Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC  20554

In the Matter of

Bridging the Digital Divide for Low-Income Consumers
WC Docket No. 17-287

Lifeline and Link Up Reform and Modernization
WC Docket No. 11-42

Telecommunications Carriers Eligible for Universal Service Support
WC Docket No. 09-197

To: The Commission

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To: The Commission

COMMENTS OF CTIA

CTIA\(^1\) hereby submits these comments in response to the Commission’s request for comment regarding further modifications to the Lifeline universal service program for low-income consumers.\(^2\)

I. INTRODUCTION AND SUMMARY

CTIA shares the Commission’s objective of closing the digital divide by, among other things, targeting the Lifeline program at addressing eligible low-income consumers’ challenge of

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affording and accessing voice and broadband services. CTIA and our member companies have also long supported the Commission’s efforts to find effective ways to minimize waste, fraud, and abuse in Lifeline that do not undermine the program’s usefulness for eligible low-income consumers. For example, CTIA supports reforms that protect low-income consumers’ ability to continue to select the service that meets their needs, which is often mobile wireless service, through the implementation of the National Lifeline Eligibility Verifier (NLEV). 3

An important benefit of the Lifeline program is its ability to encourage broadband adoption, including by those that otherwise would not subscribe. Indeed, the most recent quantitative analysis shows that the current Lifeline program, in which millions of low-income consumers choose “free but limited” plans from mobile wireless services, including non-facilities-based providers, is effectively targeting low-income consumers that would not otherwise subscribe. 4 As a result, one of the most effective ways for the Commission to ensure that non-adopters can continue to be encouraged to adopt mobile wireless services with Lifeline support would be to expeditiously evaluate the impact of increasing minimum service standards on the availability of current plans offered to these consumers. Adoption or implementation of any explicit new Lifeline goals, however, should not undermine the Commission’s obligations under the statute or the existing Lifeline goals focused on affordability and access.

3 See, e.g., Comments of CTIA, WC Dockets Nos. 17-287 et al., at 2 (filed Dec. 18, 2018) (“CTIA believes that the NLEV will help to enhance program integrity while bringing new efficiencies to the Lifeline program to better serve low-income consumers.”); Comments of CTIA, WC Docket Nos. 17-287 et al., at 3 (filed Feb. 21, 2018) (“expeditious implementation of the [NLEV] is the most important thing the Commission can do to limit waste, fraud, and abuse in the Lifeline program.”).

CTIA also urges the Commission to consider whether the other proposed Lifeline program changes will serve the Commission’s goals and avoid imposing unnecessary requirements that will impede eligible low-income consumer adoption and affordability of mobile wireless services. Specifically, the Commission should first assess the impact of NLEV implementation before prohibiting ETCs from distributing handsets that enable eligible low-income consumers to participate in Lifeline, recognize the way mobile applications typically use data on smartphones, and require ETCs to certify compliance with existing privacy obligations, rather than creating redundant obligations.

II. THE LIFELINE PROGRAM SUPPORTS BROADBAND ADOPTION AMONG ELIGIBLE LOW-INCOME CONSUMERS

CTIA supports the FNPRM’s proposed goal of increasing broadband adoption among eligible low-income consumers who, without a Lifeline benefit, would not subscribe to broadband. Indeed, the most recent research shows that the existing Lifeline program, in which millions of low-income consumers choose mobile wireless services, including those offered by non-facilities-based providers, is currently achieving this goal.

The Communications Act establishes a number of requirements relevant to the Lifeline program. Section 1 establishes the Commission’s fundamental responsibility to ensure that communications networks are “available … to all the people of the United States,” at “reasonable charges.” It was pursuant to this authority that the Commission first established the Lifeline program in 1985. Section 254(b) establishes specific principles that must guide the

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5 FNPRM at ¶ 136.


Commission’s efforts to “preserve and advance” universal service. These principles direct the Commission to ensure that rates are “affordable” and that low-income consumers have access to telecommunications and information services.

