

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Telecommunications Carriers Eligible for Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund)	WC Docket No. 10-90
)	

REPLY COMMENTS OF THE AMERICAN CABLE ASSOCIATION

The American Cable Association (“ACA”) hereby submits its reply comments in response to the Second Further Notice of Proposed Rulemaking (“FNPRM”)¹ seeking comment on new and additional solutions for the Lifeline program.

The Lifeline program is at a crossroads. Because it supports voice and not broadband service, the program is increasingly less relevant for low-income consumers. Because it requires service providers to determine eligibility, the program, in Chairman Wheeler’s words, lets the fox guard the hen house.² Because it mandates burdensome administrative, reporting, and compliance requirements to combat waste, fraud, and abuse, the program is costly and

¹ See *In the Matter of Lifeline and Link Up Reform, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, WC Docket Nos. 11-42, 09-197, and 10-90 (rel. June 22, 2015).

² See *id.* (Statement of Chairman Tom Wheeler) at 130.

inefficient³ and provides disincentives for service providers to participate. Because it has no budget, the program is not fiscally responsible. In sum, even though the Commission adopted major reforms just three years ago,⁴ the Lifeline program today neither meets the needs of low-income consumers, nor effectively provides support, nor wisely spends consumer contributions.

For these reasons, the Commission in the *FNPRM* stated that it “must overhaul the Lifeline program to ensure that it advances the statutory directive for universal service.”⁵ ACA shares that objective, and in its initial comments submitted that the success of the Lifeline program and the provision of sufficient and affordable access to broadband service by low-income consumers depends on the Commission’s adoption of substantial, fundamental reforms to the program.⁶ This view was shared by many commenters, including AT&T, which stated, “[r]ather than spending limited time and resources on selective fixes for perceived problems with portions of the existing program, the Commission should act boldly to restructure Lifeline in a

³ See Comments of Verizon, WC Docket No. 11-42 *et al.* at 2-3 (Aug. 31, 2015) (“The Commission itself estimated that Lifeline administrative costs likely exceed \$600 million (probably understated) per year for a program that distributes about \$1.8 billion annually.”).

⁴ See *Lifeline and Linkup Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012).

⁵ See *FNPRM*, ¶ 3. This view is echoed by Chairman Wheeler and Commissioner Clyburn. See Statement of Chairman Tom Wheeler, FCC 15-71 at 130 (“There are basic design flaws [in the Lifeline program] that must be fixed...The program’s rules needs a hard look and overhaul.”); Statement of Mignon Clyburn, FCC 15-171 at 134 (“Let’s sunset Lifeline and replace it with **iBridge Now!**”).

⁶ See Comments of American Cable Association, WC Docket No. 11-42 *et al.* at 1 (Aug. 31, 2015) (“ACA Comments”).

manner that best meets the needs of eligible consumers, service providers, and the consumer whose contributions ultimately support the program.”⁷

As it sets out to overhaul the program, the Commission needs to recognize that because the program is so burdensome and inefficient, wireline providers have little, or at least reduced, incentive to participate; the program’s costs are too great, and there is little, if any, reward. The Commission may conclude that low-income consumers have an inherent preference for wireless service over wireline service, and that participation by wireline providers is therefore unnecessary. But if the Commission does believe there is value in ensuring that low-income consumers have access to wireline voice and broadband service, nothing short of wholesale change of key elements of the program will suffice to encourage providers of this service to compete for eligible customers.

In its initial comments ACA submitted that wireline providers would have a greater incentive to participate, low-income consumers would have greater choice, and the Lifeline program would be more effective and efficient if the Commission adopted all of the following measures:⁸

⁷ See Comments of AT&T, WC Docket No. 11-42 et al. at 2 (Aug. 31, 2015) (“AT&T Comments”).

⁸ ACA also called for the Commission to cap (or impose a budget on) the annual amount of support for the program, which has doubled in size since 2005. This places a large, direct burden on consumers, especially those least able to afford it. In addition, because the universal service programs involve “off-budget” expenditures, the Commission has a much greater responsibility to ensure they operate within reasonable fiscal bounds. See also Comments of the Florida Public Service Commission, WC Docket Nos. 11-42 et al. at 5 (Aug. 31, 2015) (“Managing the total size of the USF, and eliminating fraud and waste, is important to protect the consumers who pay for these programs through bill surcharges.”).

