U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

March 17, 2022

Via Electronic Submission

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Washington, DC 20554

Re: Reply Comments for the Report on the Future of the Universal Service Fund (WC Docket No. 21-476)

Dear Ms. Dortch:

The U.S. Chamber of Commerce ("the Chamber") appreciates the opportunity to submit reply comments on the Federal Communications Commission's ("the Commission") Notice of Inquiry on the above referenced proceeding ("Notice") to study the future of Universal Service Fund ("USF") and to identify policy solutions for Congress and the Commission to take to close the digital divide for all Americans.[1]

As many commenters have correctly noted, the USF is in dire financial straits and requires fundamental reform to stabilize USF programs.[2] This Notice represents an important first step to stabilize the USF. The Chamber urges the Commission, and policymakers, to thoughtfully consider the range of proposed policy solutions and fully understand the impacts of all proposals on statutory USF objectives, digital innovation, and American global competitiveness.

I. Identifying the Right Goals for Universal Service

The Notice requests comment on the Commission's definition of universal service goals as well as how to measure progress towards the goals.[3] The Chamber supports the Commission maintaining the Infrastructure Investment and Jobs Act's ("IIJA") definition of universal service goals for broadband and does not believe that

[1] *Report on the Future of the Universal Service Fund*, Notice of Inquiry, FCC-21-127 (rel. Dec. 15, 2021) (Notice).
[2] *See* AT&T Comments at 1; Public Knowledge comments at 18-19; INCOMPAS comments at 14.
[3] *Notice*, FCC-21-127 at 2-3, para 4.

the definition should be expanded to include other objectives. Consequently, we urge the Commission to reject the proposal offered by some commentators to include "competition" as a goal.[4] The Commission has several existing mechanisms to support competition in the broadband market to address any concerns pertaining to competition.[5] Moreover, including competition as an objective for universal service would muddle the overall goals of the Commission's universal service programs and distract the Commission from the actual goal of universal service, which is ensuring that all Americans have access to high-speed internet.

The Notice also requests comment on the evolution of goals and how to measure progress for universal service goals.[6] Connectivity technologies and innovations stemming from increased connectivity are rapidly evolving so the Chamber agrees with the Commission that the universal service goals may change over time. However, the Chamber emphasizes that the Commission, in executing any of its broadband deployment programs, should ensure that Americans living in unserved areas are prioritized first to fully close the digital divide as well as preserve a technology neutral approach that recognizes the wide range of broadband technologies in the market. Moreover, we encourage the Commission to conduct additional proceedings as needed to evaluate current and future broadband and connectivity requirements in full collaboration with impacted stakeholders.

Finally, the Chamber notes that in this proceeding, the Commission should refrain from providing recommendations on new benchmarks for broadband considering Section 60505 of the IIJA directs the Government Accountability Office to study broadband internet access service speeds by November 2022.[7]

II. Impact of Federal Broadband Programs on Universal Service Goals

The Notice requests comment on the impact of the IIJA and other broadband programs on the Commissions universal service goals as well as how federal broadband programs can be more effectively coordinated.[8] The Chamber offers two recommendations on this topic.

First, the IIJA provided an historic investment in broadband deployment and affordability. By focusing on unserved areas, the IIJA will likely make substantial progress to achieving our country's universal broadband goals. However, actual deployment will take several years to complete given the time need to establish the

[4] *See* Benton Institute comments at 25; INCOMPAS comments at 5.
[5] Jon Sallet, *A Brief History of Competition Policies and Networks*, FED. COMMC'N COMM'N (Sep. 5, 2014), https://www.fcc.gov/news-events/blog/2014/09/05/brief-history-competition-policies-and-networks.
[6] *Notice*, FCC-21-127 at 8, para 18.
[7] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (IIJA).
[8] *Notice*, FCC-21-127 at 8-9, para 19.

programs, distribute the funds, and build the networks. The Chamber recommends that the Commission monitor the implementation of the IIJA and assess how IIJA implementation meets the Commission's universal service goals.

Second, while the IIJA provided substantial broadband investments, there more than 80 federal programs spread across 14 federal agencies related to broadband, a trend accelerated by the COVID-19 pandemic.[9] This presents a significant coordination challenge that confuses recipients of broadband funds and leads duplication and otherwise inefficient use of taxpayer funds. Congress has enacted several laws to help address this issue including the ACCESS BROADBAND Act to provide a central website for applicants seeking broadband funding and the Broadband Interagency Coordination Act to ensure coordination between different entities.[10]

While the Broadband Interagency Coordination Act provided an important first step to ensuring coordination, the law only covers coordination between the Commission, the National Telecommunications an Information and Administration, and the Department of Agriculture.[11] The Commission ought to recommend that the Congress expand the scope of this Act to cover all other agencies that have broadband programs that seek to help achieve the country's universal broadband goals. In addition, the Commission should include in its a Report a recommendation that Congress and federal agencies examine the effectiveness of all broadband-related programs in meeting universal service goals and initiate a process to streamline and consolidate duplicative programs. This would reduce the costs associated with coordination, enable broadband program recipients to better understand and apply for federal funds, save taxpayer money through preventing waste, and more efficiently meet the universal service goals outlined by the Commission.

