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Comments of ITIF

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of:	)	
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Report on the Future of the Universal Service Fund	)	WC Docket No. 21-476
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	)	

February 17, 2022

INTRODUCTION AND SUMMARY

The Federal Communications Commission (FCC or Commission) has promulgated a Notice of Inquiry regarding its "report on the options of the Commission for improving its effectiveness in achieving the universal service goals for broadband in light of" the Infrastructure Investment and Jobs Act of 2021.[1] The Information Technology and Innovation Foundation (ITIF) appreciates this opportunity to comment on the Commission's efforts to ensure universal service.[2]

The Commission's report is a key moment to take a fresh look at Universal Service Fund (USF) programs in light of major developments in the past several years. Universal service remains a noble goal, and recent expenditures by the government and private sector have made achieving universal broadband service a permanently attainable achievement. Given this and the increasing funding problems associated with USF programs, the FCC should not be content with USF programs that extract perennial multi-billion-dollar sums from consumers and pour them into the pockets of Internet service providers (ISPs). Rather, the Commission should examine how to scale back its programs, especially the High Cost program, and shift to more limited and consumer-targeted assistance.

RECENT EXPENDITURES ARE ENOUGH TO ACHIEVE UNIVERSAL SERVICE

In 2017, an FCC paper found that reaching 98 percent of homes and small-and-medium businesses would cost $40 billion in upfront capital expenditures.[3] That figure does not account for the fact that many cheaper alternatives, such as non-fiber fixed, fixed wireless, and satellite services are available to meet universal service goals. Since 2017, USF programs have spent more than $43 billion.[4] And while not all of this money was for broadband infrastructure, the Government Accountability Office (GAO) found that total federal government

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[1] Report on the Future of the Universal Service Fund, WC Docket No. 21-476, Notice of Inquiry, FCC 21– 1127 (Dec. 2021), https://ecfsapi.fcc.gov/file/12152781704402/FCC-21-127A1.pdf.

[2] Founded in 2006, ITIF is an independent 501(c)(3) nonprofit, nonpartisan research and educational institute—a think tank. Its mission is to formulate, evaluate, and promote policy solutions that accelerate innovation and boost productivity to spur growth, opportunity, and progress. ITIF's goal is to provide policymakers around the world with high-quality information, analysis, and recommendations they can trust. To that end, ITIF adheres to a high standard of research integrity with an internal code of ethics grounded in analytical rigor, policy pragmatism, and independence from external direction or bias. See About ITIF: A Champion for Innovation, https://itif.org/about.

[3] Paul de Sa, "Improving the Nation's Digital Infrastructure," (Federal Communications Commission, 2017), https://docs.fcc.gov/public/attachments/DOC-343135A1.pdf.

[4] "Contribution Factor & Quarterly Filings - Universal Service Fund (USF) Management Support," (Federal Communications Commission, 2021), https://www.fcc.gov/general/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support.

spending on rural broadband infrastructure alone from 2009-2017 totaled $47.3 billion.[5] These subsidies have continued apace since the period GAO studied, such that, if the money were invested wisely, we should be nearing completion of the necessary expenditures to reach 98 broadband penetration, without accounting for any other subsidies.

But spending from those past programs has now been supplemented with an enormous infusion of funds authorized through the American Rescue Plan Act[6] and the Infrastructure Investment and Jobs Act.[7] Which will together allocate tens of billions of dollars to broadband infrastructure projects. A central feature of the Commission's report should, therefore, be evaluating ways to scale back USF programs dramatically in light of the success of past funding programs and the magnitude of upcoming expenditures. This scale-back should start with the High-Cost Fund.

