

441 G St. N.W.
Washington, DC 20548

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June 11, 2021

The Honorable Maria Cantwell
Chair
The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Establishing Emergency Connectivity Fund To Close the Homework Gap*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (Commission) entitled “Establishing Emergency Connectivity Fund To Close the Homework Gap” (FCC 21-58). We received the rule on May 14, 2021. It was published in the *Federal Register* as a final rule on May 28, 2021. 86 Fed. Reg. 29136. The effective date is May 28, 2021.

According to the Commission, the final rule establishes the Emergency Connectivity Fund Program (Program) to provide funding for schools and libraries for the purchase, during the coronavirus (COVID-19) pandemic, of connected devices and broadband connections for use by students, school staff, and library patrons. The Commission stated the Program was mandated by the American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (Mar. 11, 2021).

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). The Commission determined it had good cause to waive the 60-day delay because of the unprecedented nature of this pandemic and the need for immediate action. The Commission determined the delay would undermine the public interest by delaying Congress’s intent to quickly provide resources to eligible schools and libraries to provide the greatly needed connectivity and connected devices to enable students, school staff, and library patrons to fully engage in remote learning during the COVID-19 emergency period.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ryan B. Palmer
Chief, Telecommunications
Access Policy Div., WCB
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“ESTABLISHING EMERGENCY CONNECTIVITY FUND
TO CLOSE THE HOMEWORK GAP”
(FCC 21-58)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (Commission) indicated that it did not prepare an analysis of the costs and benefits of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission determined the final rule was not subject to the requirements of RFA because the Commission waived notice and comment procedures.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The Commission waived notice and comment procedures and the 30-day delayed effective date with respect to the final rule for good cause. The Commission determined it had good cause because of the unprecedented nature of the coronavirus pandemic and the need for immediate action. The Commission determined the delay would undermine the public interest by delaying Congress’s intent to quickly provide resources to eligible schools and libraries to provide the greatly needed connectivity and connected devices to enable students, school staff, and library patrons to fully engage in remote learning during the pandemic emergency period.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined the final rule contains information collection requirements (ICRs) subject to the Act. The Commission submitted the ICRs to the Office of Management and Budget (OMB) for approval under the emergency provision of PRA. The ICR is associated with OMB Control Number 3060-1286.

Statutory authorization for the rule

The Commission promulgated the final rule pursuant to sections 151, 154, 155, 201, 205, 214, 219, 220, 229, 254, 303, 403, 1004, 1302, and 1601–1609 of title 47, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.