

September 26, 2022

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: *In the Matter of Affordable Connectivity Program* (WC Docket No. 21-450)

Dear Ms. Dortch:

USTelecom – the Broadband Association (“USTelecom”), represented by the undersigned, CTIA, represented by Amy Bender and Sarah Leggin, NCTA – The Internet & Television Association (“NCTA”), represented by Rick Chessen, NTCA – The Rural Broadband Association (“NTCA”), represented by Brian Ford, and ACA Connects – America’s Communications Association (“ACA Connects”), represented by Brian Hurley (together, the “Associations”) met via videoconference with Diane Holland, Jessica Campbell, Allison Baker, Travis Hahn, and Eric Wu of the Wireline Competition Bureau and Joanna Fister of the Office of Economics and Analytics on September 21, 2022. During the meeting, the Associations expressed their support for the Affordable Connectivity Program (“ACP” or “Program”) and their commitment to its ongoing success. To that end, the Associations offer recommendations to maximize the effectiveness of the Program’s data collection and to keep it simple, streamlined, and efficient for the benefit of consumers and providers alike.

First and foremost, the statute directs the FCC to “issue final rules regarding the annual collection by the Commission of data relating to the *price and subscription rates of each internet service offering* of a participating provider under the Affordable Connectivity Program . . . to which an eligible household subscribes.”¹ This language authorizes an annual data collection focused on two components – price and subscription rates of each ACP offering. It does *not* authorize the Commission to require providers to continually submit extensive data for each of the almost 14 million current ACP subscribers, as well as future ACP subscribers. A subscriber-level data collection would not only be inconsistent with the plain language of the statute, but it would also raise serious consumer privacy concerns and complicate the ACP application and enrollment process. Further, a subscriber-level data collection goes well beyond what is necessary to evaluate the success of the Program or to help achieve its goals as set forth in the

¹ Infrastructure Investment and Jobs Act § 60502(c)(1).

ACP Order and, in fact, threatens to undermine the Commission's and providers' efforts to ensure the Program is a success.²

The Commission's proposal would further increase the administrative complexity of Program participation (for large and small providers alike). Indeed, the Associations' members have made massive operational efforts to support the transition from the Emergency Broadband Benefit Program to ACP and increase enrollments among eligible low-income households. The additional operational burdens associated with a subscriber-level data collection could deter provider participation, which would in turn decrease consumer options for ACP service. The record in this proceeding bears this out – the vast majority of comments support a collection of aggregated data, while only a handful advocate for a subscriber-level collection.³

Importantly, requiring providers to report data at the individual subscriber level would also negatively impact the consumer experience by further complicating the enrollment process for low-income consumers who may already face barriers to broadband adoption and hesitancy to enroll in government programs, thereby hindering the Commission's ACP goals. It would require instantaneous or daily reporting, which is inconsistent with the plain language of the statute and would be excessively burdensome for providers. Collecting information through NLAD would add to the complexity of the process and could impact NLAD's effectiveness as a tool for the rapid and accurate enrollment of consumers for ACP and Lifeline. Further, requiring a subscriber-level data collection upon enrollment would be prohibitive both from the perspective of the provider as well as the subscriber attempting to enroll in the Program. Finally, obtaining consumer consent to submit subscriber-level data could have a chilling effect among subscribers who do not wish to turn over their personal data, and providers may have concerns over the security of their sensitive proprietary data which could impact provider participation.

By contrast, an annual data collection that is a snapshot in time within a set filing window is the most efficient solution and is consistent with the statute. Aggregating data by state will provide insight into how consumers are using their benefit; it is sufficiently granular to be meaningful without being unnecessarily burdensome and implicating consumer privacy concerns. Keeping the ACP application and enrollment process simple, easy, and streamlined is in everyone's best interest, particularly consumers. Aggregated data will best demonstrate enrollment preferences, which would be more useful than subscriber-level data – which would have to be aggregated in order to be analyzed anyway.

The collection should capture (1) the non-discounted month-to-month price and (2) the number of subscribers for each internet service offering to which an ACP household subscribes, aggregated at the state level. The non-discounted month-to-month price provides the most stable basis for comparison across service regions and over time, and allows the Commission to see the maximum price a consumer could pay for the service offering. Collecting additional types of

² See *Affordable Connectivity Program*, WC Docket No. 20-450, Notice of Proposed Rulemaking, FCC 22-44 para. 12 (Jun. 8, 2022).

³ See Comments of ACA Connects at 4; Comments of CTIA at 4; Comments of Altice at 6; Comments of NCTA at 21-22; Comments of WISPA at 7; Comments of NTCA at 8; Conn. Office of State Broadband at 1; USTelecom Comments at 2-3.

price information, such as promotional discounts or information about taxes and fees, on a per-subscriber basis would impose an undue burden on participating ACP providers. For instance, promotions and discounts are highly dynamic and vary significantly in terms of type and duration and would distort the data collected because consumers may be cycling off promotions at various points throughout the year. Additionally, taxes and fees are highly variable from jurisdiction to jurisdiction and are beyond the control of the provider. Where a broadband consumer label is available for a service offering, the data on prices should rely on the label. Importantly, however, the record in the labels proceeding must provide the basis for determining where labels are required and nothing in this proceeding should be construed to require a label for an offering that would not otherwise have one, such as grandfathered plans that are not offered to new customers.

Please contact the undersigned with any questions.

Sincerely,

/s/ Morgan E. Reeds

Morgan E. Reeds

Director, Policy & Advocacy

cc: Diane Holland
Jessica Campbell
Allison Baker
Travis Hahn
Eric Wu
Joanna Fister