ELIMINATE HIGH-COST FUND PROGRAMS

Once the Commission accounts for the enormity of broadband subsidies that have been and are set to be paid out in the near future, it is unlikely that USF programs for rural infrastructure are still necessary. The FCC should therefore sunset its High-Cost Fund programs since their goals are amply funded. The present infusion of funding for infrastructure, especially in rural areas, should eliminate the geographic digital divide as it more than doubles the level of investment purported to be needed to provide adequate service to 98 percent of location in the country (a level of penetration that would exceed even telephone service in its heyday).[8] Only a culpable mismanagement of these funds could fail to end the need for the High-Cost program. The Commission should therefore proceed as if High Cost is now a superfluous program and direct its efforts to the efficient distribution of existing funds, rather than maintain a duplicative program.

Insofar as there is still need for support in rural areas after eliminating High Cost, it should be targeted based on individuals' needs and no longer to pieces of land. Rural is not a synonym for poor, and Americans who choose to live in rural areas are no more deserving of assistance than poor individuals in urban and suburban

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[5] See United States Government Accountability Office Report to Congressional Requesters, "Broadband: Observations on Past and Ongoing Efforts to Expand Maps and Improve Mapping Data," (GAO, June 2020), https://www.gao.gov/assets/gao-20-535.pdf.

[6] See American Rescue Plan Act of 2021, H.R.1319 - 117th Congress (2021-2022): American Rescue Plan Act of 2021, H.R.1319, 117th Cong. (2021), https://www.congress.gov/bill/117th-congress/house-bill/1319/text.

[7] See Infrastructure Investment and Jobs Act of 2021, which allocates over $65 billion to address issues of broadband access and affordability, H.R.3684 - 117th Congress (2021-2022): Infrastructure Investment and Jobs Act, H.R.3684, 117th Cong. (2021), https://www.congress.gov/bill/117th-congress/house-bill/3684/text.

[8] 'Telephone Penetration Report (through March 2009)," (FCC, 2010), https://www.fcc.gov/reports-research/reports/telephone-penetration-reports/telephone-penetration-report-through-march.

areas. A focus on rural areas without regard to individual need will tend to bolster the property values of perhaps already well-off homeowners at the expense of all telecommunications users who pay into USF.

Cutting High Cost is also the most direct way to fix the skyrocketing contribution factor which threatens to undermine the program's goals by, in many cases, extracting higher and higher sums from the very people USF programs are intended to help.[9] As ITIF has argued previously, a large, one-time infusion of funding is the best way to close the digital divide once and for all. Now that the large expenditure is on the way, the Commission should do its part by ensuring that these expenditures are indeed "one-time" and no longer present significant tax on Americans' phone bills.

RETHINK E-RATE AROUND DISTRICT NEED

There may still be a case for supporting schools and libraries which, because of the makeup of their local tax base, do not have adequate funding. Broadband connectivity through these institutions is most needed in districts that are low income in general and, therefore, unable to afford it. The Commission should be careful, however, to assess need based on a local school or library's need on a district level, rather than assuming that all areas with poor children lack the resources to support them. Indeed, it could be that a school with many poor children has a wealthy tax base from which to draw, and it would be inappropriate to redistribute USF fees to such a school.

REMAINING ASSISTANCE SHOULD BE GIVEN TO PEOPLE IN NEED, NOT ISPS

In its basic structure, the USF program best tailored to future universal service needs is Lifeline. Lifeline's focus on individual consumers is the right approach because it will tend to lead to usage by those who need it, rather than writing checks to ISPs for projects that may or may not fit a community's needs. Still, the program should be made more flexible and individualized. A more streamlined system of vouchers that qualified consumers can spend on a variety of goods and services would have significant benefits while alleviating some costs now associated with USF programs.[10]

First, putting flexible sums of money into consumers' hands ensures that it is directed toward the uses that will most benefit each consumer, rather than the Commission's necessarily generalized attempts to predict the needs of heterogenous groups of Americans. The Commission has already taken positive steps in this direction

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[9] See Doug Brake and Alexandra Bruer, "How to Bridge the Rural Broadband Gap Once and For All," (ITIF, March 2021), https://itif.org/publications/2021/03/22/how-bridge-rural-broadband-gap-once-and-all.

