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March 4, 2024

The Honorable Jessica Rosenworcel
Chair
Federal Communications Commission
45 L Street
Washington, DC 20554

Re: Prevention and Elimination of Digital Discrimination, GN Docket 22-69

Dear Chair Rosenworcel:

On behalf of The Leadership Conference on Civil and Human Rights (The Leadership Conference) and its Media/Telecommunications Task Force, we write in response to the Further Notice of Proposed Rulemaking implementing the civil rights provisions of the Infrastructure Investment and Jobs Act.¹

The Leadership Conference is a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, and its Media/Telecommunications Task Force is committed to ensuring that all communities, especially the historically underserved, have access to affordable, reliable, high-quality advanced communications services. High-speed broadband has become an integral platform for education, employment, health care, economic development, civic participation, and communications with family and friends. The lack of access to broadband internet service among communities of color, low-income households, and rural communities means that many vulnerable households are disproportionately excluded from full participation in our society and, thus, raises a critical equity and civil rights concern. Congress agrees, and in the Infrastructure Investment and Jobs Act (IIJA), the Federal Communications Commission (FCC or commission) and the U.S. Department of Justice have been charged with “eliminating” digital discrimination.

For the FCC to be without an Office of Civil Rights deprives it of not only a tool to implement the new obligations and authority granted to it via the IIJA, but also would be a significant missed opportunity to institutionalize the commission’s obligation to prioritize access for all people in the United States. The Leadership Conference has commented in support of a new Office of Civil Rights many times throughout this proceeding.² An Office of Civil Rights would provide the commission with additional civil rights expertise that

¹ Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination, Further Notice of Proposed Rulemaking, GN Docket No. 22-69 (rel. Feb. 1, 2024)(FNPRM)

² See generally *Comments of The Leadership Conference on Civil and Human Rights, American Association of People with Disabilities, American Civil Liberties Union, Common Cause, Communications Workers of America, et al.*, GN Docket 22-69 at 6-8 (2023).

would not only help facilitate enforcement of the digital discrimination rules, but also serve to promote equitable broadband adoption plans and work on other substantive policy issues.

In our initial comments, we stated that, in staffing the proposed Office of Civil Rights, “new hires who have worked on enforcement related issues in fair housing, employment, federal benefits, or disability discrimination would be well-suited to ensure that the FCC is able to adopt robust rules and create enforcement and data collection procedures that will make non-discrimination a reality.”³ This is a perfect example of how an Office of Civil Rights could assist with enforcement while also being helpful in developing and maintaining the expertise to evaluate the effects of commission policy initiatives on historically marginalized communities. The connections between discrimination in housing and the deployment of broadband are well documented, and expertise from this area would support enforcement, while new hires who have experience with discrimination in the administration of federal benefits could provide valuable insight into the administration of the Affordable Connectivity Program or Lifeline Program.

Additionally, the FCC can draw on other examples from across the federal government — these offices are varied in their size, scope, and mandate, and they are individually tailored to meet the needs of the agency in which they are housed. The Small Business Administration’s Office of Diversity, Inclusion and Civil Rights seeks to “champion a diverse workforce and inclusive culture by ensuring equal access and equitable treatment regarding employment and entrepreneurial endeavors.”⁴ An Office of Civil Rights at the FCC could similarly work with broadband providers to develop a diverse workforce and provide insight into best practices for broadband adoption plans and digital skills literacy programs. As another example, the Consumer Financial Protection Bureau’s Office of Civil Rights/Office of Fair Lending and Equal Opportunity enforces existing civil rights policy, issues policy guidance, and conducts investigations.⁵ The Department of Labor’s Civil Rights Center serves a similar function.⁶ There is no one-size-fits-all approach, and the FCC has the authority to structure and staff an Office of Civil Rights as it sees fit to best serve the needs of the commission.

Establishing an Office of Civil Rights is certainly not without its challenges. Funding is a significant hurdle, and many such offices within the federal government have been long underfunded. The Leadership Conference has long advocated for increased funding for these offices because of their vital importance in the face of ongoing discrimination across sectors.⁷ However, funding concerns should not

³ *Comments of The Leadership Conference on Civil and Human Rights, American Association of People with Disabilities, American Civil Liberties Union, Common Cause, Communications Workers of America, et al.*, GN Docket 22-69 at 6-8 (2023).

⁴ Office of Diversity, Inclusion, and Civil Rights, Small Business Administration (<https://www.sba.gov/about-sba/sba-locations/headquarters-offices/office-diversity-inclusion-civil-rights>)(last visited Feb. 6, 2024).

⁵ Office of Civil Rights, Consumer Financial Protection Bureau (<https://www.consumerfinance.gov/office-civil-rights/>)(last visited Feb. 18, 2024).

⁶ Civil Rights Center, U.S. Department of Labor (<https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center>)(last visited Feb. 18, 2024).

⁷ *Letter from The Leadership Conference on Civil and Human Rights, et al. to Reps. Aderholt and DeLauro, and Sens. Baldwin and Capito*, (Feb. 14, 2024)(<https://civilrights.org/resource/letter-urging-congress-to-double-funding-for-the-department-of-educations-office-for-civil-rights/>).

deter the commission from taking a critical step toward ensuring that policies across the commission are designed and executed equitably.

Commenters in the record emphasized that this is an opportunity for the FCC to create and implement inclusive digital communications policies that align with President Biden’s Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, and we agree.⁸ The FCC has an opportunity to build on the momentum of the digital discrimination rules and continue to be a leader within the federal government with respect to civil rights and — as the Lawyers’ Committee for Civil Rights Under Law pointed out — has the ability to do so at any time through its authority to manage the structure of the agency.⁹

There is broad support for this proposal from both industry and civil rights organizations. The commission must not miss the opportunity to strengthen its own internal civil rights infrastructure. The Leadership Conference, and its Media/Telecommunications Task Force members, will work with the FCC to ensure that an Office of Civil Rights becomes a reality.

Thank you for your consideration of our recommendations on the implementation of the IIJA’s civil rights provisions. We look forward to working with you on this issue and others of importance to our country. If you have any questions about this letter, please contact Media/Telecommunications Task Force Co-Chair Cheryl Leanza, United Church of Christ Media Justice Ministry, at cleanza@alhmail.com, or Jonathan Walter, policy counsel at The Leadership Conference, at walter@civilrights.org.

Sincerely,

The Leadership Conference on Civil and Human Rights
American Association of People with Disabilities
Asian Americans Advancing Justice – AAJC
Communications Workers of America
Japanese American Citizens League (JACL)
National Consumer Law Center (on behalf of its low-income clients)
National Council of Asian Pacific Americans (NCAPA)
National Disability Rights Network (NDRN)
National Hispanic Media Coalition
National Urban League
NETWORK Lobby for Catholic Social Justice
Sikh American Legal Defense and Education Fund (SALDEF)
United Church of Christ Media Justice Ministry

⁸ Letter from NCBCP, BWR, NAN and NUL, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 22-69, (filed October 10th).

⁹ *Comments of The Lawyers’ Committee for Civil Rights Under Law*, GN Docket 22-69 at 40 (2023).

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