

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Affordable Connectivity Program)	WC Docket No. 21-450
)	
Supporting Survivors of Domestic and Sexual Violence)	WC Docket No. 22-238
)	
)	

COMMENTS OF THE NATIONAL LIFELINE ASSOCIATION

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April 12, 2023

SUMMARY

The National Lifeline Association¹ (NaLA), by and through the undersigned counsel, hereby submits its comments on the Federal Communications Commission's (Commission's) Notice of Proposed Rulemaking (NPRM)² seeking comment on the mandates in the Safe Connections Act³ to implement rules that provide support for survivors of domestic and sexual violence. The Safe Connections Act directs the Commission to designate either the Lifeline program or the Affordable Connectivity Program (ACP) as the vehicle to provide emergency communications services for survivors suffering from a financial hardship, regardless of whether the survivor meets either program's eligibility criteria.⁴

The Commission should designate the Lifeline program as the program to provide emergency communications for survivors because it is a permanent solution reliably funded through the Universal Service Fund (USF). Given that Lifeline subscribers are also automatically eligible for ACP, expanding Lifeline eligibility will ensure that survivors gain access to both Lifeline and ACP benefits.

Lifeline would be especially useful for survivors of domestic and sexual violence because Lifeline service plans generally include bundles of broadband and voice service, which would

¹ NaLA is the only industry trade group specifically focused on the Lifeline and low-income segment of the communications marketplace. It supports eligible telecommunications carriers (ETCs) and Affordable Connectivity Program (ACP) participating providers, distributors, and Lifeline and ACP supporters and participants, and partners with regulators to improve these programs through education, cooperation and advocacy. *See* <https://www.nalalifeline.org/>.

² *See Supporting Survivors of Domestic and Sexual Violence, Lifeline and Link Up Reform and Modernization, Affordable Connectivity Program*, WC Docket Nos. 22-238, 11-42, 21-450, Notice of Proposed Rulemaking, FCC 23-9 (February 17, 2023) (Survivors of Domestic and Sexual Violence NPRM).

³ Safe Connections Act of 2022, Pub. L. No. 117-223, 136 Stat. 2280 (Safe Connections Act).

⁴ See Safe Connections Act, § 5(b)(1)(A).

allow survivors to dial 911 when necessary and the ability to call shelters and other support services. However, in order to meet its statutory objectives and be ready to meet the broadband needs of low-income Americans (including survivors of domestic and sexual violence) in the event ACP funding is exhausted (which is expected to be in early to mid-2024), **Lifeline program reform must begin now**. The reform should be based on the recommendations in NaLA’s Petition for Rulemaking⁵ and NaLA’s Comments on Survivors of Domestic Violence Notice of Inquiry (NOI),⁶ including increasing the Lifeline monthly reimbursement to at least \$30, increasing Lifeline service provider competition by granting decade-old compliance plans and federal eligible telecommunications carrier (ETC) petitions and eliminating Minimum Service Standards (MSS), providing support for both mobile devices and tablets, re-introducing reasonable benefit transfer limits, and establishing a safe harbor for providers.

Further, survivors should have full access to the Lifeline benefit, especially voice services, in the event that it becomes critical for the survivor to get to safety and take advantage of informational resources. These services must remain supported and functional during the entire six-month eligibility period for survivors because survivors may not use the service for more than thirty days and may still need it to be available when needed.

To ensure a smooth process, the Commission should require eligibility to be determined solely by USAC’s systems—namely the National Verifier and NLAD. Currently, the NLAD opt-out states have failed to build a Lifeline eligibility and enrollment system at least as robust as

⁵ See NaLA Petition for Rulemaking, RM - _____, (filed Apr. 19, 2021) (NaLA Petition for Rulemaking); Comments of the National Lifeline Association, WC Docket No. 21-476, 6-10 (Feb. 17, 2022).

⁶ See *Lifeline and Link Up Reform and Modernization, Affordable Connectivity Program, Supporting Survivors of Domestic and Sexual Violence*, WC Docket Nos. 11-42, 21-450, 22-238, Notice of Inquiry, FCC 22-56 (July 18, 2022) (NOI).

the system adopted by the Commission and USAC. Moreover, the Lifeline program does not have a successful history with self-certification of eligibility because self-certification was routinely abused prior to the Commission's previous reforms. Based on historical and current concerns raised for the Lifeline program, NaLA cautions against self-certification and allowing opt-out states to use their own state eligibility processes.

Additionally, NaLA agrees with the Commission that covered providers should include both facilities-based mobile network operators as well as resellers/MVNOs since either could be called upon to separate lines of service for an abuser or a survivor. However, covered providers should not include mobile broadband providers that do not offer mobile voice service. Voice service is of primary importance for survivors who would generally be better off with a separate voice and data bundle (which could be supported by the Lifeline program as necessary) than splitting off a data-only line from a shared mobile service contract.

Finally, if the Commission requires providers to omit a survivor's calls and text messages to covered hotlines in consumer-facing logs while maintaining these records, NaLA suggests that the Commission consider the length of time this may take for providers to implement this system and the unique challenges reseller providers will face due to reliance on underlying carriers for call detail records.

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⁸ See *Supporting Survivors of Domestic and Sexual Violence, Lifeline and Link Up Reform and Modernization, Affordable Connectivity Program*, WC Docket Nos. 22-238, 11-42, 21-450, Notice of Proposed Rulemaking, FCC 23-9 (Feb. 17, 2023) (Survivors of Domestic and Sexual Violence NPRM).

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The Commission should designate the Lifeline program as the program to provide emergency communications for survivors because it is a permanent solution reliably funded through the Universal Service Fund (USF). Given that Lifeline subscribers are also automatically eligible for ACP, expanding Lifeline eligibility will ensure that survivors gain access to both Lifeline and ACP benefits.

Lifeline would be especially useful for survivors of domestic and sexual violence because Lifeline service plans generally include bundles of broadband and voice service, which would allow survivors to dial 911 when necessary and the ability to call shelters and other support services. However, in order to meet its statutory objectives and be ready to meet the broadband needs of low-income Americans (including survivors of domestic and sexual violence) in the event ACP funding is exhausted (which is expected to be in early to mid-2024), **Lifeline program reform must begin now**. The reform should be based on the recommendations in NaLA's Petition for Rulemaking¹¹ and NaLA's Comments on Survivors of Domestic Violence Notice of Inquiry (NOI),¹² including increasing the Lifeline monthly reimbursement to at least \$30, increasing Lifeline service provider competition by granting decade-old compliance plans and federal eligible telecommunications carrier (ETC) petitions and eliminating Minimum Service Standards (MSS), providing support for both mobile devices and tablets, re-introducing reasonable benefit transfer limits, and establishing a safe harbor for providers.