[10] See Brent Skorup and Michael Kotrous, "Narrowing the Rural Digital Divide with Consumer Vouchers," (Mercatus Center, October 2020), https://www.mercatus.org/publications/technology-and-innovation/narrowing-rural-digital-divide-consumer-vouchers.

with the Emergency Broadband Benefit[11] and Affordable Connectivity Program,[12] which provide a sum of money that discounts the recipient's choice of broadband plan. Continuing down this path of flexible spending would be a positive development for Lifeline. The Commission should explore ways to expand the scope of Lifeline grants to reach the most pressing barrier to broadband adoption, which for the majority of Americans is not high prices but lack of interest or perceived relevance.[13]

Lifeline grants should, therefore, be made without regard to geography, although geographic differences may impact how recipients choose to spend them. For example, in urban areas where the barrier to connectivity is slow adoption, the funds could be spent on connected devices or classes to learn digital skills. In rural areas with inadequate service, ISPs will be spurred to provide the services consumers seek as efficiently as possible in order to get access to Lifeline grants. This shift would be an improvement over giving ISPs funding to construct networks regardless of whether the provider's service quality and prices are good enough to retain customers. Giving consumers control of where money goes will also incentivize better quality service since providers must persuade users to pick their service by meeting their needs, rather than persuading the FCC, which cannot always know the particular preferences of individuals in every area.

Direct grants also help disentangle the concepts of need and geographical remoteness. By targeting money to those who need it, regardless of their location, an expanded and streamlined Lifeline would obviate the need for detailed maps, the creation of which continues to consume resources and provoke political ire.[14] If poor consumers can get the help they need without regard to where they live, debates over precise locations and definitions of served and unserved become less necessary.

REMAINING USF PROGRAMS SHOULD BE FUNDED BY THE TREASURY

While the Commission itself does not have direct authority to shift the funding mechanism for USF from fees on telecommunications services to general U.S. government revenue, its report should emphasize the ways in which the current trajectory of the contribution factor is unsustainable. As USF seeks to reduce costs for those who need communications services, the skyrocketing contribution factor does the opposite, making those services less affordable.

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[11] See the home page for the Federal Communications Commission's Emergency Broadband Benefit Program, which was replaced by the Affordable Connectivity Program in 2021, https://www.fcc.gov/broadbandbenefit.

[12] See the home page for the Affordable Connectivity Program, which replaced the EBB on December 31, 2021, https://www.fcc.gov/acp.

[13] See "Digital Nation Data Explorer," (NTIA, June 2020), https://ntia.gov/data/digital-nation-data-explorer#sel=noNeedInterestMainReason&disp=map.

[14] See e.g., John Hendel, "Why Billions in Broadband Money May Go to the Wrong Places," (Politico, November 2021), https://www.politico.com/news/2021/11/29/fcc-broadband-maps-biden-523425.

While the above recommendations for reform of USF programs would reduce the contribution factor significantly, the program would be on stronger footing if its cost was accounted for in the general budget of government expenditures, rather than as a separate quasi-tax system with rates set outside the democratic process. This route is also preferable to expanding the contribution base to include edge providers and other Internet companies. That the companies targeted may be large or unpopular does not make the USF fees a more efficient tax. Doubling down on USF fees as a funding structure would only entrench the problematic system rather than shoring up remaining programs against a further upward spiral of fees.

CONCLUSION

The massive amount of funding now set aside for broadband deployment is the lumpsum investment needed to close the digital divide permanently. There is, therefore, a unique opportunity for the FCC to ensure that the money is used to its maximum potential and achieves the Commission's universal service goals, while simultaneously slimming down USF to a more targeted, effective, and fiscally stable program that bolsters achievement of universal service rather than impoverishing the very Americans it's meant to assist.

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