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January 25, 2021

Acting Chair Jessica Rosenworcel  
Commissioner Brendan Carr  
Commissioner Geoffrey Starks  
Commissioner Nathan Simington  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

Re: WC Docket No. 20-445

Dear Acting Chair Rosenworcel, Commissioners Carr, Starks, and Simington:

On behalf of the Leadership Conference on Civil and Human Rights and its Media/Telecommunications Task Force, we submit these comments in response to the Federal Communications Commission's ("FCC" or "Commission") request for comment on the Emergency Broadband Connectivity Fund Assistance ("Emergency Broadband" or "EBB") program.<sup>1</sup> The Leadership Conference is a coalition charged by its diverse membership of more than 220 national organizations to promote and protect the rights of all persons in the United States. The Media/Telecommunications Task Force is committed to ensuring that all communities, particularly those who are underserved, have access to affordable, reliable, high-quality advanced communications services.

Broadband access is more crucial now that it has ever been, due to the COVID public health and economic crisis. as it helps keep communities safe through telemedicine, allows children to continue to learn, and helps create immediate and long-lasting economic benefits. Through the Emergency Broadband program, Congress has made it clear that affordable connectivity is a top priority. We consider the Emergency Broadband program to be an important watershed moment in helping to connect millions of Americans to affordable broadband at a time when internet connectivity has become essential for work, education, healthcare, news and information, and accessing critical government services and programs.

Creating broad parameters around eligibility, lowering barriers to entry, and promoting awareness across a broad array of stakeholders and communities will fulfill Congress' intent when it created the Emergency Broadband program. Rapid implementation and simplicity for consumers are crucial for the Emergency Broadband program to be effective and reach as many Americans as possible.

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<sup>1</sup>Wireline Competition Bureau Seeks Comment on the Emergency Broadband Connectivity Fund Assistance, Public Notice, DA 21-6 (rel. Jan. 4, 2021).

As discussed in more detail below, in order for the Emergency Broadband program to be effective and successful:

- The Commission should set the parameters of the Emergency Broadband program to facilitate competition and ensure eligible households have robust choices for service.
- The Commission, USAC, and participating providers should conduct multi-lingual outreach to promote awareness of the Emergency Broadband program and partner with digital inclusion and community-based organizations as well as a wide array of other stakeholders to do so.
- The FCC and Internet service providers (ISPs) should establish transparent pricing and policies for the EBB program and offerings.
- Emergency Broadband program benefits should occur alongside Lifeline benefits.
- Eligible participants should have low barriers to entry to enroll in the program, including minimal documentation requirements and participation by people without Social Security numbers and by households who share housing.

*The Commission should set the parameters of the Emergency Broadband program to facilitate competition, and ensure eligible households have robust choices for service.* For the Emergency Broadband program to be effective, eligible households must be able to choose among competitive offerings that can best meet their connectivity needs. The Commission should not limit or constrain eligible households from seeking broadband services of their choice. Anti-competitive provisions, such as port-freezes, which restrict customers from switching to another provider, should be prohibited from the Emergency Broadband program. Participating providers should be required to clearly and conspicuously describe to the consumer that the Emergency Broadband program is a federal program, and to include a brief standard Commission description of the program. Such communications should be made available in various languages, or at minimum be written in simple and plain English that can easily be translated. At the end of the Emergency Broadband program, providers must receive informed and explicit consent from the consumer to continue to receive broadband service from the provider. Consumers may not be able to afford service without the federal subsidy, and, thus, are at risk of bill shock should the service continue without the subsidy.