III. Transitioning to a 21st Century Broadband Affordability Program

The Notice requests comment on the respective roles of the Lifeline program and the Affordable Connectivity Program ("ACP").[12] The Chamber notes that both programs have similar objectives: helping low-income consumers access communications technologies. Consequently, the Chamber recommends that the

---

[9] NTIA LAUNCHES UPDATED FEDERAL BROADBAND FUNDING GUIDE, https://broadbandusa.ntia.doc.gov/news/latest-news/ntia-launches-updated-federal-broadband-funding-guide (last visited Mar. 17, 2022).

[10] Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, § 903, 134 Stat. 1182 (2020) (to be codified at 47 U.S.C. § 1307).

[11] Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, § 904, 134 Stat. 1182 (2020) (to be codified at 47 U.S.C. § 1308).

[12] *Notice*, FCC-21-127 at 10-12, para 21-28.

Commission include in its Report a recommendation for Congress to reconcile the ACP and Lifeline into a single, long-term program. The merger of these two important programs will reduce administrative costs, defuse any confusion for consumers, and ensure that low-income Americans can fully participate in the internet economy.

When crafting its recommendations, the Chamber suggests that the Commission establish the successor program that maximizes the ability for a wide range of existing providers to participate in the program without requiring them to be Eligible Telecommunications Carriers ("ETCs"), include connected devices similar to the requirement contained in the IIJA, limit consumer protection requirements to those only absolutely necessary to carry out the program, provide flexibility in promoting the new program to consumers, ensure effective verification to reduce fraud, and establish a smooth process to transition from Lifeline and the ACP to the successor program.

In addition, the Commission should also transform any affordability program(s) into a direct-to-consumer benefit, distributed to consumers via debit card accounts, that consumers can use to help pay for the broadband service of their choice from the provider of their choice. Such a market-based benefit would better empower consumer choice and protect consumers' privacy, eliminate burdens and simplify compliance for participating providers, and better protect the program(s)' integrity by eliminating opportunities for error and abuse.

Finally, as discussed more in depth in the next section, the Chamber believes that any successor to Lifeline and the ACP be funded through Congressional appropriations.

IV. Sustaining Universal Service Through Congressional Appropriations

The Notice asks commenters how the Commission and policymakers should sustain the Universal Service Fund in light of a rapidly increasing contribution factor.[13] As noted in our initial comments, the Chamber strongly believes that the most viable and effective long-term solution is to transition universal service programs into the Congressional appropriations process.[14] The following builds on those comments and outlines the rationale of shifting to the Congressional appropriations process, specifically discretionary appropriations.

First, every American and business benefits from the internet and broadband deployment. When the Telecommunications Act of 1996 was enacted only 20 million American adults had internet access and spent less than 30 minutes a day, on

[13] Id. at 12, para 29.
[14] *See* U.S. Chamber of Com. comments at 2.

average, on the web.[15] Today, 93% of Americans use the internet and spend nearly 8 hours a day consuming digital media.[16] Similarly, the internet is also central to conducting business whether that be through new business models or increased efficiency at work. According to the Interactive Advertising Bureau, the internet contributed $2.45 trillion to the U.S. economy and supported 17 million jobs.[17] Notably, the impact of the internet provides substantial benefits for specific sectors such as healthcare for telehealth, retail for e-commerce, and entertainment for internet streaming. Moreover, internet connectivity is essential for purposes such as teleworking, payments, email, and online productivity tools.

The purpose of the Congressional appropriations process is to finance societal priorities and ascertain how much should policymakers invest in each respective priority. The benefits of internet access are broad-based and impact nearly every individual and business, so the cost to connect all Americans should also fall on society as a whole through the Congressional appropriations process.

