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The Leadership Conference

March 23, 2018

Chairman Ajit V. Pai
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket Nos. 17-287, 11-42, 09-197

Dear Chairman Pai:

On behalf of The Leadership Conference on Civil and Human Rights and its Media/Telecommunications Task Force, we submit these reply comments in response to the Federal Communications Commission's (FCC) recent proposals to dismantle the Lifeline program.[1] The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. We consider a robust Lifeline program to be a top priority for the civil and human rights coalition. The Leadership Conference organized opening comments signed by 200 organizations opposing the proposed changes, and several members of the Media/Telecommunications Task Force have submitted opening comments in this new Lifeline docket outlining the problems with the FCC's proposal.[2]

As the Commission has consistently found, both voice and broadband services are essential for full participation in today's economy. Americans particularly rely on broadband for access to news and information, education, employment, and health care. Unfortunately, some of our nation's most vulnerable and marginalized communities including seniors, veterans, people of color, people with disabilities, and residents of rural areas are often on the wrong side of the digital divide. The Lifeline program was created to help close the affordability gap that keeps many of these communities unconnected to 21st century communications services. Millions of Americans today rely on the Lifeline program for access to affordable voice and broadband services.

The record in this proceeding is abundantly clear – the FCC's proposed changes to Lifeline would devastate families currently enrolled in the program and further widen the digital divide. Specifically, as commenters explain:

- The Commission's proposal to eliminate non-facilities based providers would leave a majority of Lifeline subscribers with no service.
- Imposing a "self-enforcing" budget cap would create unpredictability and drive eligible low-income households away from the program.
- Finally, mandating a co-pay would eliminate the most popular Lifeline services leaving some of our most vulnerable communities unconnected.

We describe below some of the evidence found in this proceeding that highlights the negative consequences of the Commission's proposed changes to the Lifeline program.

1. Eliminating Non-Facilities Based Providers Would Leave The Majority of Lifeline Subscribers With No Service

The Commission proposes to eliminate non-facilities based providers from the Lifeline program. However, commenters across the board agree that removing non-facilities based providers would leave most Lifeline subscribers with no service. As several commenters cite, approximately 70 percent of Lifeline subscribers receive their service from a non-facilities based provider.[3] In some states, the number of Lifeline non-facilities based Lifeline subscribers is even higher. For example, the Public Utilities Commission of Ohio notes that 78 percent of Ohio Lifeline customers receive service from non-facilities based carriers. Indeed, the American Enterprise Institute correctly notes that removing non-facilities based carriers "would limit the options available to Lifeline families – families that already have few options because of limited purchasing power."[4] Removing these carriers would not only be incredibly disruptive but leave many Lifeline subscribers without access to affordable communications services.[5]

The record also shows that facilities based providers have been exiting the Lifeline program, which highlights the increasing importance of non-facilities based carriers. For example, the Indiana Utility Regulatory Commission states that it recently approved AT&T's request to withdraw from the Lifeline program, leaving only one other facilities-based provider in that service territory.[6] The Indiana Commission goes on to express concern that the FCC's proposal would force non-facilities based providers to leave the Lifeline program rather than take steps to meet the facilities requirement.[7] The Minnesota Public Utility Commission and Department of Commerce explain that only three of the nineteen providers currently in the Lifeline program would qualify under the Commission's definition of facilities based, leaving many in the state without a viable alternative.[8] The National Urban League articulates a better alternative: "whether a service provider should be allowed to remain in the Lifeline program should depend on that provider's conduct, and the quality of service they provide, not on whether that provider delivers service over a network it owns or by reselling other carriers' services."[9]

2. Imposing a "Self-Enforcing" Budget Cap Would Create Unpredictability and Drive Low-Income Households Away From The Program

The Commission proposes to impose a "self-enforcing" budget cap, but as the record demonstrates, this would create unpredictability and drive low-income households away from the program.[10] The National Hispanic Media Coalition explains that the Commission's proposed budget cap would create a threshold that ensures the Lifeline program never reaches 100 percent of eligible households.[11] Indeed, the record shows that the Commission's proposed structure for the budget would cruelly cut off eligible Lifeline recipients once the cap is reached.[12] Further, the Commission's proposal indicates its misunderstanding of the goals of the Lifeline program. As Free State Foundation notes, the idea of a budget cap "runs against the objective of a 'safety net' program to provide support for eligible low-income persons in need."[13] The Lifeline program at its core is a program intended to aid low-income Americans gain access to vital communications services. Not only would the Commission's budget cap reduce the number of eligible

Lifeline subscribers but also run counter to the program's goals. The NAACP observes that "Rationing Lifeline hurts low-income Americans and hurts our Nation. Rationing Lifeline is contrary to the intent of Universal Service and limits the ability of the program to help connect the poor to communications service.[14]