- **Providers Should Be Able to Require Pre-payment for Services** – A provider should be able to charge Lifeline subscribers for recurring and one-time costs on a prepaid basis.
- **Support for Broadband Should Cover Both Recurring and One-Time Costs** – As with voice service, support for broadband service should cover recurring costs for the provision of service but should also cover one-time costs, such as installation fees and modem rental or purchase.
- **Lifeline Customers Should Be Able to Subscribe to any Service Offered, and the Commission Should Not Impose any Service Requirements** – Low-income consumers should be able to subscribe to the same voice and broadband services offered by wireline providers to all customers; in addition, because these services are standard market offerings, the Commission should not establish any minimum (or maximum) service requirements or requirements as to affordability.⁹
- **Eligibility Verification Should Be Handled by Third Parties and Not Service Providers** – Providers should not be responsible for verifying the eligibility of a low-income consumer for participation in the program or for recertifying eligibility; this task should be performed by one or multiple third party verifiers.
- **Lifeline Customers Should Directly Receive Benefits** – Support should be transferred directly to eligible low-income consumers who can then shop among eligible service providers to subscribe to voice and broadband service.
- **The ETC Designation Process Should Be Eliminated or Streamlined** – The Commission should either eliminate the ETC requirement or should streamline the process for becoming a Lifeline ETC.¹⁰

Many commenters representing differing interests support the objectives underlying ACA’s proposals. For instance, the National Cable & Telecommunications Association stated that reforms to the program “should ensure that eligible consumers are afforded maximum flexibility in choosing services that meet their needs, and that service providers are encouraged

⁹ In its initial comments, ACA also submitted that “the Commission should not require a service provider that is not an ETC to participate in the Lifeline program.” *See* ACA Comments at n. 4.

¹⁰ If the Commission adopts the reforms proposed by ACA, service providers would no longer have to verify consumers and seek to obtain support. This would enable the Commission to reduce its reporting requirements for providers.

to participate and offer a wide range of services to Lifeline customers.”¹¹ Public Knowledge too called upon the Commission to promote consumer choice and competition among carriers.¹²

ACA’s specific proposals also received support from many service providers and their trade associations and public sector commenters:

Service providers should be able to account for customer credit risk and/or bad debt

– US Telecom encouraged “the Commission to establish a reasonable framework...that would account for customer credit risk and/or bad debt.”¹³

Eligible consumers should be free to subscribe to standard service offerings without Commission mandated minimum requirements – There was widespread support among commenters for permitting low-income consumers to choose from any voice or broadband service or bundle from any service provider without the establishment of minimum service requirements. Public Knowledge, for instance, favored permitting “subscribers to use the Lifeline subsidy to purchase the broadband access service that best meets their needs...[while refraining] from setting minimum service standards for services eligible to receive Lifeline

¹¹ See Comments of the National Cable & Telecommunications Association, WC Docket No. 11-42 *et al.* at 1 (Aug. 31, 2015) (“NCTA Comments”).

¹² See Comments of Public Knowledge, WC Docket No. 11-42 *et al.* at iii (Aug. 31, 2015) (“Public Knowledge Comments”).

¹³ See Comments of the United States Telecom Association, WC Docket No. 11-42 *et al.* at 6-7 (Aug. 31, 2015) (“US Telecom Comments”). US Telecom proposed that a provider could be permitted to require a “modest service deposit” or be reimbursed from the fund for bad debt. ACA agrees with the underlying rationale, but believes it is more appropriate to permit providers to follow the standard industry practice of requiring pre-payment.

support that are also available to the general public.”¹⁴ AT&T too urged the Commission to empower eligible consumers “to choose whatever available voice and/or broadband services they decide are most cost-effective and best meet their individual needs.”¹⁵ Perhaps Comcast summed it up best when it commented that giving eligible consumers access to standard offerings for the mass market gives dignity to the program “by ensuring that Lifeline customers are able to participate in the communications marketplace without stigma.”¹⁶

A third-party should verify eligibility – The comments were overwhelming in support of having a third-party (or parties) verify eligibility. All major telecommunications and cable trade associations and their members supported this proposal.¹⁷ For example, US Telecom explained that “centralizing eligibility determination into a single entity – with uniform standards, practices and procedures,” would reduce costs and the opportunities for waste, fraud, and abuse.¹⁸ NCTA stated that by having a national third-party verifier, “it will be much more likely that service providers will participate in the Lifeline program.”¹⁹ NCTA also correctly

¹⁴ See Public Knowledge Comments at 22.

¹⁵ See AT&T Comments at 8; *see also* US Telecom Comments at 10-11, which question the need for any minimum service requirements and which state that if there are requirements, they should be technology neutral.

¹⁶ See Comments of Comcast Corporation, WC Docket No. 11-42 *et al.* at 12 (“Aug. 31, 2015) (“Comcast Comments”).

¹⁷ See *e.g.* Comments of Cox Communications, Inc., WC Docket No. 11-42 *et al.* at 4-7 (Aug. 31, 2015); *see also* Comcast Comments at 7-9.

¹⁸ See US Telecom Comments at 7.

¹⁹ See NCTA Comments at 6.

noted that the cost of the third-party verifier should be paid for by the universal service program and not service providers, since determining eligibility is a cost of the program.²⁰

Support for a third-party verifier came from many other quarters, including state commissions and consumer groups. The Texas Public Utilities Commission noted that it has “utilized a third-party administrator since 2004,” and it provided information on such issues as consumers interfacing with the verifier in its comments.²¹ Public Knowledge too commented that having a national verifier “is key to protecting the integrity of the Lifeline program” and would facilitate subscribers “easily and seamlessly” changing carriers.²²

²⁰ See *id.*; see also Comments of Verizon, WC Docket No. 11-42 *et al.* at 4-5 (Aug. 31, 2015) (“The Commission should not adopt its proposal to require Lifeline providers to reimburse the fund for part or all of the national verifier expense...Funding the national verifier through general universal service contributions is consistent with the Commission’s approach to the E-Rate program’s application processing functions, performed by USAC.”).