Second, as the Commission and many commentators have noted, the USF is facing a shrinking base of assessable revenues, leading to increased fees on telecommunication service providers, and reflected in higher telephone and telecommunication service bills for consumers and the businesses.[18] A primary cause of this trend is the rise of both internet-based services that fall outside of the USF assessable base due to technological innovations in the marketplace and the bundling of data transmission services with computing services to make them arguably unassessable. The Chamber expects that the private sector will continue to make rapid advancements in communications technologies. Supporting broadband programs through the Congressional appropriations process can help "future proof" the Commission's universal service goals to account for new technologies to provide communications services for consumers and businesses. This is especially true as we are seeing potential in novel areas such as Internet of Things, 6G, and augmented and virtual reality. The appropriations process empowers Congress to tailor broadband programs on an annual basis to account for changes in the marketplace and new communications technologies.

---

[15] Farhad Manjoo, *Jurassic Web*, SLATE (Feb. 24, 2009), https://slate.com/technology/2009/02/the-unrecognizable-internet-of 1996.html#:~:text=In%201996%2C%20just%2020%20million,subscribe%20to%20satellite%20radio%20today.

[16] PEW RSCH. CTR, *Internet/Broadband Fact Sheet* (April 7, 2021), https://www.pewresearch.org/internet/fact-sheet/internet-broadband/; Insider Intelligence Editors, *US Adults Added 1 Hour of Digital Time in 2020*, INSIDER INTEL. (Jan. 26, 2021), https://www.emarketer.com/content/us-adults-added-1-hour-of-digital-time-2020.

[17] John Deighton, *The Economic Impact of the Market-Making Internet – Advertising, Content, Commerce, and Innovation: Contribution to U.S. Employment and GDP*, INTERACTIVE ADVERT. BUREAU (Oct. 19, 2021), https://www.iab.com/news/study-finds-internet-economy-grew-seven-times-faster/.

[18] *See* USTelecom comments at 7.

Third, the clearest support that funding universal service programs through Congressional appropriations is appropriate is that Congress has funded numerous broadband programs through the appropriations process. In response to the COVID-19 pandemic, Congress enacted and strengthened several broadband-related programs. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act included $100 million in additional funds for the U.S. Department of Agriculture's ("USDA") ReConnect Program, $50 million to support digital services in libraires through the Institute of Museum and Library Services, $200 million for the Commission's COVID-19 Telehealth Program, and $13 billion for states for educational activities including distance learning.[19] In December 2020, Congress enacted the Consolidated Appropriations Act, which included $1 billion for NTIA's tribal grant program, $300 million for NTIA's Broadband Infrastructure Program, $285 million for NTIA's Connecting Minority Communities Pilot Program, $3.2 billion for the Emergency Broadband Benefit, and $249 million in additional funds for the COVID-19 Telehealth program.[20] Finally, in March 2021, Congress enacted the American Rescue Plan, which included $7 billion for the Emergency Connectivity Fund and $340 billion in general assistance to states, where one of the eligible uses is broadband.[21] All of these broadband programs were financed through Congressional appropriations, which indicates the Congress is able, and willing, to prioritize taxpayer dollars to broadband investments.

In addition, even before the COVID-19 pandemic, Congress established broadband programs across the federal government. Several of these include USDA's Broadband ReConnect Program (established in 2018), as well as other smaller programs in the Appalachian Regional Commission, the Economic Development Administration, the Institute for Library and Museum Services, the Department of Health and Human Services, Department of Housing and Urban Development ("HUD"), and other USDA programs.[22] Finally, Congressional action to utilize the appropriations process tacitly recognizes that the USF cannot bear the costs of such urgently needed broadband programs.

Fourth, outside of the broadband context, Congress uses Congressional appropriations to fund similar programs that help to ensure the health and well-being of all Americans and that broadly support the infrastructure undergirding American commerce. Most notably, public assistance programs such as the Low Income Home Energy Assistance Program ("LIHEAP") and HUD programs are funded entirely by the

---

[19] *See* Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).
[20] *See* Consolidated Appropriations Act of 2021.
[21] *See* American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021).
[22] LENNARD K. KRUGER & ANGELE A. GILROY, CONG. RSCH. SERV., RL30719, BROADBAND INTERNET ACCESS AND THE DIGITAL DIVIDE: FEDERAL ASSISTANCE PROGRAMS (2019).

Congressional appropriations process.[23] In particular, Lifeline and the ACP are analogous to LIHEAP and HUD's Tenant-Based Rental Assistance programs considering all of these programs provide subsidies for low-income Americans to assist with important necessities. Furthermore, it is important to note that while transportation infrastructure programs, such as the Highway Trust Fund, is financed through user fees, an increasing portion is funded by one time transfers from the General Fund into the Highway Trust Fund.[24]

Fifth, and finally, utilizing the Congressional appropriations process ensures that Congress serves its proper policy role in overseeing the distribution of broadband spending. This aligns with Congress' Constitutional responsibilities over the power of the purse and also ensures that Congress can more easily adjust the scope of broadband investments to account for changes in the broadband market and needs of the American public. Given the vast array of federal investments in broadband, there may be circumstances in the future where the relative funding balance prioritized among goals that include affordability, adoption, and availability should be reviewed.