3. Mandating a Co-Pay Would Leave Some of Our Most Vulnerable Communities Unconnected

The Commission's proposal to mandate a co-pay would leave some of the nation's most vulnerable communities unconnected. As the record shows, some of the most popular Lifeline packages offer no-charge services to eligible recipients.[15] TracFone Wireless explains that its entire business model centers on "no-contract, prepaid offerings, preferred by most Lifeline customers" which make up a significant amount of its customer base.[16] Further, this proposal would negatively impact some of the nation's most vulnerable communities, including homeless veterans, domestic violence victims, and victims of natural disasters.[17] As noted by the joint comments signed on to by numerous members of the Leadership Conference's Media and Telecommunications Task Force, a mandatory co-pay will harm many low-income households who have unpredictable budgets due to income volatility and many are unbanked or underbanked.[18]

We urge the Commission to take heed of the overwhelming evidence in the record opposed to the agency's proposed changes to the Lifeline program and reverse course. Should you require further information or have any questions regarding this issue please contact Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, United Church of Christ, OC Inc., at 202-904-2168 or cleanza@alhmail.com, or Michael Macleod-Ball, on behalf of the American Civil Liberties Union, at 202-253-7589 or macleod@627consulting.com, or Corrine Yu, Leadership Conference Managing Policy Director at 202-466-5670 or yu@civilrights.org.

Sincerely,

Vanita Gupta
President & CEO

cc: Commissioner Mignon Clyburn
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel

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[1] *Bridging the Digital Divide for Low-Income Consumers et al*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FC Rcd 10475 (2017) ("2017 NPRM").
[2] *See e.g*., NAACP's letter (Feb. 21, 2018); AAJC and OCA-APAA letter on behalf of Asian American and Pacific Islander organizations (Feb. 21, 2018); NUL's Comments (Feb. 21, 2018); NHMC's Comments (Feb. 21, 2018); CWA's Comments (Feb. 21, 2018); Low-Income Consumer Advocates Comments (Feb. 21, 2018) (includes Common Cause, UCC OC, Inc., NCLC, NAACP and more than 15 other public interest organizations); AARP Comments (Feb.21, 2018).
[3] *See, e.g.,* Comments of Communications Workers of America at 4; Comments of Multicultural Media, Telecom and Internet Council and the "Lifeline Supporters" at 6; Comments of Free Press at 20; Comments of Tracfone Wireless, Inc. at 7; Comments of Randolph J. May, President, The Free State Foundation at 5; Comments of Thomas A Schatz, President, Citizens Against Government Waste, at 8; *see also* Daniel Lyons, "Lifeline's proposed reseller ban will likely harm low-income households," AEI (March 5, 2018), *available at* http://www.aei.org/publication/lifelines-proposed-reseller-ban-will-likely-harm-low-income-households/?utm_source=newsletter&utm_medium=paramount&utm_campaign=cict.
[4] Daniel Lyons, "Lifeline's proposed reseller ban will likely harm low-income households," AEI (March 5, 2018), *available at* http://www.aei.org/publication/lifelines-proposed-reseller-ban-will-likely-harm-low-income-households/?utm_source=newsletter&utm_medium=paramount&utm_campaign=cict.
[5] *See e.g.,* Comments of AAJC and OCA- Asian Pacific American Advocates at 3; Comments of AARP at 14-15, and Comments of the Communications Workers of America at 4.
[6] *See* Comments of The Indiana Utility Regulatory Commission at 3-4.
[7] *Id.* at 3.
[8] Joint Comments of the Minnesota PUC and Minnesota Department of Commerce at 5.
[9] Comments of National Urban League at 2.
[10] *See, e.g.,* Comments of Communications Workers of America at 2-4; Comments of Free Press at 49-56; Comments of National Hispanic Media Coalition at 23-26; Comments of Free State Foundation at 6; Comments of INCOMPAS at 12-14.
[11] Comments of National Hispanic Media Coalition at 23.
[12] *See* Comments of Free Press at 55; Comments of the Michigan Public Service Commission at 12.
[13] Comments of Free State Foundation at 6.
[14] Comments of the NAACP at 2.
[15] *See* Comments of TracFone Wireless at 10; Comments of Consumer Action at 2; Comments of the Cities of Boston, Massachusetts, Los Angeles, California, and Portland, Oregon, and the Texas Coalition of Cities for Utility Issues at 23.
[16] Comments of TracFone Wireless at 10.
[17] *See* Comments of National Hispanic Media Coalition at 25-26; Comments of AAPI at 4.
[18] See Comments of the Low-Income Consumer Advocates at 15-16.