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The Honorable Brendan Carr
Chairman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Delete, Delete, Delete, GN Docket No. 25-133

Dear Chairman Carr,

Congratulations on your appointment to be chair of the Federal Communication Commission. Thank you for launching this deregulatory initiative and seeking public input. The Heritage Foundation welcomes the opportunity to provide guidance on rules and regulations the FCC needs to overturn or eliminate.

During the Biden Administration, the FCC unlawfully exceeded its authority, took actions that placed industry interests over children's education and well-being, and forced "diversity, equity, inclusion," initiatives on broadcasters. We urge the FCC to overturn the following rules or pending rulemakings.

"In the Matter of Modernizing the E-Rate Program for Schools and Libraries" (Wi-Fi on School Buses) Declaratory Ruling, issued October 25, 2023, and **"Addressing the Homework Gap Through the E-Rate Program,"** finalized August 20, 2024.¹

The E-Rate program is ripe with waste, fraud, and abuse. For example, the program spent over \$40 billion over the past 20 years on broadband including over \$20,000 per month to individual preschools. This amount grossly exceeds the market rate of advertised business broadband rates, which reportedly runs around \$250 to \$350 per month.² The E-Rate program receives its funding from the Universal Service Fund, which is a line-item surcharge on phone bills, but the USF has obligated more spending than funding it receives. Thus, Congress has appropriated over \$150 billion since 1995 to subsidize the Fund. The program needs serious reforms and cuts, and the FCC should start with its newest expansion to the program.

¹ Federal Register, Vol. 89, No. 151 (August 20, 2024), pp. 67303-67326.

² Annie Chestnut Tutor, "B" Is for Broadband: The Alarming Cost of Subsidizing Internet Access for Preschools" The Heritage Foundation, March 10, 2025. <https://www.heritage.org/sites/default/files/2025-03/BG3897.pdf>

Recent psychological research says kids need less screen time, not more. For example, the U.S. Surgeon General found that teens who spend over three hours a day on social media face twice the risk of poor mental health outcomes.³ Providing free Wi-Fi on school buses and free hotspot devices for kids to check out undermines their educational and developmental needs. These measures overlook parental oversight of children's screen use and leave kids vulnerable to harmful exposure—such as explicit content and addictive design features—on top of increased screen time, which alone heightens the risk of anxiety, depression, and loneliness.⁴

Beyond the harm these rules bring to kids, the FCC lacks the authority for this program. Section 254 of the Communications Act provides that E-Rate discounts may be used for telecommunications and information services for school classrooms and libraries. It does not provide for equipment and devices such as Wi-Fi hotspots in locations outside of classrooms and libraries.⁵

“Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies,” finalized May 3, 2024.⁶

This rule violates the Constitution, is arbitrary, goes beyond the scope of the statute, duplicates current data collection, and does not sufficiently provide evidence for how the benefits outweigh the costs and potential harms. Mandating broadcasters to submit gender, race, and ethnicity information about their workforce to the FCC places pressure on broadcasters to hire based on race and gender in order to avoid judgement. This pressure compels speech and violates the First Amendment. After the FCC required this data collection through Form 395-B in 1992, the D.C. Circuit Court found in two separate cases that this data collection violated equal protection rights within the Due Process Clause of the Fifth Amendment.

This reporting duplicated a requirement of the Civil Rights Act of 1964 for the Equal Employment Opportunity Commission to collect and retain data on a confidential basis from employers with 100 or more employees. The Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 established a uniform policy of confidentiality for data federal agencies collect for statistical purposes. Alarming, the FCC determined in its latest rulemaking

³ News release, “Surgeon General Issues New Advisory About Effects Social Media Use Has on Youth Mental Health,” U.S. Department of Health and Human Services, May 23, 2023, <https://www.hhs.gov/about/news/2023/05/23/surgeon-general-issues-new-advisory-about-effects-social-media-use-has-youth-mental-health.html> (accessed February 24, 2025).

⁴ Annie Chestnut Tutor, “Age Verification: What It Is, Why It’s Necessary, and How to Achieve It, The Heritage Foundation, March 6, 2025, <https://www.heritage.org/big-tech/report/age-verification-what-it-why-its-necessary-and-how-achieve-it>.

⁵ The Heritage Foundation submitted an ex parte public comment opposing this proposed rulemaking on March 29, 2024. <https://www.fcc.gov/ecfs/filing/status/detail/confirmation/20240329299187286>. It also submitted a public comment to the further notice of proposed rulemaking on October 4, 2024.

