



May 16, 2024

Chairman David Joyce (R-OH)
Subcommittee on Financial Services and
General Government
House Appropriations Committee
H-307 The Capitol
Washington, DC 20515

Ranking Member Steny Hoyer (D-MD)
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Dear Chairman Joyce and Ranking Member Hoyer

The National Multifamily Housing Council (NMHC) and National Apartment Association (NAA) submit this letter regarding the Subcommittee's hearing entitled, "Fiscal Year 2025 Request for The Federal Communications Commission (FCC)." Given FCC Chair Jessica Rosenworcel and Commissioner Brendan Carr's appearance at the hearing, we are writing to raise concerns with the FCC's forthcoming action on bulk billing.

For more than 25 years, NMHC and NAA have partnered on behalf of America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management, finance, and suppliers partners/service providers. Drawing on the knowledge and policy expertise of staff in Washington, D.C., as well as the advocacy power of 141 NAA state and local affiliated associations, NMHC and NAA provide a single voice for developers, owners, and operators of multifamily rental housing. One-third of all Americans rent their housing, and 38.9 million of them live in an apartment home.

The FCC's announcement indicates that its forthcoming proposal will "seek to eliminate" the use of bulk billing arrangements in the provision of broadband services in apartments and public housing, among other multi-unit dwellings.¹ This plan is troubling and fails to recognize the positive role of bulk billing in providing many communities with affordable and efficient access to broadband services. Recently, after hearing from a diverse range of stakeholders opposing such a move, the FCC has apparently shifted its efforts to require consumer opt-outs from bulk billing service despite the technical challenges and possibilities that many low-income households could be disconnected from the internet and millions more could face higher prices for broadband service.

The FCC's apparent new approach to require consumers' ability to opt out of bulk service misunderstands the technical and practical implications of such a move. First, from a technical perspective, consumer opt-out may not be feasible or advisable. Second, property operations and smart technologies rely on constant, always-on service across the property. The prospect of some apartment homes to be unconnected will disrupt the mesh network and disable critical, sustainability focused devices such as leak detection or climate controls. Third, the bulk model has fostered a hyper competitive market across segments of the multi-tenant environment because providers, especially smaller, independent providers, are able to justify the capital expenditure to deploy bulk or managed Wi-Fi systems. Market participation by smaller, independent providers forces large providers to serve markets that they previously determined were not economically viable to preserve market share, which promotes the consumer interest as

¹ <https://docs.fcc.gov/public/attachments/DOC-400915A1.pdf>

a natural consequence of the bulk model. Enabling a reduction in service levels could negatively impact property level performance and therefore providers could disinvest in the rental housing environment which will lead to less competition, increased costs for renters and large swaths of American rental housing properties outside of the reach of modern broadband.

Bulk billing arrangements are inherently pro-consumer and pro-renter. They are routinely leveraged by housing providers and internet service providers (ISPs) to enable residents to access lower-cost broadband internet in their homes immediately upon their move. This service is provided at a significantly discounted rate, typically at higher speeds and service standards than what are found in the broader community. Renters in these properties also often have the ability to add service options for higher speed if desired. The arrangements lead to better reliability and customer service than elsewhere in the market that meet resident demand and improve property level resilience and sustainability in addition to supporting the deployment of innovative smart building and home technologies.

The arrangements also remove several common obstacles consumers face in accessing broadband because bulk billing eliminates common costs that stem from equipment rentals, credit checks, and security deposits. Bulk billing agreements benefit all parties involved. In addition to the many benefits to renters just outlined, housing providers see increased renter satisfaction due to the higher quality of service provided under the arrangements, while ISPs, particularly smaller providers, enjoy a steady revenue stream from the property in return for providing blanket service at a lower rate.

This model is especially beneficial for communities with a higher population of lower-income, affordable, student, and/or senior housing. These groups are often disadvantaged in the traditional retail model because of the costs to the provider of deploying and maintaining the necessary broadband infrastructure on the property.

Given these factors, the FCC's forthcoming action would jeopardize many consumers' access to more affordable broadband services. It would also be a departure from the FCC's previous findings, which clearly identified the benefits of bulk billing arrangements.² In fact, the potential benefits of bulk billing have only grown since the FCC's assessment. Prohibition or any significant regulation of bulk billing arrangements would also create a substantial risk of disruption in communities across the country. As outlined above, low-income and disadvantaged communities would be particularly hard-hit in that scenario.

Bulk billing arrangements are of such great potential benefit that Congress has effectively endorsed them.³ The impact of the arrangements on the price of broadband must also be considered because Congress has not granted the FCC authority to regulate broadband rates. This absence of existing statutory authority is of particular concern given the agency's limited funds and resources. The FCC's regulatory efforts should be deployed to further the mandates given to the agency by Congress. Initiatives outside of the FCC's statutory authorities are a drain on the agency's staff and a misuse of the resources and powers outlined by Congress. By overstepping its statutory mandate, the FCC also risks opening the door to costly legal challenges.

² <https://www.fcc.gov/document/exclusive-service-contracts-provision-video-services-multiple>

³ <https://www.govinfo.gov/content/pkg/USCODE-2022-title47/pdf/USCODE-2022-title47-chap5-subchapV-A-partIII-sec543.pdf>

The FCC must address these factors as it considers action in this space. Further, we emphasize that any potential rulemaking should receive an extended comment window to provide stakeholders with sufficient time to meaningfully address the elements discussed above in a substantive manner.

Bulk billing arrangements are an important tool in providing communities, particularly low-income and disadvantaged communities, with greater access to affordable, reliable, and high-quality broadband service. Any actions that would curtail this model should be approached with caution as they would have ramifications ranging from higher costs of service to broad disruptions in service for consumers who currently benefit from a bulk billing arrangement.

We urge the Subcommittee to continue monitoring the FCC's regulatory agenda to ensure the agency does not direct funds towards activities that overstep its statutory mandate.

Sincerely,



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President
National Multifamily Housing Council



Robert Pinnegar
President & CEO
National Apartment Association