Pursuant to this statutory authority, the Commission has established three goals for the Lifeline program: (1) ensuring the availability of voice service for low-income Americans; (2) ensuring the availability of broadband Internet access service for low income Americans; and (3) minimizing the contribution burden on consumers and businesses. These goals are demonstrably consistent with the Commission’s statutory mandate because they preserve and advance the availability of, or access to, services by low-income consumers. The Commission has looked to these goals to guide its formulation of the existing Lifeline program’s policies and structure, in which millions of low-income consumers choose mobile wireless services, including those offered by non-facilities-based providers.

The Commission’s consideration of any new principle for Lifeline, including one focused on adoption, must therefore be consistent with the Commission’s statutory obligations to preserve and advance access to services and their the affordability for low-income consumers. As a result, while the Commission can (and, indeed, should) seek to ensure that the Lifeline program benefits low-income consumers who would not otherwise subscribe, the Commission may not do

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9 Id. (emphasis added).


11 See, e.g., Order at n.159 (invoking the principles to support restoring Lifeline ETC designation authority to state commissions).
so in a way that undermines the preservation and advancement of access to services, or their affordability for all low-income consumers.

The Commission’s consideration of any new principles also should be guided by the most up-to-date empirical data, which in this case demonstrates that the current structure of the Lifeline program already is effectively encouraging adoption among eligible low-income consumers that would not subscribe absent Lifeline support. A recent paper by Dr. George S. Ford of the free-market-oriented Phoenix Center applied economic research and analysis to find that most current Lifeline subscribers would not subscribe to the supported services without Lifeline support. The paper challenges earlier research suggesting that Lifeline service “displaces” a high percentage of regular paid accounts by low-income consumers otherwise willing to subscribe. Thus, the Commission’s existing Lifeline policies and structure are effective at encouraging broadband adoption by households that would not otherwise subscribe.

Notably, Dr. Ford’s paper concludes that current “free but limited” service packages offered by non-facilities-based providers in Lifeline are a likely explanation for the program’s success as an adoption mechanism because these plans effectively target low-income consumers who would not otherwise subscribe. The paper demonstrates through economic analysis that “the market separation induced by offering a basic, lower-priced service serves to channel subsidies squarely at the lowest income households who have a lower willingness to pay for

12 See generally Fresh Look, supra.

13 Id. at 9-10.

14 See FNPRM at ¶ 138.

15 Fresh Look at 13-15.
quality,” which reduces the “transfer to inframarginal households.” In other words, the Lifeline plans offered by non-facilities-based providers that feature relatively limited offerings at no charge to an eligible low-income consumer tend to focus the service on consumers that would not otherwise subscribe. The paper further observes that, in light of these findings, increasing minimum service standards or eliminating the non-facilities-based providers that offer these limited, free plans actually would undermine the adoption goal that the Commission proposes to adopt here.

Thus, in light of the most current economic research, the most effective program change that the Commission could make to target Lifeline subsidies to consumers that would not otherwise subscribe would be to manage the current rules to avoid undermining the “free-but-limited” plans that help to ensure Lifeline support is targeted to eligible low-income consumers who are most in need of support. In particular, the Commission should carefully consider any further increases in Lifeline mobile broadband minimum service standards that may take effect in December 2020 and determine whether such increases are consistent with the Commission’s current and proposed goals. Dr. Ford’s paper shows that “increases in minimum service

16 Id. at 13.
17 Id. at 13-14.
18 See FNPRM at ¶ 138 (asking how to “alter” the “structure as it relates to broadband, to ensure that Lifeline funds are being used effectively to help close the digital divide by encouraging broadband adoption by households that otherwise would not subscribe” and seeking “comment on the best way to accomplish this.”)
19 See Fresh Look at 13-14.
20 See Lifeline and Link Up Reform and Modernization, et al., Order, FCC 19-116, at n.34 (rel. Nov. 19, 2019) (finding that the Commission did not yet have sufficient data upon which to base Lifeline minimum service standards to become effective December 1, 2020).
standards encourage displacement [i.e., subscription by customers who would subscribe even without the subsidy at the expense of customers who would not], not reduce it.” At minimum, to avoid affirmatively undermining a new adoption goal, the Commission must ensure there is certainty about any further increases to minimum service standards well in advance of December 1, 2020, in order to ensure that Lifeline consumers that would not otherwise subscribe against sudden changes to Lifeline plans that could undermine adoption.