For the reasons outlined above, the Chamber urges the Commission to recommend to Congress that the financing of universal service programs be conducted through the Congressional appropriations process.

V. Principles for Reformed Contributions

Many stakeholders support utilizing the appropriations process to finance USF and other broadband programs, but some commenters have proposed alternative solutions to sustain the USF through expansions to the contribution base.[25] For the reasons discussed in the preceding section, the Chamber strongly believes USF programs should be financed through the Congressional appropriations process. If policymakers do consider alternatives to appropriations, the Chamber offers the following principles, which are consistent with our longstanding views on communications policy. Policymakers should ensure that any proposal can satisfy all of the principles outlined below.

First, any proposed change should be sustainable to provide for the longevity of the USF and give certainty for program beneficiaries and the American public at large. The communications sector is rapidly changing, and the private sector is leading the way to develop new products and methods to deliver information to consumers. The

---

[23] LIBBY PERL, CONG. RSCH. SERV., RL31865, LIHEAP: PROGRAM AND FUNDING (2018); MAGGIE MCCARTY, CONG. RSCH, SERV., R45294, HUD FY2019 APPROPRIATIONS: IN BRIEF (2019).
[24] Jeff Davis, *Highway Trust Fund 101*, ENO CTR. FOR TRANSP. (June 2, 2020), https://www.enotrans.org/article/highway-trust-fund-101/#what-expenses-drawn.
[25] See USTelecom comments at 4; INCOMPAS comments at 14.

primary reason the USF faces financial challenges is the decline of traditional voice revenue, which as one commenter noted reflected "services in demand in 1996, not 2022."[26] Consequently, policymakers should be aware of imposing a novel approach that is not "future proof" and should aim to place the USF in a sustainable position decades into the future.

Second, any proposed change should support, and not counteract, the present universal service goals outlined in statute. USF programs are intended to fulfill these goals: Lifeline supports the goal of increasing access to low-income consumers; the High-Cost Program ensures broadband deployment in rural, insular, and high-cost areas by providing support for both capital and ongoing operating expenses; and the E-Rate Program helps connect schools and libraries. Alternative solutions should take these objectives into account to ensure that the entirety of the USF, which includes both the financing mechanisms and the programs it supports, collectively advances the universal service goals outlined in statute.

Third, any proposed change should ensure industry-specific neutrality and avoid targeting specific sectors, a point emphasized by the Chamber's *Tax Principles for a Digitalizing World Economy*.[27] Similarly, the Chamber has a long-standing position of advocating for a technology-neutral approach in the communications policy space, including for broadband deployment. In addition, the principle of neutrality recognizes that many different sectors make substantial investments in broadband and nearly all sectors benefit from continued investments in broadband deployment and affordability.

Fourth and finally, any proposed change should enable, and not inhibit, the growth of the internet economy, which encompasses applications, business models, and sectors across the entire internet ecosystem. The internet economy is essential to continued U.S. global competitiveness and to providing critical services and products to consumers. The Department of Commerce estimates that the output of the U.S. digital economy exceeded $2 trillion in 2019, a $700 billion increase from 2010.[28] In fact, the internet economy grew seven times faster than the overall U.S. economy over the last four years.[29] The number of jobs supported by internet related activities is estimated at 3 million in the U.S. alone.[30] Many of these gains can be attributed to new

---

[26] *See* US Telecom comments at 5.
[27] John G. Murphy & Caroline L. Harris, *Tax Principles for a Digitalizing World Economy*, U.S. CHAMBER OF COMM. (Mar. 5, 2019), https://www.uschamber.com/taxes/tax-principles-digitalizing-world-economy.
[28] U.S. CHAMBER OF COMM., *The Digital Trade Revolution: How U.S. Workers and Companies Can Benefit from a Digital Trade Agreement* (Feb. 9, 2022), https://www.uschamber.com/assets/documents/Final-The-Digital-Trade-Revolution-February-2022_2022-02-09-202447_wovt.pdf.
[29] John Deighton, *supra* note 17.
[30] Id.

business models and innovations, ranging from social media, e-commerce, the gig economy, and business to business providers.

VI. Conclusion

Thank you for the opportunity to participate in this proceeding and working to identify solutions to stabilize the USF. If you have any follow up questions, I may be reached at 202-463-5973 or by e-mail at mfurlow@uschamber.com.

Sincerely,

Matt Furlow
Policy Director
Chamber Technology Engagement Center
U.S. Chamber of Commerce