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¹² See *Lifeline and Link Up Reform and Modernization, Affordable Connectivity Program, Supporting Survivors of Domestic and Sexual Violence*, WC Docket Nos. 11-42, 21-450, 22-238, Notice of Inquiry, FCC 22-56 (July 18, 2022) (NOI).

Further, survivors should have full access to the Lifeline benefit, especially voice services, in the event that it becomes critical for the survivor to get to safety and take advantage of informational resources. These services must remain supported and functional during the entire six-month eligibility period for survivors because survivors may not use the service for more than thirty day and may still need it to be available when needed.

To ensure a smooth process, the Commission should require eligibility to be determined solely by USAC's systems— namely the National Verifier and NLAD. Currently, the NLAD opt-out states have failed to build a Lifeline eligibility and enrollment system at least as robust as the system adopted by the Commission and USAC. Moreover, the Lifeline program does not have a successful history with self-certification of eligibility because self-certification was routinely abused prior to the Commission's previous reforms. Based on historical and current concerns raised for the Lifeline program, NaLA cautions against self-certification and allowing opt-out states to use their own state eligibility processes.

Additionally, NaLA agrees with the Commission that covered providers should include both facilities-based mobile network operators as well as resellers/MVNOs since either could be called upon to separate lines of service for an abuser or a survivor. However, covered providers should not include mobile broadband providers that do not offer mobile voice service. Voice service is of primary importance for survivors who would generally be better off with a separate voice and data bundle (which could be supported by the Lifeline program as necessary) than splitting off a data-only line from a shared mobile service contract.

Finally, if the Commission requires providers to omit a survivor's calls and text messages to covered hotlines in consumer-facing logs while maintaining these records, NaLA suggests that the Commission consider the length of time this may take for providers to implement this system

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I. THE COMMISSION SHOULD DESIGNATE THE LIFELINE PROGRAM TO PROVIDE EMERGENCY COMMUNICATIONS SUPPORT TO QUALIFYING SURVIVORS OF DOMESTIC AND SEXUAL VIOLENCE

The Safe Connections Act requires the Commission to establish either the Lifeline Program or the ACP to provide emergency communications support for qualifying survivors of domestic and sexual violence suffering from financial hardship.¹³ The NPRM seeks comment on “which program, Lifeline or ACP, to designate to provide emergency communications support to survivors in accordance with the Safe Connections Act” and whether the Commission has “authority under the Safe Connections Act to allow qualifying survivors enrolled in Lifeline . . . to use that enrollment in Lifeline to also enroll in ACP.”¹⁴

Survivors of domestic and sexual violence need a reliable program that will provide fixed or mobile voice and broadband support, as well as an affordable device, for at least six months, and likely for months or years to come. Although the Lifeline program needs substantial improvements, including based on important lessons learned from the ACP, Lifeline is the right program to reliably serve qualifying survivors of domestic and sexual violence suffering from financial hardship.

A. An Improved Lifeline Program Is Better Suited Than the ACP to Support Qualified Survivors

For the following reasons, the Lifeline program, in particular with some needed improvements and reforms, would better serve qualified survivors than the ACP.

¹³ See NPRM ¶ 150.

¹⁴ *Id.*

Lifeline Program Funding

Lifeline is reliably funded through Universal Service Fund (USF) contributions.¹⁵ The Lifeline program was implemented in 1984, and Congress “codified the Commission’s and the states’ commitment to advancing the availability of telecommunications service to all Americans” in 1996 by “articulat[ing] national goals that services should be available at ‘affordable’ rates and that ‘consumers in all regions of the nation, including low-income consumers, . . . should have access to telecommunications and information services.’”¹⁶

On the other hand, ACP funding may run out as early as May of 2024, or at least by the summer of 2024, if it does not receive additional funding from Congress.¹⁷

Lifeline and ACP Eligibility for Qualifying Survivors

Congress codified the Commission’s commitment to low-income households in the Communications Act but did not specify the eligibility criteria for the Lifeline program. The authority to set the income levels and programs that establish eligibility for Lifeline remains with the Commission. Therefore, the Commission has ample authority to expand the Lifeline eligibility criteria to include survivors of domestic and sexual violence. It would be reasonable for the Commission to conclude that, based on circumstances commonly encountered by survivors of domestic and sexual violence, such survivors may have difficulty affording or

¹⁵ See Comments of the National Lifeline Association on Domestic Violence NOI, WC Docket No. 11-42, 21-450, 22-238, 5 n.18 (Aug. 17, 2022) (NOI Comments) (“Further, Lifeline funding is more stable than funding for the ACP and should remain in place for years to come. The Lifeline program is funded each year by contributions to the Universal Service Fund (USF) and will remain in place until such time as the Commission decides to change it. The ACP received a finite \$14.2 billion in funding, which will likely run out in three or four years. Additional ACP funding should be allocated by Congress based on the need for affordable broadband, but additional funding is not assured.”)

¹⁶ See *id.* at 3.

¹⁷ See ACP Tracker, <https://acpdashboard.com/> (last visited 3/28/2023).

acquiring access to essential communications or otherwise proving their eligibility for Lifeline.

Moreover, survivors that become eligible for Lifeline by default become eligible for the ACP. The Commission set forth the Lifeline eligibility programs in Section 54.409(a)(2) of its rules, which could be modified to include survivors of domestic or sexual violence. Section 54.1800(j)(1) of the ACP rules, which is based on Section 904(a)(6)(A) of the CAA,¹⁸ defines an ACP eligible household as a household in which, among other things, at least one member meets the Lifeline qualifications in Section 54.409(a)(2) or (b) or any successor regulation. Therefore, if the Commission extends Lifeline eligibility to survivors of domestic or sexual violence, those survivors will also be eligible for ACP benefits.¹⁹

Voice Support

Lifeline is the better program to support the needs of qualifying survivors of domestic and sexual violence because Lifeline supports voice service in addition to broadband. While the 2016 Lifeline Modernization Order set Lifeline voice support to phase out after annual reductions in support (\$9.25 to \$7.25 to currently \$5.25),²⁰ the Commission has waived the expiration of voice-only Lifeline services due to overwhelming stakeholder support for the retention of voice support,²¹ and the negative impact of phasing out voice support.