The FNPRM also seeks comment on “data sources to measure adoption progress.” The Commission should ensure that any efforts to collect data regarding achievement of an adoption goal are consistent with the Commission’s responsibilities under the statute and the existing Lifeline principles to ensure affordability and access to service by low-income consumers. Specifically, any collection of data from subscribers about the impact of Lifeline on their ability or willingness to subscribe should be conducted in a way that does not create a barrier to subscription by further complicating the enrollment process. Any collection of data should be conducted through surveys of existing subscribers, and responses should not be a precondition to obtaining or retaining Lifeline service.

Finally, the NPRM’s question about whether the Commission should “consider fixed and mobile broadband services differently” in assessing an adoption goal is unclear. Although, as the FNPRM notes, the Commission considers fixed and mobile separately in the Section 706

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21 *Fresh Look* at 36.

22 *FNPRM* at ¶ 139.

23 *See id.*

24 *Id.* at ¶ 141.
Report and with respect to Lifeline minimum service standards,\textsuperscript{25} it also treats the two services the same for other purposes (such as the amount of the Lifeline subsidy). Thus, CTIA encourages the Commission to provide further information about why it would treat fixed and mobile differently for purposes of meeting any potential adoption goal.

In sum, the Lifeline program is effectively targeting eligible low-income consumers that would not subscribe without the Lifeline subsidy today. Any efforts to pursue the adoption goal further should be based soundly on the Commission’s statutory obligations and the most up-to-date economic research, which demonstrates that millions of eligible low-income consumers choose mobile wireless services, including those offered by non-facilities based providers.

\textbf{III. ANY FURTHER MODIFICATIONS TO THE LIFELINE PROGRAM SHOULD ADVANCE THE PROGRAM'S GOALS OF AFFORDABILITY AND ACCESS}

While CTIA supports the Commission’s efforts to minimize waste, fraud and abuse, the FNPRM seeks comment on other modifications to Lifeline that warrant careful consideration to ensure that they do not undermine the Lifeline program’s goals without countervailing benefits of making the program more effective or efficient.

\textit{In-Person Distribution of Free Handsets.} The \textit{FNPRM} seeks comment on “ways to minimize the risk of waste, fraud, and abuse stemming from the in-person distribution of free handsets upon enrollment in the Lifeline program,” suggesting that this practice “encourages ineligible consumers to attempt to enroll in Lifeline.”\textsuperscript{26} In considering this issue, the Commission should consider that the Lifeline program has undergone substantial changes in

\textsuperscript{25} Id.

\textsuperscript{26} FNPRM at ¶ 152.
recent years with the adoption of several new measures to curb waste, fraud, and abuse. As CTIA has noted previously, implementing the NLEV is “the most important thing the Commission can do to limit waste, fraud, and abuse in the Lifeline program.” The NLEV was launched in more than half of the states just within the last twelve months, and was launched in over a quarter of the states just in the last four months. It makes sense to evaluate the impact of the NLEV’s implementation – as well as the implementation of the other reforms that have been ordered – before rational decisions can be made about the need for additional reforms.

The implementation of the NLEV is particularly relevant to whether the distribution of free handsets impacts the enrollment of ineligible consumers. Now that the NLEV has been implemented and other changes have been made to the program, any ETC that distributes a free handset to a consumer in person upon enrollment in Lifeline must provide that consumer with a relatively costly smartphone, and does so with the knowledge that the ETC can only claim a Lifeline subsidy for consumers deemed eligible by the NLEV. These are starkly different

27 See, e.g., Lifeline and Link Up Reform and Modernization, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (ordering *inter alia* implementation of the NLEV and strengthening non-use and recertification requirements). See also *Order* at ¶¶ 67-86 (ordering new restrictions on Lifeline enrollment representatives); *id.* at 87-93 (restricting use of independent economic household worksheets); *id.* at ¶¶ 95-99 (requiring ETCs to collect eligibility documentation in some recertifications).