*The Commission, USAC, and participating providers should conduct multi-lingual outreach to promote awareness of the Emergency Broadband program and partner with digital inclusion and community-based organizations as well as a wide array of other stakeholders to do so.* Effective outreach is needed to ensure that the Emergency Broadband program reaches as many eligible Americans as possible. As this pandemic has shown, too often marginalized communities find themselves on the wrong end of the digital divide.<sup>2</sup> The Commission, Universal Service Administrative Company (“USAC”), and participating

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<sup>2</sup> See generally, *Children, Coronavirus, and the Digital Divide: Native American, Black, and Hispanic Students at Greater Educational Risk During Pandemic*, Population Reference Bureau (September 2, 2020) <https://www.prb.org/coronavirus-digital-divide-education/>; Dr. Nicol Turner Lee, *What the coronavirus reveals about the digital divide between schools and communities*, The Brookings Institution (March 17, 2020) <https://www.brookings.edu/blog/techtank/2020/03/17/what-the-coronavirus-reveals-about-the-digital-divide-between-schools-and-communities/>; *Close the Digital Divide, Protect the Lifeline Program WC Docket Nos. 17-287, 11-42, 09-197*, The Leadership Conference on Civil and Human Rights (February 21, 2018) <https://civilrights.org/resource/close-digital-divide-protect-lifeline-program/>; *A Lifeline that Breaks Down Barriers*

providers each have an important role to play in conducting outreach for maximum program participation. In addition, the Commission should partner with trusted digital equity and community-based organizations to help promote awareness of the program. Other stakeholders such as state utility commissions, state and local government, as well as agencies administering qualifying programs, have a role to play in quickly promoting the program to consumers.

The Commission should also develop marketing materials to help inform eligible households of the program and to assist smaller providers or newer ISP participants so that they may easily communicate with new customers. It is important to develop materials that explain that EBB is a federal program, and that encourage consumers to choose the service that best meets their household's broadband and connected devices needs. Eligible households should know that they have a choice among providers, how to get help with the Emergency Broadband program, and what recourse they have if a provider is not following the rules or acting contrary to consumers' interests. The Commission should also ensure that funds that are appropriated for outreach, education, and marketing are spent on publications that focus on communities of color. Additionally, the Commission should insist that providers market the Emergency Broadband program and translate outreach materials.

USAC should develop an accurate description of the program and host a landing page on its website that provides easy-to-understand information about provider participation, household eligibility, and enrollment and ensure this information is accessible via its call center. USAC should also "brand" the program so that it is easily identifiable for households. This will help ensure that eligible participants know they can shop among various providers and can safeguard themselves against misleading or deceptive corporate marketing practices or policies from unscrupulous actors. This public information should be clear, consistent, and accessible, and available in languages other than English. Ensuring broad, multi-lingual, and diverse outreach will ensure that Congress' intent in creating the Emergency Broadband program is fully realized, and that more Americans have access to essential broadband services at a time when internet access is critical to educational, economic, and health outcomes.

*The Commission and ISPS should establish transparent pricing requirements for the EBB program and offerings.* Consumers need transparent pricing to successfully benefit from the Emergency Broadband program.<sup>3</sup> It is well-established that low-income people cannot participate if they are unsure about the price they will pay for a product. They will be reluctant to commit if they believe the pricing information is not reliable, because they are unlikely to be able to absorb unexpected costs.<sup>4</sup>

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to *Affordable Communication*, National Consumer Law Center <https://nclc.org/images/pdf/take-action/lifeline/lifeline-breakdown-fact-sheet.pdf>.

<sup>3</sup> The Leadership Conference on Civil and Human Rights, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 19-285; *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10; *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195 (February 4, 2020).

<sup>4</sup> Dharma Dailey, Amelia Bryne, Alison Powell, Joe Karaganis and Jaewon Chung, *Broadband Adoption in Low-Income Communities* (Social Science Research Council, 2010) <https://www.ssrc.org/publications/view/broadband-adoption-in-low-income-communities/>; *Federal Communications Commission Consumer and Governmental Affairs Bureau White Paper on Bill Shock* (October 13, 2010) <https://transition.fcc.gov/stage/Bill-Shock-White-Paper.pdf>; *Truth-In-Billing Policy*, Federal Communications Commission, <https://www.fcc.gov/general/truth-billing-policy>;