<https://www.fcc.gov/ecfs/filing/status/detail/confirmation/20241004301056751>

⁶ Federal Register, Vol. 89, No. 87 (May 3, 2024), pp. 36705-36718.

that the CIPSEA confidentiality requirements did not apply to Form 395-B, and it could publicize the data collection.⁷

Form 395-B opens broadcasters to unfriendly activist engagements and frivolous lawsuits as the FCC encourages third-party involvement in finding errors in station reports. This rule was designed to pressure broadcasters to adopt the “diversity, equity, and inclusion” mindset of the previous Administration.

“Safeguarding and Securing the Open Internet,” finalized May 22, 2024.⁸

This rule renewed an Obama-era rule that gives broad regulatory authority over internet service providers and broadband internet access. The FCC does not have the Congressional authority to reclassify broadband as a telecommunications service under Title II of the Communications Act. The FCC should overturn this rule and restore broadband regulation under Title I as an information service. According to the major questions doctrine, an agency may not decide a policy question of the first importance affecting a broad span of society or the economy without a clear congressional delegation of authority to make that decision.

There was no clear economic or consumer benefit to reestablishing this rule. Broadband internet speed increased, competition expanded, and prices fell during the first Trump Administration when Chairman Pai overturned the Obama-era net neutrality rule. The FCC should restore light-touch regulation over broadband.⁹

“Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements,” proposed August 5, 2024.¹⁰

This pending rulemaking exceeds FCC's statutory authority, exhibits arbitrariness, and threatens to severely distort political discourse through a fragmented regulatory approach. The Communications Act narrowly designates the FCC's jurisdiction over political advertisements to three specific areas: (1) equal access enforcement, (2) public file maintenance, and (3) sponsor identification requirements. The Bipartisan Campaign Reform Act (BCRA) further restricts the FCC's role to merely compiling information on electioneering communications for potential *Federal Election Commission* oversight. Therefore, this statutory framework precludes the FCC from asserting broad authority to regulate political advertising content or mandate use of artificial intelligence (AI) disclosures. Simply put, the FEC retains the exclusive authority to regulate political disclaimers.

⁷ The Heritage Foundation submitted a public comment opposing this proposed rulemaking on April 29, 2024. <https://www.fcc.gov/ecfs/filing/status/detail/confirmation/20240429148896449>

⁸ Federal Register, Vol. 89, No. 100 (May 22, 2024), pp. 45404-45556.

⁹ The Heritage Foundation submitted a public comment opposing this proposed rulemaking on December 14, 2023. <https://www.fcc.gov/ecfs/filing/status/detail/confirmation/2023121457992073>.

¹⁰ Federal Register, Vol. 89, No. 150 (August 5, 2024) pp. 63381-63393.

Beyond this jurisdictional conflict, the proposed rule arbitrarily creates an asymmetric regulatory landscape, imposing disclosure requirements exclusively on broadcasters and cable companies while exempting digital platforms. This regulatory inconsistency creates consumer confusion, undermining the rule's intended purpose.

Further compounding these issues is the rule's failure to establish clear, objective criteria for identifying AI-generated content. The Commission's proposed definition for AI-generated content is overly broad and risks capturing common digital editing techniques, such as color correction, audio enhancement, splicing, or other basic video editing processes that are standard in media production, even before the emergence of AI. The ambiguity in the definition places an unreasonable burden on broadcasters and advertisers to determine what constitutes AI-generated content, ultimately compromising the effectiveness and fairness of the proposed regulation.¹¹

Conclusion

There is a clear theme of exceeding statutory authority and violating the Communications Act in these FCC regulations. These rules appear to advance political goals of the Biden Administration rather than policies with economic or consumer benefits. We applaud you for taking this important initiative to eliminate unnecessary regulatory burdens. We urge you to overturn these rules and pending rulemakings and scrutinize programs for waste, fraud, and abuse.

Respectfully,

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* I file this comment in my individual capacity rather than as an employee of the Heritage Foundation; information regarding my institutional affiliation is provided for informational purposes only.

¹¹ The Heritage Foundation submitted a public comment opposing this proposed rulemaking on September 4, 2024. <https://www.fcc.gov/ecfs/filing/status/detail/confirmation/20240904164013869>.