28 Comments of CTIA, WC Docket Nos. 17-287 *et al.*, at 3 (filed Feb. 21, 2018).


30 See 47 C.F.R. §§ 54.408(f) (device requirements) 54.410 (eligibility determination); 54.407(a) (reimbursement based on NLEV determination).
circumstances than when the issue of free handset distribution was first raised in 2013 and even when the Commission last sought comment on it in 2017.31

The “long-standing restriction on using the Lifeline subsidy for equipment” is not a basis to consider restricting existing ETC handset distribution during the Lifeline enrollment process.32 In order to make mobile wireless services supported by the Lifeline program more accessible, ETCs may offer handsets to eligible low-income consumers, but those handsets are not supported by the Lifeline program. The Commission certainly can re-affirm that Lifeline subsidies only may be used to make supported services more affordable for eligible low-income consumers and not to support handsets. But additional restrictions on ETCs’ handset offerings in relation to Lifeline enrollment would undermine the Commission’s goals of affordability, access, and, potentially, adoption.

Indeed, as CTIA previously has noted, minimum charge requirements, even on handsets, would make Lifeline less affordable for the lowest-income consumers who need it most. The Phoenix Center study, discussed above, further supports the notion that a minimum charge (whether for Lifeline supported services or a handset generally) would undermine the current “free but limited” plans that effectively target Lifeline support towards adoption by low-income consumers that would not otherwise subscribe.33

For these reasons, the Commission should evaluate the impact of the NLEV’s implementation – as well as the implementation of the other reforms that have been ordered – before adding restrictions on ETCs’ handset offerings as part of Lifeline enrollment.

31 See FNPRM at ¶ 152 & n.421.
32 See FNPRM at ¶ 154.
33 See supra Section II.
Demonstrating Compliance with Usage Requirements. Any rules related to oversight of participating consumers’ broadband usage in order to meet the Commission’s non-usage prohibitions\textsuperscript{34} should recognize the typical operation of broadband-capable devices, such as smartphones, as they are used by all consumers.

In general, smartphones come pre-loaded with applications, such as voice, text, video, web browsers, and maps, which make a mobile wireless device key to participation in our 21\textsuperscript{st} century society, particularly for low-income consumers.\textsuperscript{35} Consumers may also choose among millions of applications to personalize their smartphone to meet their particular needs.\textsuperscript{36} For example, people with disabilities, such has hearing aid users, people with low-vision, or people with cognitive disabilities, may add applications that harness features of their device to facilitate accessibility to a variety of everyday services.\textsuperscript{37}

\textsuperscript{34} FNPRM at ¶¶ 146-148.

\textsuperscript{35} See, e.g., Significance Labs, “Mobile Tech & the Potential for Social Impact: Insights from a Survey on Phone Use Among Low-Income New Yorkers (Nov. 2014) (“App usage among the communities we surveyed is high: the average person uses 6-7 app categories regularly on their smartphone and every single category was cited by at least 40% of our respondents.”), \url{https://labs.robinhood.org/Mobile_Design_For_Social_Impact_Report.pdf}; Pew Research, “Digital Divide Persists Even as Lower-Income Americans Make Gains in Tech Adoption,” (May 7, 2019) (“[M]any lower-income Americans are relying more on smartphones. As of early 2019, 26% of adults living in households earning less than $30,000 a year are ‘smartphone-dependent’ internet users – meaning they own a smartphone but do not have broadband internet at home. This represents a substantial increase from 12% in 2013.”), \url{https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/}.