²¹ See The Public Utility Commission of Texas Comments in Response to the Federal Communications Commission Second Further Notice of Proposed Rulemaking, WC Docket 11-42 *et al.* at 5-7 (Aug. 31, 2015); see also *e.g.* Comments of the Pennsylvania Public Utilities Commission, WC Docket 11-42 *et al.* at 19-24 (Aug. 31, 2015), which “is not opposed to the Commission removing responsibility of conducting eligibility determinations for Lifeline subscribers from Lifeline providers” but wants the Commission to ensure coordination between the verifier and state verification databases; US Telecom, however, cautions that the state processes vary greatly in their functionality and submits it would be better to have a single national entity handle these responsibilities (*see* US Telecom Comments at 8). ACA believes that while a single national verifier may have value, it agrees with Comcast that a national verifier could act as a centralized interface with state verification systems (*see e.g.* Comcast Comments at 8). This “centralized interface” approach also was recommended by Solix, which administers state verification processes, in its comments (*see* Comments of Solix, Inc., WC Docket No. 11-42 *et al.* at 2 (Aug. 31, 2015) (the Commission “should implement a hybrid federal-state approach...that takes advantage of state processes where they exist while ensuring a centralized process through a national ‘gateway’ that allows for intake, maintenance and analysis of all Lifeline applicant information.”)).

²² See Public Knowledge Comments at 33.

Benefits should be provided directly to eligible consumers – Many commenters supported ACA’s view that providing benefits directly to eligible consumers has great value for these consumers because it gives them a real choice of providers, and it has value for providers because it reduces administrative burdens. Accordingly, this must be a key feature of any reforms if wireline providers are to participate in the program. Comcast in its comments favored this approach, since it will give consumers “the flexibility to choose the support service levels that meet their needs,” while facilitating greater provider participation.²³ AT&T too shared this view, explaining that such an approach “makes it simple for eligible consumers to switch” providers even from “month to month.”²⁴

The ETC designation process should be streamlined or eliminated – Service providers and their trade associations were virtually unanimous in their view that the ETC designation process is so burdensome that it presents a substantial barrier to participation in the Lifeline program and should either be streamlined or eliminated. NCTA called the current state designation process “lengthy and often contentious” and noted that a provider would need to undergo this process in every state where it sought to be designated as an ETC. It proposed the Commission permit a provider that wishes to participate in the program to have a current Form 498, Service Provider Identification Number and Contact Information Form, similar to that required for the E-rate program.²⁵ Comcast noted that if the Commission adopts proposed reforms to have a third-party verifier and to directly provide benefits to eligible consumers, the

²³ See Comcast Comments at 9.

²⁴ See AT&T Comments at 11.

²⁵ See NCTA Comments at 4-5.

opportunities for fraud or abuse are largely eliminated, and there is little, if any, need for an elaborate designation process or for compliance plans and other burdensome administrative requirements.²⁶ AT&T recommended the Commission establish a new category of universal service provider – the Registered Lifeline Service Provider – which should be voluntary and delinked from a provider’s ETC status.²⁷

Many non-service provider commenters also recognized the ETC designation process is a significant barrier. Public Knowledge, for instance, stated that “[t]he current ETC designation process raises significant barriers to entry for new and innovative providers,” who could “serve the Commission’s goal of making quality service ‘available at just, reasonable, and affordable rates.’”²⁸ According, it submits the Commission should use its “broad authority” and permit “willing and able entities from establishing Lifeline-eligible programs in underserved communities.”²⁹

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In conclusion, the Lifeline program is at a crossroads, and the Commission must correct its major structural flaws. Muddling through by continuing to patch the program may again be

²⁶ See Comcast Comments at 11.

²⁷ See AT&T Comments at 27; *see also* Comments of Charter Communications, Inc., WC Docket No. 11-42 et al. at 5 (Aug. 31, 2015) (“suggests the Lifeline program allow *all* providers, not merely ETCs, to participate.”).

²⁸ See Public Knowledge Comments at 27.

²⁹ See *id.* at 27-28.

the path of least resistance for the Commission, but that approach will not shore up a program riddled with significant, fundamental problems, and it will not serve low-income consumers who need the program. ACA does not believe it has all the answers for correcting the program, but the fixes presented here are crucial, especially to giving low-income consumers real choice of valuable services by multiple providers, to reducing opportunities for waste, fraud, and abuse, and to addressing the lack of fiscal responsibility. ACA encourages the Commission to do the hard work of fashioning durable solutions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ross J. Lieberman". The signature is fluid and cursive, with the first name "Ross" being particularly prominent.

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