redundancy, and security are also part of our agenda here. These are important tools for an information age. This is how we live and work, and socialize, and educate the next generation, so I hope we can get this right. Thank you all for being with us today. Now I'll turn to my colleague Senator Wicker for his opening statement.

Q&A With Witnesses

Cantwell: Thank you. Again, thanks to all the witnesses. I'm going to start, Mr. Wilkins, with you, but it's really a question for all the witnesses. You all talked about the RDOF auction, you all mentioned changes, but could each of the witnesses just tell me as succinctly as you can the two or three changes that you would make to the current system, as it relates to the next auction? Mr. Wilkins?

Mr. Wilkins: Certainly. I think that one category is there should be some adjustments to the standards required to participate in the auction, and probably more precisely, on the geographic scope with which you can participate. I think that there's a well intended desire to have a relatively low bar to entry in auctions, you want lots of participation, but I think it is going to prove quite unreasonable to allow some bidders to bid essentially in states they've never operated in, I think that just the nature of the upfront process should be made somewhat more stringent. There's a balancing test for sure there, but I think it needs to shift a little bit more into a higher showing of abilities for an area.

Cantwell: Mr. O’Rielly?

Mr. O’Rielly: Sure. There are a couple things I saw and didn't exactly make it into the cuts. One, I think that we should impose broadband penalties at a much higher level than exists today. You can receive the funding, you know, go a couple years, and then fail, and pay the penalty if you're trying to extract it out of bankruptcy, and that should be done. Two, is it has to remain technology neutral and that was something that we fought for and I think we maintained, but there’s still that desire and there was a desire in the structure, to--people have said this publicly, to put the thumb on the scale, and that is problematic in my opinion. It shouldn't--there shouldn't be a thumb on the scale of how you have a competitively neutral bidding process. And I would refer to my friends’ quote, the Ferrari one, actually mine was Lamborghinis and Chevy's, and we must remember that the Chevy is a very good vehicle, and we're trying to figure out how to get broadband to those that have nothing. And I’ve sat in those kitchens of people who have nothing. And we're trying to figure how to solve those. So there's two ideas I would’ve—I didn’t win at the Commission that I tried to.

Cantwell: Okay. Dr. Ali?

Dr. Ali: I echo a lot of what was already said. My concern was about making ineligible providers that received state or USDA support. I think what's happened is it's forcing providers to make a very difficult decision. And it's also taken the legs out from under state programs who have been quite aggressive. I look to Minnesota, I look to Illinois, I look to New York, who have been quite aggressive in funding broadband. Winners of RDOF, of course, cannot accept state funding. I'll remind everyone that 99% of borrowers to the USDA telecom program also receive USF support. This program is for the smallest providers providing service for the smallest communities. All of these providers would be ineligible, are ineligible, for RDOF support as it stands right now.

Cantwell: So you’re saying more coordination?

Dr. Ali: More coordination.

Cantwell: Yeah. Thank you. And Mr. Forde, did you want to weigh in on this? Changes to the RDOF auction that you’d like to see?

Mr. Forde: We were very happy with the results of the RDOF auction, certainly for us as a taxpaying company. Sure, we would have liked to have won more in RDOF, but it saved 6 billion dollars for the

taxpayer, and we are currently planning and we'll be deploying broadband out to some of those RDOF areas, really in a very short period of time. So we view it as highly successful this will help us reach another 6,000 addresses shortly here. So very excited to be getting that broadband out there to people who need it quickly and efficiently.

Cantwell: One thing that you mentioned that you were concerned about and we're certainly--I think this now—I was asking for specificity, now I'm asking for theory here a little bit. And that is just the, you know, the speed, the uplink and downlink speed as I think, Dr. Ali, you mentioned ones about consumption, ones about production. And I do—I am concerned about what we are putting out there as it relates to making sure that we have the full vision now. You have the kids who are streaming or, you know, as Mr. Forde said, he's working on his business someone else is doing--so the complexity in a household of what you're doing, what do we do about this issue about the rate? And, obviously, many of my colleagues here, we're going to be discussing many things this year here about the economic development opportunities in rural America. We want to see more economic activity, which would mean that we'd want to have service areas that could receive, you know, much more connectivity that would allow them on the uplink to provide more productive business activity. So do you want to discuss that starting with Dr. Ali?