¹⁸ Consolidated Appropriations Act, div. N., tit. IX, § 904(a)(6), as modified by the Infrastructure and Investment Jobs Act, div. F, tit. V, §§ 60501, 60502(a)-(b) (CAA).

¹⁹ Generally, ACP eligibility is established by Section 904(a)(6) of the CAA, and the Commission does not have authority to modify eligibility criteria. However, the Safe Connections Act affords statutory authority to the Commission to establish ACP as the designated support program for qualifying survivors even if the survivor does not meet general ACP eligibility criteria. *See* Safe Connections Act, § 5(b)(2)(A).

²⁰ *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶¶ 62-64 (2016) (2016 Lifeline Modernization Order); 47 C.F.R. § 54.408.

²¹ *See* Reply Comments of the National Lifeline Association, WC Docket No. 11-42, 14-16 (May 4, 2021) (discussing support for the retention of Lifeline voice support among industry and various consumer groups); (“ . . . [C]ommenters on the Public Notice unanimously support

In 2021, the Wireline Competition Bureau released the 2021 State of the Lifeline Marketplace Report.²² This report highlighted that Lifeline subscribers continue to opt in to voice-only Lifeline plans or a bundled plan that only meets the voice MSS.²³ Removing voice-only support services may force Lifeline subscribers who only desire voice services into more expensive, bundled plans that the subscriber may not be able to afford.²⁴ The Commission's decision to pause the phase-out in Lifeline support for voice-only services for yet another year was based on these findings in the Marketplace Report.²⁵ The Commission appropriately considered the impact voice support phase-out would have on affordability and access to communications services for the low-income community.²⁶

Although the Commission acknowledges the need for support for low-income voice services in its MSS waiver orders, when considering the definition of connected device tablets in the ACP, the Commission misguidedly decided that ACP connected devices cannot include cellular dialers to make voice calls.²⁷ Numerous stakeholders, including NaLA, argued that the

retaining or reinstating full Lifeline support for voice service and no stakeholder has argued for its phase out.”). *Id.* at 15.

²² See *Report on the State of the Lifeline Marketplace*, WC Docket No. 11-42 et al., Report, (Mar. 19, 2021), <https://www.fcc.gov/document/bureau-releases-report-state-lifeline-marketplace> (2021 Marketplace Report).

²³ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Order, DA 21-1389, ¶¶ 19-20 (Nov. 5, 2021) (2021 Lifeline Waiver Order); see 2021 Marketplace Report at 21.

²⁴ See 2021 Lifeline Waiver Order ¶ 8; see 2021 Marketplace Report at 23.

²⁵ See 2021 Lifeline Waiver Order ¶¶ 12-13 (“The persistent subscriptions to voice-only service offerings, pace of adoption of broadband, and net benefits of continuing voice-only support, however, provide strong considerations for maintaining Lifeline support for voice-only services for at least one additional year.”).

²⁶ *Id.* at ¶ 8.

²⁷ See *Affordable Connectivity Program*, WC Docket Nos. 21-450, 20-445, Report and Order and Further Notice of Proposed Rulemaking, FCC 22-2, ¶ 111 (Jan. 22, 2022) (ACP Order); see also NaLA Comments at 19; see also CTIA Comments at 17-19; see also NaLA Reply Comments at 15-16.

criteria for distinguishing tablets and non-eligible smartphones should not be determined by cellular capability.²⁸ Rather, as CTIA argued, the Commission’s criteria of an independent ability to make cellular calls “arbitrarily excludes devices that are clearly tablets, by any natural definition, if they are capable of making cellular calls, and actually prevents EBB customers from utilizing the voice calling capability included in EBB-funded voice-broadband service bundles if the consumer has purchased a covered tablet.”²⁹ The Commission could have instead differentiated tablets from smartphones by screen size rather than taking voice functionality away from ACP participants. It is not too late for the Commission to reconsider this arbitrary rule that needlessly denies low-income consumers access to useful functionality and waive the requirement on its own motion.

The purpose of both the Lifeline program and ACP is to provide support for consumers who need communications services but may not have the means to afford them without assistance. With a lack of voice support, the Commission is disregarding a critical component to a subscriber’s needs. Particularly, voice service is important for survivors of domestic and sexual violence, so that they can reach emergency services³⁰ as well as support services. Therefore, as currently constituted, the Lifeline program is a better fit to support survivors than the ACP.

²⁸ *Id.*

²⁹ CTIA Comments, *supra* note 27, at 18.

³⁰ Voice services are especially important for public safety. *See* NaLA Reply Comments, *supra* note 21, at 15-16; *see also* NaLA Reply Comments, *supra* note 21, at 15 (explaining that “standalone voice service is particularly important for public safety” because “you can’t call 911 through Whatsapp”) (citation omitted).

B. Qualified Survivors Should Be Eligible for a Full Lifeline Discount, Which Should Be Increased to Be Consistent With the ACP

In the NPRM, the Commission recognizes “the critical role that voice service plays in the lives of survivors,” and therefore seeks comment regarding whether it would “be appropriate to allow providers serving qualifying survivors to provide discounts of, and claim reimbursement for, up to \$9.25, the full Lifeline reimbursement, even for voice-only service plans[.]”³¹ Survivors, and all Lifeline subscribers, should be eligible for a full \$9.25 reimbursement for voice-only service, which would result in many Lifeline ETCs offering an unlimited voice plan. NaLA’s Annual 2022 Mobile Broadband and Voice Retail Price Survey indicates that unlimited voice and text is often offered for approximately \$10 and may include some small amount of broadband data as well.³²

However, the experience of the ACP has shown that qualifying survivors, and other low-income households, need and deserve more than a \$9.25 service offering. It is widely understood that the current \$9.25/month Lifeline reimbursement is inadequate for the amount of data used by an average consumer or household.³³ In 2021, several large carriers and public interest groups informed Congressional leaders of both parties in the House and Senate that,

The current Lifeline program has been effective at helping people to adopt and maintain telephone service, and it has served as an important safety net to help provide millions with access to broadband. But, the \$9.25 per month it provides cannot facilitate the kind of swift and substantial shift of millions of low-income Americans to broadband that this moment requires.³⁴

³¹ See NPRM ¶ 151.

