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February 10, 2009

The Honorable Harry Reid
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Senate Republican Leader
United States Senate
Washington, DC 20510

The Honorable John Boehner
House Republican Leader
United States House of Representatives
Washington, DC 20515

Dear Senators and Representatives,

We write to offer our support for both the House and the Senate economic recovery bills – and to encourage conferees on the economic recovery package to ensure specific provisions are included in the conference report. We strongly support the targeted, accountable allocation of public funds for investment in broadband deployment. Although we would have preferred an even larger investment in network infrastructure, both bills include substantial resources, guided by public interest principles and managed by experienced administrators. Further, the commitment shown to protecting innovation and consumer choice through *openness or nondiscrimination principles* applied to these networks is especially welcome. Both bills, if carried forward into law, would generate investment in broadband deployment, create jobs across a wide range of skill sets and geographic locations, and promote good, public interest-driven telecommunications policy. We highlight below the key provisions in each bill to maximize public benefit and offer recommendations for modifications as these bills go into conference.

The Senate bill makes the larger and therefore preferable commitment to fund broadband deployment. Instructions to the administrator ensure the funds are available to network operators of all sizes and technologies while targeting investment to the areas of the country that will benefit the most from these new services. By establishing nondiscrimination and network interconnection obligations for the receipt of funds, the Senate bill promotes competition, innovation and new investment in Internet content and services, stimulating consumer demand for broadband services and producing even more new jobs. The Senate legislation also recognizes the importance of using taxpayer resources to fund only those projects that would not have been implemented without public investment. Further, consolidating the management of the funds within a single agency, the NTIA, simplifies the administrative mechanisms for applicants to establish initial requests and to show ongoing compliance. A single-agency oversight strategy should also greatly improve the overall efficiency and efficacy of the program, easing its integration with related telecommunications policies. Guidance from the FCC will further increase the effectiveness of the program.

Similarly, the House bill provides substantial funds both to unserved and underserved areas to promote new and better deployment of broadband services nationwide. Appropriately, grants are available to all providers, public and private, commercial and noncommercial, and include all technologies — wired, wireless and satellite — to meet the distinct needs of any given community. Adhering to the FCC's *Broadband Policy Statement* and to open access requirements maximizes the beneficial network multiplier effect of stimulus investment by providing incentives for investment from Internet content and services companies. Finally, the speed requirements established in the House bill promote real capital investment in projects that would not have occurred otherwise, including investments in new core network infrastructure. Targeted investment in high-speed networks creates jobs immediately and will serve as an economic growth engine for years to come.

On balance, these bills are strong efforts, and if made into law, would create jobs and promote increased private investment in broadband networks, with positive and long-lasting effects. But, neither is without room for improvement. The lack of speed benchmarks in the Senate's grant program could reduce the long-term benefits of this important effort. We are also concerned that the tax credits in the Senate bill — particularly without any of the proposed limiting amendments — could be used to fund broadband deployment projects that were already planned and would be completed even in the absence of stimulus funds. Using tax credits to subsidize private investment that would have occurred even in the absence of public support is not good stimulus policy. Separately, we are concerned that the division of labor envisioned by the House bill between the NTIA and RUS would produce unnecessary complexity, and might hamper efforts to ensure accountability and effective allocation of the funds. Redundancy in the administration of funds serves no public benefit, whereas focusing the management of the stimulus funds with the expert agencies will improve efficiency. Modifying these aspects of each bill by using the approach of the other would produce an ideal compromise.

We encourage conferees to view the broadband portion of the ultimate conference report through a consumer lens by maximizing resources in the grant program, retaining clear nondiscrimination standards for networks, and choosing the most efficient, accountable administrator of the public's investment. Aside from the concerns we have about speed benchmarks and tax credits, we support both bills as they have been passed, and we look forward to working with the FCC and other federal agencies as they administer the stimulus funds to continue the efforts and intentions of Congress to promote the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Scott", with a long horizontal flourish extending to the right.

Ben Scott
Policy Director
Free Press

cc: Chairman Henry Waxman, Chairman John D. Rockefeller, House Majority Leader Steny Hoyer