



February 25, 2020

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 harmful proposals that would limit the reach and effectiveness of the Lifeline 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. We consider a robust Lifeline program to be a top priority for the civil and human rights coalition. In 2018, The Leadership Conference organized opening comments signed by 200 organizations opposing the proposed changes,<sup>2</sup> and several members of the Media/Telecommunications Task Force submitted opening comments in this new Lifeline docket outlining the problems with the FCC's proposal.<sup>3</sup>

As the Commission has consistently found, both voice and broadband services are essential for full participation in today's economy. Americans 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 21<sup>st</sup> 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. In particular, the Commission should not:

- Evaluate Lifeline's effectiveness by measuring consumers who would not subscribe to broadband but for the program, because this approach is far too narrow and does not recognize that the main barrier to continuous connectivity is affordability;
- Track Lifeline consumers' broadband usage, because to do so is invasive, burdensome, and paternalistic; and

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Toni Van Pelt  
National Organization for Women  
Randi Weingarten  
American Federation of Teachers  
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Policy and Enforcement  
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Michael Lieberman  
Anti-Defamation League  
President & CEO  
Vanita Gupta



- Ban the distribution of free handsets or devices, because such action is counterproductive and will harm digital inclusion efforts.

We recommend that the Commission reject these proposals and instead allow time for the Lifeline stakeholders to adjust to the recent dramatic changes to the Lifeline enrollment process and the recent changes to Lifeline's minimum standards.

### **1. The Commission Should Develop Goals for Lifeline that are Consistent with Universal Service Principles**

In this most recent NPRM, the Commission proposes a goal for Lifeline that reflects a very limited vision for the program and disregards cost as the primary barrier to broadband adoption.<sup>4</sup> Under the proposal, the goal of Lifeline would be to increase broadband adoption for consumers who would not otherwise subscribe to broadband.<sup>5</sup> This narrow goal would exclude households that direct scarce savings to begin broadband service, but due to an unexpected loss in income or emergency expense<sup>6</sup> are suddenly faced with the choice of paying for broadband or use of those funds for other household necessities.<sup>7</sup>

The Leadership Conference's Media/Telecommunications Task Force has proposed more appropriate goals for Lifeline, including adopting a goal of continuous connectivity (connection to service every day of the year) and increased rates of participation in Lifeline.<sup>8</sup> In order for low-income households and network users to benefit from universal service, households must be connected to essential broadband and voice services every day of the year – i.e. continuous connectivity. Intermittent connectivity harms children's ability to do homework, to learn at home, and also poses barriers to communication between educators and parents. In addition, intermittent connectivity impairs the ability of adults to find work, perform work, and keep pace with changing workplace opportunities. Moreover, intermittent connectivity affects health and safety, from accessing important medical information and medical attention, to timely receipt of emergency notifications to reaching 911 in an emergency. Having a reliable and unchanging phone number facilitates access to important services and employment.

### **2. The Commission Should Not Track Individual Lifeline Consumer Broadband Usage**

The Commission's proposal to track individual Lifeline consumers' broadband usage to ensure that consumers are using their broadband internet service<sup>9</sup> is invasive and paternalistic. Requiring consumers to "check in" on an app<sup>10</sup> is also burdensome and will deter consumers from participating in the Lifeline program. The Commission should promptly reject this line of thinking.

### **3. The Commission's Proposal to Ban the Distribution of Free Handsets and Devices Thwarts Private Sector Efforts at Digital Inclusion**

The Commission's proposal to prohibit the distribution of free handsets and devices is unnecessary and will deter digital inclusion efforts.<sup>11</sup> The Commission's new Lifeline order bans sales commissions<sup>12</sup> and requires sales agents to register in a database in order to access or modify customer account information.<sup>13</sup> These are substantial reforms that are targeted toward abuses related to enrollment efforts. The banning



of free handsets and devices would, on the other hand, have a chilling effect on the private sector's attempts to address the barrier to adoption caused by the cost of a device. The handsets are not subsidized by Universal Service Funds; rather, they are at the carrier's expense. In short, this proposal is counterproductive to the goal of closing the digital divide.<sup>14</sup>

In conclusion, we urge the Commission to acknowledge 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-Chair Cheryl Leanza, United Church of Christ, OC Inc., at 202-904-2168 or [cleanza@alhmail.com](mailto:cleanza@alhmail.com) or Corrine Yu, Leadership Conference Senior Program Director at 202-466-5670 or [yu@civilrights.org](mailto:yu@civilrights.org).

Sincerely,

The Leadership Conference on Civil and Human Rights  
American Civil Liberties Union  
Asian Americans Advancing Justice | AAJC  
Common Cause  
Communications Workers of America  
Institute for Intellectual Property & Social Justice  
NAACP  
National Consumer Law Center, on behalf of its low-income clients  
National Hispanic Media Coalition  
OCA — Asian Pacific American Advocates  
UnidosUS  
United Church of Christ, OC Inc.

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<sup>1</sup> *Bridging the Digital Divide for Low-Income Consumers et al*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886 *et seq* (Rel. Nov.14, 2019) (“NPRM”).

<sup>2</sup> Leadership Conference Comments (February 21, 2018).

<sup>3</sup> *See e.g.*, National Urban League's Comments (Jan. 27, 2020); NHMC's Comments (Jan. 27, 2020), Low-Income Consumer Advocates Comments (Jan. 27, 2020) (includes Asian Americans Advancing Justice | AAJC, Common Cause, UCC OC, Inc., NCLC, and other public interest organizations); NHMC Comments [get cite].

<sup>4</sup> *See e.g.*, Monica Anderson, *Mobile Technology and Home Broadband 2019*, Pew Research Center, Internet and Technology (June 13, 2019) (50% cite cost as the main reason for not subscribing to home broadband service) available at <https://www.pewresearch.org/internet/2019/06/13/mobile-technology-and-home-broadband-2019/>.

<sup>5</sup> NPRM at 34 FCC Rcd 10945-10946, ¶137.

<sup>6</sup> *See also*, Low Income Consumer Advocates' Opening Comments on the Further Notice of Proposed Rulemaking, WC Docket Nos. 17-287, 11-42, 09-187 (Jan. 27, 2019) at 6-8 (discussion on income volatility).



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<sup>7</sup> According to the CFPB, debts for telecommunications services are among the most common debts that creditors and debt collectors seek from consumers. *See* CFPB, Quarterly Consumer Credit Trends: Collections of Telecommunications Debt (Aug. 2018) at p.2.

<sup>8</sup> *See*, Leadership Conference, *Comments in Response to the Commission's Second Further Notice of Proposed Rulemaking*, WC Docket Nos. 11-42, 09-197, 10-90 (August 31, 2015) at p.3.

<sup>9</sup> NPRM at 34 FCC Rcd 10947-10948, ¶146.

<sup>10</sup> NPRM at 34 FCC Rcd 10948, ¶147.

<sup>11</sup> NPRM at 34 FCC Rcd 10950, ¶153.

<sup>12</sup> *Bridging the Digital Divide for Low-Income Consumers et al*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, (Rel. Nov.14, 2019), 34 FCC Rcd 10915, ¶68 *et seq.*

<sup>13</sup> *Id* at 34 FCC Rcd 10918, ¶78 *et seq.*

<sup>14</sup> In addition, requiring a fee for a handset or tablet is arguably rate regulation in violation of 47 USC §332(c)(1)(A).