³² See NaLA Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 21-450, 20-445, 11-42, Exhibit F (Dec. 19, 2022) (NaLA Dec. 19, 2022 *Ex Parte*). There are very few options in the marketplace for the current Lifeline reimbursement rate. Companies, such as Boost Mobile and Hello Mobile, offered unlimited voice and text and 1 GB of data for \$10. *Id.*

³³ See NaLA Petition for Rulemaking at 10.

³⁴ Joint Letter to Frank Pallone, Jr., Chairman, Energy & Commerce Committee and Eleven Other Members of Congress (April 6, 2021).

Congress recognized the need to provide a permanent, affordable broadband solution for low-income households by starting with existing retail rates and providing reimbursements accordingly to provide game changing amounts of broadband to low-income households when it passed the Infrastructure Investment and Jobs Act (Infrastructure Act).³⁵ The Infrastructure Act established the ACP and directed the Commission to transform the EBB program from a temporary emergency program into a long-term affordability program, which the Commission did on January 21, 2022.³⁶ Congress recognized that a broadband discount subsidy must make robust broadband service offerings affordable by providing a \$30 monthly subsidy. That robust subsidy has resulted in a successful ACP with rapid growth to nearly 17 million subscribers³⁷ whereas the Lifeline program, with its anemic \$9.25/month reimbursement, had declined to just over 6 million subscribers³⁸ before combination with the EBB and ACP increased participation to its current 7.3 million subscribers.³⁹

The successful EBB and ACP also have resulted in low-income households using much greater amounts of monthly broadband data. NaLA's members observed that, when offered

³⁵ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021), <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> (Infrastructure Act). The \$14.2 billion appropriation is contained in Division J, *Appropriations*, Title IV – *Financial Services and General Government*, of the Infrastructure Act. The statutory changes to the Emergency Broadband Benefit (EBB) program are contained in Division F, *Broadband*, Title V, *Broadband Affordability*, Section 60502, *Broadband Affordability*, of the Infrastructure Act. The statute as modified by the Infrastructure Act is codified at 47 U.S.C. § 1752, *Benefit for broadband service*.

³⁶ See ACP Order ¶¶ 1-2.

³⁷ See USAC ACP Enrollment and Claims Tracker, <https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/>.

³⁸ See NaLA Petition for Rulemaking at 6 (“USAC reports that Lifeline subscribership declined from a high of over 17 million in 2012 to 12.7 million in 2016 to just over 8 million in 2019. NaLA has reported that Lifeline participation got as low as just over 6 million subscribers in March 2020.”).

³⁹ See USAC Lifeline Program Data, <https://www.usac.org/lifeline/resources/program-data/>.

more data through the EBB program and ACP, a substantial percentage of their customers significantly increased their data usage. For one NaLA member, the average monthly data usage per subscriber increased nearly four-fold to 7.13 GB for subscribers on plans supported by Lifeline plus EBB.⁴⁰ Another wireless carrier noted that average monthly data usage increased by more than five-fold when additional data was available through the EBB Program.⁴¹ For one member, approximately 30 percent of its California customers used more than 50 percent of the data available (more than 11 GB per month) and approximately 20 percent of its California customers used more than 75 percent of the data available (more than 16.5 GB per month).⁴² In a proceeding before the California Public Utilities Commission (CPUC) regarding the ability of eligible consumers to combine state Lifeline and ACP benefits (only the CPUC prevents this practice, choosing instead to preside over a long regulatory proceeding through which it may eventually decide whether to allow consumers to choose for themselves how best to apply their state and federal affordable connectivity benefits), TracFone explained that during the EBB Program it enrolled 59,000 EBB-LifeLine customers in California and “[t]he average usage of TracFone’s EBB-LifeLine customers was 12 GB, which is twice the 6 GB data allotment provided by the standard LifeLine plan” and “[n]early a third of TracFone EBB-LifeLine customers used 33 GB per month, which is more than five times the standard LifeLine plan’s 6 GB allotment of high-speed data.”⁴³

⁴⁰ See NaLA Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 21-450, 20-445, 11-42, 2 (July 1, 2022) (NaLA July 1, 2022 *Ex Parte*).

⁴¹ *Id.* at 2-3.

⁴² *Id.* at 3.

⁴³ Comments of TracFone Wireless, Inc. and Cellco Partnership on an Affordable Connectivity Pilot Program, R.20-02-008, 3, 9 (filed Nov. 30, 2022).

Our collective experience with the Lifeline program, EBB and ACP demonstrates that all low-income households, including survivors of domestic and sexual violence, should be eligible for a robust \$30 monthly Lifeline reimbursement so that they receive robust bundles of voice and data at an affordable price. The ability of consumers to combine or keep separate federal Lifeline and ACP benefits, as well as any available state benefits like California’s LifeLine benefit, means more options and more services for those consumers. Given that few American households make do with a single fixed or mobile connection,⁴⁴ such support easily can be defended as judicious and well targeted to those who need the support to stay connected and out of harm’s way.

C. The Commission Should Expand Competition in the Lifeline Program and Eliminate Minimum Service Standards

The NPRM notes that “[p]roviders in the Lifeline program must be designated ETCs by state regulatory agencies or, where a state declines this responsibility, by the Commission” but that “[f]or the ACP, participating providers are limited to providers of ‘broadband internet access service.’”⁴⁵ Besides the larger and more appropriate monthly reimbursement amount, clearly the other factor that has led to the rapid growth in ACP participation, contrasted against Lifeline’s decline, is the existence of more competitors and service options for consumers. The vast participation of service providers and flexibility for greater competition has strongly contributed

⁴⁴ The average household in America has nearly 4 mobile-cellular subscriptions and the vast majority of U.S. households also have a fixed broadband connection. The total number of mobile-cellular subscriptions in the U.S. as reported in the Mobile Competition Report (499,000,000) (CTIA data) divided by the total number of American households (124,010,992), as determined by the U.S. Census Bureau. See *Communications Marketplace Report*, GN Docket No. 22-203, 2022 Communications Marketplace Report, FCC 22-103, ¶ 73 (2022) (2022 Communications Marketplace Report) and United States Census QuickFacts, available at <https://www.census.gov/quickfacts/fact/table/US/HSD410221>. Figure II.A.10. in the 2022 Communications Marketplace Report shows a total of 115,541,000 residential connections for fixed broadband services. Figure II.A.17 shows an overall adoption rate at speeds at least 25/3 Mbps of 79.4 percent.