\textsuperscript{37} See, e.g., CTIA Public Notice Comments – Accessibility of Communications Technologies, CG Docket No. 10-213, at 9-25 (filed May 3, 2018) (providing numerous examples of third-party apps that can be added to smartphones to facilitate accessibility to everyday activities);
In order to function properly and securely, these applications may communicate or exchange data with a supporting application provider over the mobile wireless broadband connection “in the background” by default.\textsuperscript{38} Consumers, including low-income consumers, have adopted smartphones devices because of their ease of use, which is due in part to the presence of applications operating in the background.\textsuperscript{39} Both major smartphone operating systems allow users to control apps’ background data usage.\textsuperscript{40}

CTIA supports the elimination of waste, fraud, and abuse in the Lifeline program, and agrees that it would be contrary to the Commission’s rules for an ETC to install an app that

\textsuperscript{38} See, e.g., “How I Added Four Hours of Battery Life to My Smartphone Every Day for Free, USA Today (Apr. 9, 2017) (“There are other times too when an app is running when you’re not using it and that’s called “Background App Refresh.” There are lots of reasons apps update in the background…. It’s all in the name of convenience…”), \url{https://www.usatoday.com/story/tech/columnist/2017/04/09/iphone-android-low-battery-running-out-of-battery/100231638/}; “Reduce Mobile Data in Android: Restrict Background Data,” Ting (July 18, 2019) (“Sometimes called background syncing, background data can keep your apps updated with the latest notifications like status updates, Snapchat stories and Tweets.”), \url{https://ting.com/blog/ting-tip-for-android-control-which-apps-use-background-mobile-data/}. See also “How to Check Data Usage on an iPhone or iPad,” Digital Trends (Feb. 14, 2019) (“As you scroll down, you will also see a list of all the iPhone apps you are currently using. Each app includes information on how much data it has used.”), \url{https://www.digitaltrends.com/mobile/how-to-check-data-usage-on-an-iphone/}.

\textsuperscript{39} See id.; see also supra note 35.

\textsuperscript{40} See, e.g., “How to Stop Android Apps Running In the Background,” Android Authority (Feb. 25, 2019), \url{https://www.androidauthority.com/how-to-stop-android-apps-running-in-the-background-664842/}; “How to Reduce Your Data Usage on iPhone,” MacReports (Jan. 23, 2020), \url{https://macreports.com/how-to-reduce-your-data-usage-on-iphone/}. 
generated usage solely for the purpose of evading the non-usage rule.\textsuperscript{41} However, the Commission’s practices for auditing the Lifeline non-usage rules must acknowledge the typical operation of smartphones that make them significant tools of access and adoption for low-income consumers.

\textit{Certifying Privacy Protection Efforts.} CTIA concurs with the Commission’s intent to ensure that Lifeline customer data is appropriately protected.\textsuperscript{42} The Commission’s efforts in this regard should recognize that wireless providers already take seriously their obligations to protecting customer data. Lifeline providers are subject to the same obligations to protect sensitive customer information as all businesses, such as those arising under state privacy laws. Significantly, as telecommunications carriers, Lifeline providers are subject to additional requirements, such as those under the CPNI rules.\textsuperscript{43}

Requiring Lifeline providers to certify to compliance with these obligations (e.g., as part of the annual ETC certification) is an appropriate step to confirm compliance in the Lifeline context. However, imposing additional training and certification requirements on ETCs is unnecessary and would only impose new costs on Lifeline providers with few if any countervailing benefits.\textsuperscript{44} This risks further undermining their ability to provide affordable services to low-income consumers.

\textsuperscript{41} \textit{See FNPRM} at \textsuperscript{¶} 147.

\textsuperscript{42} \textit{See id.} at \textsuperscript{¶¶} 159-164.

\textsuperscript{43} \textit{See id.} at \textsuperscript{¶} 161.

\textsuperscript{44} \textit{See, e.g., id.} at \textsuperscript{¶} 160. CTIA expresses no opinion on privacy protection requirements for non-carrier parties that utilize NLEV. \textit{See, e.g., id.} at \textsuperscript{¶} 162.
IV. CONCLUSION

CTIA supports the Commission’s efforts to close the digital divide for low-income consumers through the Lifeline program. The Lifeline providers and low-income consumers are currently assimilating a large number of recent changes, including the crucial deployment of the NLEV, which will fundamentally change the operation of the program and minimize many opportunities for waste, fraud, and abuse. The Commission should assess the effects of recent reforms before determining whether additional reforms are necessary. Any further reforms must be fundamentally driven by the Commission’s statutory responsibilities to promote affordability and access for low-income consumers.

Respectfully submitted,

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