Dr. Ali: Absolutely, thank you for that question. I'm in favor of the 100-100 symmetric definition. I think, you know, as we've learned, it allows people to work from home, it allows students to study from home, I'm thinking particularly of my students who might have multiple roommates who are sharing a connection, have multiple zoom calls, you know, a definition of 25-3 is not suitable for those students. Nor is it for a family of four where two parents might be working and two kids also going to K to 12. The other thing I'll just add is that this metric definition is absolutely vital for business. I think particularly of precision agriculture. I spent a lot of time in rural Minnesota talking to precision agriculture companies and providers. They are uploading terabytes worth of data and doing an incredible amount of soil analysis, oftentimes in real time, if possible, if the technology is there. They need that ultra fast symmetric upload speeds to enable them to make real time decisions about planting.

Cantwell: Yeah. I see my time has expired but Mr. O'Rielly, do you want to make a quick comment on that and then we'll get the rest later for the record?

Mr. O'Rielly: Well in precision ag, most of the data can go, and it doesn't have to go at once, it can go at different times, and so you don't have to have really [fast] upload speeds. And in terms of the 100-100, the 25-3, the 25 that we have to exist today has been incredibly functional, and I've seen data that suggests that you can have six zoom calls happening at upload speeds of three to five. So to go into 100 to fulfill a desire--and I know there's interest in expanding the speeds, but there has to be a limitation on how much we can afford to fund at one time.

Cantwell: We'll get more from our other witnesses on this. I think this is a very important point on the economics of auctions. So, anyway, Senator Wicker.

Second Round of Questioning

Cantwell: Thank you, it's so critical to lots of aspects of the United States. I think we're going to have Senator Rosen online in a few minutes, but while we're waiting for her, I think I'll just jump in here on a few points from earlier. Mr. O'Rielly, one of the issues that was brought up is just satellite services, and obviously you were an advocate for that at the FCC, I think?

Mr. O'Rielly: Well I didn't want to exclude it from the front part. I thought that they had the right to be able to prove that their technology should be considered. And what the draft rules at the time would say, "no we're not even consider it," they're excluded. I thought it was only right that they be able to prove--they supposedly, and I wasn't part of this project, but I wasn't brought in to the project, they supposedly were able to prove that to the staff, and then they were able to—one particular entity was able to bid in the RDOF and receive funding.

Cantwell: What do you think about that as an application for whatever you want to call it, the 2%, the some percent of America? I loved hearing from Mr. Forde today because, you know in a lot of ways, the central part of Washington might be a little bit like that, but certainly not the far East in the Palouse, and certainly not out on the Olympic Peninsula. We have mountains, we have forests, we have all sorts of problems. So what do you think about satellite for a solution to very hard to serve areas?

Mr. O'Rielly: I've been impressed with what the plans have been by a number of the low Earth orbit satellite offerings. I've experienced Starlink, I went—it took three minutes to set up on a rooftop in D.C., and the service is 150 Mbps instantly. So I was impressed by that. Now to points Dr. Ali's made, we don't know about the scalability, we also don't know if the business model will work, and then you have costs in terms of equipment. But in terms of, you know, filling a need of those that have absolutely nothing, and they call it the best of what you can get kind of thing, I think that's very impressive and it'll only increase over time. Who is going to succeed, I don't know, there's three or four or five different satellite providers, everyone thinks there's room for probably two, but they'll always say it's me and this other guy and they all disagree on who that is.

Cantwell: Right. I hear you on that one. So to me, this issue about competition is an important one because we obviously want to have competition, because competition does drive down cost. I mean a lot of people would say even within the urban environment, we don't have enough competition and that's one of the reasons why we have such high prices for broadband, overall. And then there's the issue of where the market just isn't working at all. Market failure, as Dr. Ali has mentioned. And so Dr.