Two factors will impact the predictability of pricing for program participants: 1) the duration of the program is unpredictable because of the limited appropriated funds<sup>5</sup>; and 2) the Emergency Broadband program statute may allow for some fees and taxes to be passed to consumers.<sup>6</sup> The FCC must require participating companies to be fully transparent with consumers, at the time of sign-up, about these factors. The Commission should adopt rules to ensure that participants receive timely and accurate information about the program's end and about exactly how much they will be required to pay for the service during the program (including any promotional rates, equipment and installation fees, and fees associated with exceeding the data cap). The Commission should also allow participating providers to improve upon their offers with respect to speed or price as of December 1, 2020 (*e.g.*, offering faster download and upload speeds or year-long promotional rate).<sup>7</sup>

The Commission should also address what happens to the Emergency Broadband program after the benefit runs out. At a minimum, providers must receive affirmative, informed consent from the consumer before continuing service with the participating provider when the Emergency Broadband program funds have run out, in order to protect consumers from bill shock at the end of the program. We further urge the Commission, as a part of this rulemaking, to consider next steps once the Emergency Broadband program ends, both for the individuals and for the Commission's Lifeline program. Ideally, there will be a transition from the Emergency Broadband program to a permanent robust low-income broadband benefit program.

*Emergency Broadband program benefits occur alongside Lifeline benefits.* The Commission should make clear that Congress explicitly stated that participation in the Emergency Broadband program can occur concurrently with participation in the Lifeline program, and households can receive both benefits from the same or different providers.<sup>8</sup> The Commission should work to ensure households that use qualifying programs receive information about the emergency broadband benefit.

*Eligible participants should have low barriers to entry to enroll in the Emergency Broadband program.* We encourage the Commission to take a holistic approach to the Emergency Broadband program and address the accessibility concerns of marginalized communities. Moreover, the FCC should minimize documentation requirements to maximize the number of eligible participants.

We recommend using the USAC infrastructure for EBB, but with important modifications to allow for the inclusion of more households eligible for the Emergency Broadband benefit program. Special attention should be paid to non-English speakers, those with limited English proficiency, those with disabilities, all of whom have been some of the worst hit communities during the COVID pandemic. For example, eligibility should not be tied to whether one has a Social Security number, as that requirement would

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*Empowering Consumers to Avoid Bill Shock; Consumer Information and Disclosure*, 47 C.F.R. § 64 (2010)  
<https://www.federalregister.gov/documents/2010/11/26/2010-29669/empowering-consumers-to-avoid-bill-shock-consumer-information-and-disclosure>.

<sup>5</sup> *Consolidated Appropriations Act*, 2021, H.R. 133, div. N, tit. IX, § 904(b)(1) (2020).

<sup>6</sup> *Id.*, § 904(a)(13).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*, §904(e).

penalize non-citizens, mixed status families, and a range of other differently documented immigrants. The Lifeline program relies on a Social Security requirement as part of the identity authentication process, but it is too limiting, and the Emergency Broadband program should allow for additional forms of ID, including an Individual Taxpayer Identification Number. In addition, the Emergency Broadband program should, like the Lifeline program, recognize and clearly communicate that an eligible household is not defined by mailing address, as multiple eligible low-income households may share housing or may live in communal housing. The Emergency Broadband program should use a process like the Lifeline independent economic household determination to account for the fact that multiple households may be living in the same physical location or address.

In conclusion, if broadly adopted, the Emergency Broadband program will encourage broadband adoption and will be a major step forward in connecting more Americans. We look forward to collaborating closely with the Commission as it embarks on this important initiative. If you have any questions about the issues raised in this letter, please feel free to contact Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, United Church of Christ, Office of Communication, Inc., at [cleanza@alhmail.com](mailto:cleanza@alhmail.com), Kate Ruane, American Civil Liberties Union, at [kruane@aclu.org](mailto:kruane@aclu.org), or Corrine Yu, Leadership Conference Senior Program Director at [yu@civilrights.org](mailto:yu@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights

ACLU

American Council of the Blind

American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)

Asian Americans Advancing Justice | AAJC

Autistic Self Advocacy Network

Common Cause

Communications Workers of America

NAACP

National Action Network

National Consumer Law Center, on behalf of its low-income clients

National Disability Rights Network (NDRN)

National Hispanic Media Coalition

United Church of Christ, OC Inc.