⁴⁵ NPRM ¶ 152.

to the ACP's success.⁴⁶ As proposed in NaLA's Petition for Rulemaking, the Lifeline program has the potential to increase participation if the Commission expands competition by acting on long-pending compliance plans and petitions for ETC designation in the federal jurisdiction states, i.e., those states that do not designate wireless Lifeline ETCs.⁴⁷

The Wireline Competition Bureau (Bureau) has not approved a new Lifeline compliance plan⁴⁸ or federal ETC petition since 2012.⁴⁹ The Commission has recognized for many years that the current ETC and related processes hinder competition in the provision of Lifeline services and yet the logjam remains. In 2016, the Commission attempted to reduce burdens in the ETC designation process and increase competition by creating the streamlined Lifeline Broadband Provider (LBP) ETC designation process.⁵⁰ While the creation of the LBP was challenged in court and ultimately withdrawn by the Commission,⁵¹ the Commission should bring back the 60-day "deemed granted" streamlined designation process for the review of Lifeline compliance plans and ETC designation petitions for the federal jurisdiction states.

⁴⁶ See ACP Providers, FCC, <https://www.fcc.gov/affordable-connectivity-program-providers>, for the list of participating service providers.

⁴⁷ See NaLA Petition for Rulemaking at 49-54.

⁴⁸ See *Wireline Competition Bureau Approves the Compliance Plans of Airvoice Wireless, Amerimex Communications, Blue Jay Wireless, Millennium 2000, Nexus Communications, PlantinumTel Communications, Sage Telecom, Telrite and Telscape Communications*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-2063 (Dec. 26, 2012).

⁴⁹ See *i-wireless, LLC Amended Petition for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, North Carolina, New York, Tennessee, the Commonwealth of Virginia, and the District of Columbia; Amended Petition of Cricket Communications, Inc. for Designation as an Eligible Telecommunication Carrier*, WC Docket No. 09-197, Order, DA 12-934 (June 13, 2012). The Commission approved a few limited federal ETC petitions for service on specific Tribal lands in New York in 2014.

⁵⁰ See 2016 Lifeline Modernization Order ¶¶ 221-365.

⁵¹ See *Bridging the Digital Divide for Low-Income Consumers et al.*, WC Docket No. 17-287 et al., Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111, n. 131, ¶ 62 (2019).

Additionally, the Commission can and should take steps to address ETC designation delays in the states that continue to exercise jurisdiction over such matters. Specifically, the Commission should implement a shot clock for state review of ETC applications whereby an entity that has submitted an ETC application in a particular state could seek designation by the Commission if a state commission has failed to act within 90 days after the filing of an application.⁵² A shot clock is consistent with the Communications Act’s mandate that states “shall” designate ETCs,⁵³ as well as Commission precedent for addressing state and local barriers to service providers’ ability to enter a particular area.⁵⁴ Moreover, Lifeline stakeholders have previously expressed support for a shot clock approach to approving ETC applications.⁵⁵ Indeed, a definitive timeline for ETC approval would alleviate “the existing ETC designation process [that] can vary widely between states.”⁵⁶

In addition to regularly granting compliance plans and federal ETC petitions for service providers, the Commission should repeal or replace the mobile broadband MSS because it is

⁵² See NaLA Petition for Rulemaking at 53. If such an application comes before the Commission, it should be subject to a 60-day streamlined approval process.

⁵³ See 47 U.S.C. § 214(e)(2).

⁵⁴ See, e.g., *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311, Report and Order and Further Notice of Proposed Rulemaking, FCC 06-180 ¶¶ 70, 72 (2006) (adopting limitations of 3-6 months for local franchise authorities to review and negotiate franchise agreements); *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, WT Docket No. 08-165, Declaratory Ruling, FCC 09-99 ¶ 32 (2009) (concluding that 90 days is a “reasonable period of time” to process personal wireless service facility siting applications requesting collocations).

⁵⁵ See, e.g., Comments of WTA – Advocates for Rural Broadband, WC Docket No. 11-42, 15 (filed Aug. 31, 2015); Comments of the Lifeline Joint Commenters, WC Docket No. 11-42 *et al.*, 52-55 (Aug. 31, 2015).

⁵⁶ See 2016 Lifeline Modernization Order ¶ 236.

harmful to competition and consumers. The Commission’s Lifeline program rules require service providers to meet formula-based MSS to receive Lifeline support – without consideration of whether such levels of service can be provided to eligible consumers without a co-pay or a price increase. In contrast, Congress and the Commission wisely declined to impose any MSS for the EBB program or the ACP. The Commission declined to impose MSS on EBB services because of the “vital need to maximize consumer choice and benefits” and to allow “consumers to select offerings that work best for their household.”⁵⁷ The Commission continued this policy with the ACP because it recognized “that imposing minimum service standards would contradict the Infrastructure Act and is not statutorily supported.”⁵⁸ Therefore, it was Congress’ judgment that low-income support programs should have competition as a means of producing consumer benefits, and not regulated MSS. That judgment has been proven correct. As demonstrated by the higher participation rate in the EBB and ACP than in Lifeline, MSS are not necessary to ensure that consumers have meaningful service options.

Lifeline service, similarly, does not need to be subject to MSS to encourage service providers to offer voice and broadband services that meet consumers’ needs. Commercial wireless rates and service offerings – including those offered under the Lifeline program – are and must be set by competition.⁵⁹ Consumers are in the best position to determine the Lifeline services that best satisfy their needs. By contrast, the MSS rule represents the Commission’s substitution of its judgment for that of millions of Lifeline subscribers nationwide regarding what

⁵⁷ *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, FCC 21-29 ¶ 74 (Feb. 26, 2021) (EBBP Order).

⁵⁸ ACP Order ¶ 102.