Ali I wondered if you could focus a little bit on that, on the market failure side. I mean to me, when you put in the Universal Service Fund, when you put in spectrum that was given previously, not the most recent ones, you have a lot that we've been invested in already. So how do we get efficiencies here, how do we get efficiencies?

Dr. Ali: That's a great question, Senator, Madam Chair, thank you. How do we get efficiencies when it comes to serving or getting service to the most unconnected? You know, one of the things that I'm thinking about is in my home state of Virginia. I've talked to a number of counties, and they are excited, they actually won—they have a little bit of money, they are struggling to find a provider, a dance partner as it were, even though they've got these incentives in place. Something that is near and dear to my own heart is opening up opportunities for municipalities and counties to fund networks and organize networks themselves in the form of municipal broadband. I think that that's proven to be a really interesting component if we think about layering the different types of providers. So I'd love to see the regulatory barriers in so many states towards municipal broadband and county broadband be eliminated to allow counties and municipalities to drive their own future.

Cantwell: And how would that help with the other aspect of the dilemma where we've basically given green lights or we've had broadband deployment only to have it reach a community but basically have the cost—you have no takers because the cost is so high? What do we do in that case?

Dr. Ali: Another great question. I would love to see a mandate where all providers have to have a low cost option. I believe that John Sallet has said that \$10 a month is what the lowest earning households can afford, especially if we're thinking about making the emergency broadband benefit package permanent, maybe at \$50 a month, we need to make sure that there are plans, that there are tiers available, that that can cover. So I think the next step will be about pricing and making sure that those who are using these programs can actually afford services.

Cantwell: I think this becomes even more complex with the world of—you had called it, five years ago, cord cutting, now I call it just more efficient adjustments to homes of getting what internet service they want. So, we have a lot of transformation going on at the same time. That's why this is, I believe, challenging, just because you have so much transformation. And you also don't want to leave anybody behind, to new applications, you don't want to preclude somebody from being the next center of focus. We have an area of our state, in the Columbia Gorge, which is a very challenged geographic area, most beautiful area, it's got a national designation, but they were able to pull off very significant drone development that ended up being—playing major roles for us in the United States. So very rural, hard to serve area, but they had like 9 T1's back in the 90s, and were able to pull off the kind of infrastructure that needed for that rural community to basically really produce quite a very important aspect of technology development. So we don't want to preclude that from happening. Yes, Mr. O'Rielly?

Mr. O’Rielly: I don't agree on terms of the mandated, tier basic, what he was suggesting, or in terms of rate regulation. What I do think is maybe, is looking at the program that this committee set up in terms of EBB in terms of--it's almost a voucher program, and that being the supplement to or maybe replacing the current Lifeline program. So how do you directly get the benefit to consumers that may need the affordability issue? I think it's critical to address the affordability issue, but I think there's ways to go about it versus some of the government structure that my colleague may have...

Cantwell: Well I hope we can--you know I think Dr. Ali mentioned some other, you know he's mentioned rural electrification. There's a point at which we just said we're going to get there. We are going to get there the cheapest possible way we can get there, for the hardest to serve populations so I think we'll have to look at that.

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Cantwell: Thank you, Senator Lee. Well that's all the members I believe that are scheduled to ask questions...but certainly want to thank you all for your testimony. We didn't get to really a good debate round on shared use issues but I'm sure this last question kind of primes the pump for that. A lot to talk about there including how do we all get comfortable when we talk about coordination of those agencies, and we also talk about the coordination of use agencies, which hasn't seemed to go so well in the last few rounds. I don't really think we really want to be the arbiter of last resort, the Congress, I don't think that serves us well, but at the same time, I think we'll need to figure out how we're going to have engineers and various multiple agencies get on the same page. But we'll leave that one for the record, we'll get some comments on shared use and efficiencies in shared use, and engineering, whatever we want to call it, engineering agreement, something of that nature, how we get people on the same page at least with the scientific data so that we can all feel comfortable in moving forward. But this has been a very illuminating hearing, I thank the witnesses.