⁵⁹ *See Communications Marketplace Report, et al.*, GN Docket No. 18-231, *et al.*, Report, FCC 18-181 ¶ 24 (2018) (“Mobile wireless service providers compete by offering consumers a large variety of mobile wireless devices and differentiated services at a variety of prices.”).

service is best and most affordable. Indeed, as the Commission has recognized since 2019, when the mobile broadband MSS formula was set to kick in, the formula is broken and would have imposed dramatic increases threatening Lifeline access and affordability if applied as written in the rules. As a result, for the past three years, the MSS rule has been waived, but the mobile MSS were still increased in a manner that did not take into account retail wireless rates or a proper affordability analysis.⁶⁰ For these reasons, the Commission should restore consumer choice while ensuring low-income consumers' continued access to affordable broadband services by repealing the Lifeline MSS requirements and opening the program to greater competition. Greater competition would better serve qualifying survivors of domestic and sexual violence, and all low-income households.

D. The Lifeline Program Should Support Qualifying Devices or at Least Allow Providers to Subsidize Devices by Protecting Against Abusive Benefit Transfers

The NPRM seeks comment regarding “survivors’ access to devices following completion of a line separation request” and notes the fact that the Lifeline program does not offer reimbursement for devices.⁶¹ Although the ACP supports some connected devices, the support is limited to one per household and may only be applied to desktop computers, laptop computers and tablets.⁶² Unfortunately, when attempting to differentiate between tablets and smartphones,

⁶⁰ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Order, FCC 19-116 ¶¶ 9-13 (2019); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Order, DA 20-1358 ¶¶ 10-11 (2020); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Order, DA 20-1358 ¶ 2 (2020) (2020 Waiver Order) (in 2020, the Commission found good cause to waive the proposed increase and establish the MSS to 4.5 GB); *2021 Lifeline Waiver Order* ¶¶ 19-20 (in 2021 the Commission finally heeded the call from Lifeline stakeholders to pause the annual MSS increases); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Order, FCC 22-706 ¶ 1 (July 1, 2022) (in 2022, the Commission extended the waiver pausing MSS at 4.5 GB).

⁶¹ See NPRM ¶ 153.

⁶² See ACP Order ¶ 110.

rather than using screen size as the differentiator as NaLA suggested,⁶³ the Commission decided to take important functionality away from ACP subscribers and disallowed cellular dialers on connected devices.⁶⁴ Therefore, ACP connected devices are not suitable for qualifying survivors' needs unless the Commission removes that requirement or expands upon the types of devices covered. When an emergency arises, survivors need access to a device with both voice and data services and functionality to make the necessary calls to get to safety or research available support services on the internet.

Qualifying survivors experiencing financial hardship and receiving voice and broadband service from Lifeline ETCs will need access to affordable devices, which generally means deeply discounted or free devices. There are several ways for the Commission to incentivize the provision of such deeply discounted or free mobile devices.

Direct Support for Devices. The Commission could provide direct support for qualifying smartphone devices through the Lifeline program.⁶⁵ Such support could start as a pilot for qualifying survivors of domestic and sexual violence facing financial hardship with a view to potentially expanding to others served by the Lifeline program.

⁶³ See *id.* ¶¶ 110-112.

⁶⁴ See *id.* ¶¶ 111-12; see Voice Support *supra*, Section I.A.

⁶⁵ See *Further Inquiry Into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding*, WC Docket No. 11-42, et al., Public Notice, DA 11-1346 ¶ 349 n. 938 (2011) (Broadband Pilot Program PN); see *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 ¶ 349 n. 938 (2012) (discussing the Commission's authority to fund equipment through the Lifeline/Link Up Broadband Pilot Program although the Commission decided not to support devices). Compare Reply Comments of Gila River Telecommunications, Inc. on Broadband Pilot Program PN, WC Docket No. 11-42, et al., 2 (Aug. 26, 2011) (arguing that sections 254(b)(2) and (b)(3) of the Communications Act give the Commission authority to take necessary action to increase "access to services" and subsidizing equipment costs will increase access to broadband services); with Comments of Cox Communications, Inc. on Broadband Pilot Program PN, WC Docket No. 11-42, et al., 6-7 (Aug. 26, 2011) (urging for the Commission to use its ancillary authority to support computer equipment and training). *Id.*

Increasing the Lifeline Monthly Reimbursement. Instead of, or in addition to, direct support for devices, an increase in the monthly Lifeline reimbursement would make the provision of deeply discounted or free devices more economically feasible. For many years following the 2012 Lifeline reforms, most wireless ETCs provided free devices to subscribers that could not afford to pay for them. However, with the introduction of MSS after the 2016 Lifeline Modernization Order⁶⁶ and the annual increases in mobile broadband capacity (ultimately up to 4.5 GB), while the monthly reimbursement stagnated at \$9.25, and the eventual elimination of benefit transfer limits, providing free devices to qualified low-income households became economically infeasible for many. Prior to the introduction of the EBB program and then the ACP, which allowed Lifeline ETCs to combine Lifeline and EBB/ACP benefits, many Lifeline ETCs stopped offering free devices outside of states with additional discounts available to consumers (such as California with its state LifeLine program and Oklahoma with its extensive Tribal lands). Many Lifeline ETCs understandably could not make the up-front investment in a handset (that could be \$30-\$60 or more) to provide a \$9.25/month service, especially with a 4.5 GB mobile broadband MSS and a customer base that is largely un- or under-banked and unable to afford a co-pay.⁶⁷ As discussed below, the lack of any benefit transfer time limitation exacerbated this problem. However, the return-on-investment is different for a \$30/month service, which would likely allow most Lifeline ETCs to again make the up-front investment in a discounted or even free smartphone.

⁶⁶ See 2016 Lifeline Modernization Order ¶ 236; 47 C.F.R. § 54.408.

⁶⁷ See NaLA's Annual 2022 Consumer Survey in NaLA Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 21-450, 20-445, 11-42, Exhibit D, Slides 10, 13-14 (Dec. 19, 2022) (NaLA Dec. 19, 2022 *Ex Parte*).

Stabilize Benefit Transfers. Another option that would increase the expected return on investment and allow service providers to make an increased up-front investment in qualified survivors, or any Lifeline applicant, such as a discounted or free device, is limiting benefit transfer velocity. A Lifeline service provider cannot make a large up-front investment, such as a free handset, for a subscriber that can transfer his or her benefit the following day, week or month. On the other hand, if a service provider knows that a greater percentage of subscribers are going to retain their Lifeline service for several months, the service provider can invest more in each subscriber up-front, such as through a free smartphone.

The ACP has a one month benefit transfer limit,⁶⁸ but the rule and its implementation are seriously flawed. The ACP rule states, “Participating subscribers can only transfer their affordable connectivity benefit between providers once in a given service month” and provides exceptions.⁶⁹ The ACP benefit transfer limit should begin at enrollment, not after the first benefit transfer and should restrict benefit transfers for the next 30 days. Under the current rule, an ACP subscriber can enroll with Provider 1 on May 30, transfer his or her benefit to Provider 2 on May 31 and then transfer his or her benefit again on June 1 to Provider 3. Moreover, benefit transfer consent should be able to be collected only when a subscriber is eligible to transfer (i.e., not during the 30-day restricted period) so that providers cannot “warehouse” benefit transfer consents that could later result in consumer confusion when one of several providers “wins” on the first of the following month. Finally, USAC should administer the exceptions process with proof required rather than allowing customers to simply check a box with no proof of the

⁶⁸ The benefit transfer limit was created by the Commission to safeguard against uninformed and unwanted benefit transfers. *See* ACP Order ¶¶ 187-89 (justifying the benefit transfer limit as necessary to give providers and consumers confidence in the ACP discount).

⁶⁹ 47 C.F.R. § 54.1810(b)(3).

claimed exception. The exceptions included in the ACP rule are reasonable and should rarely be applicable.⁷⁰

A Lifeline benefit transfer limit should correct these deficiencies and be extended beyond 30 days to at least 60 days, which would allow Lifeline providers to invest in a discounted or free smartphone for qualified survivors of domestic or sexual violence, as well as other eligible Lifeline households.

E. Qualifying Survivors Should Not Be Subject to the Lifeline Usage Requirement

In the NPRM, the Commission notes that certain Lifeline general rules and requirements are in conflict with the specific statutory and regulatory requirements established specifically for emergency communications support for qualifying survivors, including the non-usage de-enrollment requirements, record retention requirements and audit requirements.⁷¹ NaLA agrees that these requirements should not apply to survivors.

Specifically, the Commission should eliminate the non-usage requirement, which would require providers to de-enroll and deactivate a survivor if the survivor has not used the service in a 30-day period after a 15-day notice and cure period.⁷² When implementing Lifeline program rules, the Commission created the non-usage requirement to ensure that Lifeline support only benefits subscribers actually using Lifeline services.⁷³ During the COVID-19 pandemic, the Commission waived this requirement and stressed the need for low-income consumers “to have

⁷⁰ See ACP Transfer Exception Worksheet, available at <https://www.usac.org/wp-content/uploads/about/documents/acp/ACP-Transfer-Exception-Worksheet.pdf>.

⁷¹ See NPRM ¶ 171.

⁷² See 2012 Lifeline Reform Order ¶ 257.

⁷³ See *id.* ¶¶ 254-56.

access to a ready connection to communications service should the need arise.”⁷⁴ Without this waiver, a Lifeline subscriber would not have access to voice services in the case of an emergency. Many Lifeline customers prefer to limit usage in order to save minutes and data until it is necessary.⁷⁵ However, the non-usage rule prevents these customers from balancing preservation of data and having the service available in emergencies. Access to communications to call emergency services, such as 9-1-1, medical providers, or emergency contacts, should not be impacted by the subscriber’s previous periods of non-usage.⁷⁶

In particular, the non-usage rule should not apply to the statutory six-month term of service for qualified survivors and should not be limited to the non-usage de-enrollment requirement in 54.405(e)(3) but should also include the reimbursement rule 54.407(c). It is clear that the value of a Lifeline service and phone for survivors could be as an emergency phone that is ready for use if and when a survivor decides to leave an abusive household or an abuser. The phone should not be turned off because the survivor failed to use it in the previous month.

The same is true for survivors after their six-month statutory support term. Many survivors are likely to continue to qualify for Lifeline service, and if they do, the non-usage rule should not apply for all of the same reasons. The survivors may need an emergency phone that is ready to use as needed.

For the same and related reasons addressed in NaLA’s Petition for Rulemaking, the Commission should remove the non-usage rule for the Lifeline program in general.⁷⁷

⁷⁴ See Second COVID-19 Waiver Order ¶ 8.

⁷⁵ See NaLA Petition for Rulemaking at 29-30.

⁷⁶ See *id.* at 29.

⁷⁷ See also NaLA Petition for Rulemaking at 29-33.

F. All Qualifying Survivors Should Apply for Lifeline through the National Verifier and the National Lifeline Accountability Database

The Commission proposes that survivors in the NLAD opt-out states (California, Texas and Oregon) apply to participate in Lifeline through USAC’s systems (the National Verifier and NLAD) directly and not through the state third party administrators (TPAs).⁷⁸ NaLA agrees that would “ensure a standardized process for survivor documentation, greater flexibility to be responsive to survivor needs, a centralized repository for an potential line separate materials that might come from service providers, and a unified process around potential customer transition efforts after the end of the six-month period.”⁷⁹

Further, the NLAD opt-out states have failed to meet the requirements for an NLAD opt-out, namely to build a Lifeline eligibility and enrollment system at least as robust as the system adopted by the Commission and USAC.⁸⁰ For example, the Texas’ Low-Income Discount Administrator (LIDA) fails to update its Lifeline subscriber database in real-time and, consequently, cannot provide an NLAD snapshot report equivalent showing the subscribers qualifying for reimbursement, resulting in a systemic undercounting of Lifeline-eligible Texas residents every month.⁸¹

Similarly, the Lifeline recertification process handled by California’s TPA places unnecessary burdens on low-income consumers, requiring them to obtain and use a special PIN

⁷⁸ See NPRM ¶ 169.

⁷⁹ *Id.*

⁸⁰ See NaLA Petition for Rulemaking n. 175; see 2012 Lifeline Reform Order ¶ 221 (allowing states to opt out of NLAD only if they implement a Lifeline system “at least as robust” as the processes adopted by the Commission for NLAD); 47 C.F.R. § 54.404(a) (requiring the state system to be “at least as robust as the system adopted by the Commission”).

⁸¹ See *National Lifeline Association Emergency Petition for Declaratory Ruling Revoking Texas’ National Lifeline Accountability Database Opt-Out Certification Approval and Other Relief*, WC Docket No. 11-42, et al., 8-14 (June 3, 2020) (NaLA Texas Petition).

for recertification to retain access to their Lifeline services.⁸² The TPA process, which also relies on recertification forms delivered by mail that may not reach the intended subscribers,⁸³ is riddled with failure and results in annual Lifeline wireless recertification rates lower than the National Verifier.⁸⁴ The process used in Oregon has no real-time or near-real-time eligibility verification offered.⁸⁵

NaLA agrees that the National Verifier and NLAD are the best option for survivors' eligibility verification and enrollment in the Lifeline program and are likely the best option for all Lifeline providers in all states.

G. Lifeline Eligibility for Qualifying Survivors Should Be Determined by the National Verifier and Not Self-Certification

In response to the NOI, the Electronic Privacy Information Center (EPIC), along with other advocacy groups, proposed that the Commission allow survivors to self-certify financial hardship because survivors often lack access to their financial documentation after leaving an abusive household.⁸⁶

The Lifeline program does not have a successful history with self-certification of eligibility, which was routinely abused prior to the 2012 reforms,⁸⁷ including the proof of eligibility requirements,⁸⁸ followed by the implementation of the NLAD for duplicates, identity

⁸² See NaLA Petition for Rulemaking at 46.

⁸³ *Id.*

⁸⁴ See California LifeLine Program Assessment & Evaluation, 68 (May 2022), available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M478/K367/478367564.PDF>.

⁸⁵ *Id.*

⁸⁶ See NPRM ¶ 158.

⁸⁷ See 2012 Lifeline Reform Order ¶ 96.

⁸⁸ See *id.* ¶ 99.

and address checks,⁸⁹ and then the National Verifier after 2016.⁹⁰ More recently, a process which effectively amounted to self-certification of eligibility for the ACP based on a dependent beneficiary attending a National School Lunch Program’s Community Eligibility Provision (CEP) school appears to have been abused and then replaced with a reasonable requirement for proof.⁹¹ NaLA urges caution with respect to any use of self-certification for Lifeline and/or ACP eligibility. Ultimately, eligibility for Lifeline and ACP in all instances must be determined by the National Verifier, not service providers.

Service providers have a safe harbor for ACP and the Commission should likewise provide a safe harbor for carriers enrolling and serving any applicant determined eligible by the National Verifier in the Lifeline program. The safe harbor should also protect service providers from being required to return reimbursements for discounts provided to subscribers determined to be eligible by the National Verifier, but later found to be ineligible.

II. THE LINE SEPARATION REQUIREMENT SHOULD NOT APPLY TO MOBILE BROADBAND PROVIDERS THAT DO NOT OFFER MOBILE VOICE SERVICE

The Commission also seeks comment on whether the line separation obligation, directed by the Safe Connections Act, should apply to facilities-based mobile network operators, resellers/mobile virtual network operators (MVNOs), and mobile broadband providers that do

⁸⁹ See *id.* ¶¶ 179-225.

⁹⁰ See 2016 Lifeline Modernization Order ¶¶ 126-166.

⁹¹ See *Wireline Competition Bureau Announces Additional Program Integrity Measures for Emergency Benefit Program Enrollment Based on the Community Eligibility Provision*, WC Docket No. 20-445, Public Notice, DA 21-1464 (Nov. 22, 2021) (clarifying that households seeking to qualify for the EBB Program through the National Verifier based on the CEP must now identify both the school name and provide official school documentation demonstrating that the household has a child or dependent (*i.e.*, the benefit qualifying person) enrolled at the CEP school); *Advisory Regarding Fraudulent EBB Enrollments Based on USDA National School Lunch Program Community Eligibility Provision* (FCC OIG Nov. 22, 2021).

not offer mobile voice service.⁹² NaLA agrees that covered providers should include both facilities-based mobile network operators as well as resellers/MVNOs since either could be called upon to separate lines of service for an abuser or a survivor. However, covered providers should not include mobile broadband providers that do not offer mobile voice service.

Voice service is so essential for a survivor that the survivor would be far better off obtaining an additional new voice service or voice and broadband bundle service than splitting a broadband-only line off from a shared mobile service contract. If the survivor is suffering from financial hardship, the survivor could take advantage of Lifeline eligibility for a voice or voice/data bundle service.

III. RESELLERS OFTEN DO NOT CONTROL THE CDRS TO COMPLY WITH THE REQUIREMENT TO OMIT CERTAIN CALLS AND TEXTS FROM CONSUMER-FACING LOGS

Finally, the Commission seeks comment on whether and how to “require a covered provider or a wireline provider of voice service to omit from consumer-facing logs of calls or text messages any records of calls or text messages to covered hotlines in [such a] central database, while maintaining internal records of those calls and messages.”⁹³ NaLA recognizes the important privacy concerns that arise from including a survivor’s calls and text messages to covered hotlines in consumer-facing logs, and the importance of omitting such information to protect a survivor from further danger. However, the Commission should consider the implications this obligation may have on covered providers that are resellers and may receive their call detail records (CDRs) from underlying carriers or intermediaries.

⁹² See NPRM ¶ 28.

⁹³ See NPRM ¶¶ 109-115 (quoting Safe Connections Act, § 5(b)(3)(A)(ii)).

To fulfill the obligation to exclude certain calls and text messages while maintaining internal records of those calls and messages, providers will have to build the information technology infrastructure needed to comply. In many instances, MVNOs receive their call detail records from their underlying carrier or intermediary provider. It is likely the underlying carrier or intermediary that would need to remove the covered hotlines from the CDR.

Moreover, the Commission should establish a safe harbor to shield providers from liability if providers does not meet the requirement to omit calls and texts from consumer-facing logs but reasonably rely on the most recent information provided in the database. The Commission should implement clear rules that allow resellers the flexibility and time needed to comply with database requirements.

IV. CONCLUSION

For the foregoing reasons, the Commission can and should choose the Lifeline program to expand eligibility for survivors of domestic and sexual violence, which will also make such Lifeline subscribers eligible for ACP benefits. Further, NaLA suggests that the Commission carefully consider the capability of different types of providers when implementing the line-separation requirement and requirements to use the centralized database.

Respectfully submitted,



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April 12, 2023