



September 16, 2013

Marlene H. Dortch  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th St. SW, Room TW-A325  
Washington, DC 20554

Re: WC Docket No. 13-184; FCC 13-100

Dear Ms. Dortch,

On behalf of the undersigned members of The Leadership Conference on Civil and Human Rights (“The Leadership Conference”), we write to offer our comments on the Federal Communications Commission’s (“the Commission”) proposed modernization of E-Rate.<sup>i</sup>

The Leadership Conference is a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States. The Leadership Conference’s Media/Telecommunications Task Force is committed to ensuring that all communities, particularly those that are underserved, have access to essential telecommunications services, including high-capacity broadband. Without access to high-speed Internet at schools, libraries, and in the home, children in the communities we represent will be left further and further behind.

A more detailed discussion of our views is set forth below, but in brief, we urge the Commission to:

- Modernize and fully fund E-rate to provide high-capacity broadband to underserved communities.
- Protect funding for the neediest schools.
- Proceed cautiously in any phase-out of eligible services.
- Protect broadband access at home while ensuring access for schools and libraries.
- Allow schools, especially those who receive the highest discount rates, the flexibility to provide hotspot services to surrounding students and other residents.

At the outset, we emphasize our strong support for President Obama’s ConnectED initiative. We agree that a modernized and fully funded E-Rate program would be a crucial step in realizing his vision of providing 99 percent of all American students with access to next generation, high-capacity broadband services and high-speed wireless.

It is an ambitious and necessary endeavor. As President Obama said when announcing the initiative, “We are living in a digital age, and to help our students get ahead, we must make sure they have access to cutting-edge technology.”<sup>ii</sup> And, as Commissioner Rosenworcel noted in support of the initiative, “[i]t is time to answer the President’s call to upgrade the E-Rate program for the 21st Century. It is time for E-Rate 2.0.”<sup>iii</sup> We wholeheartedly agree.

We further agree with the president and the Commission that high-capacity broadband is

**Officers**

**Chair**

Judith L. Lichtman  
National Partnership for  
Women & Families

**Vice Chairs**

Jacqueline Pata  
National Congress of American Indians  
Thomas A. Saenz  
Mexican American Legal  
Defense and Educational Fund

Hilary Shelton

NAACP

**Secretary**

Barry Rand

AARP

**Treasurer**

Lee A. Saunders  
American Federation of State,  
County & Municipal Employees

**Executive Committee**

Barbara Arnwine

Lawyers’ Committee for  
Civil Rights Under Law

Arlene Holt Baker

AFL-CIO

Warren David

American-Arab

Anti-Discrimination Committee

Marcia D. Greenberger

National Women’s Law Center

Chad Griffin

Human Rights Campaign

Linda D. Hallman

American Association of  
University Women

Mary Kay Henry

Service Employees International Union

Sherrilyn Ifill

NAACP Legal Defense and

Educational Fund, Inc.

Benjamin Jealous

NAACP

Michael B. Keegan

People for the American Way

Bob King

International Union, UAW

Elisabeth MacNamara

League of Women Voters of the

United States

Marc Morial

National Urban League

Mee Moua

Asian Americans Advancing Justice |

AAJC

Janet Murguía

National Council of La Raza

Debra Ness

National Partnership for

Women & Families

Terry O’Neill

National Organization for Women

Priscilla Ouchida

Japanese American Citizens League

Mark Perriello

American Association of

People with Disabilities

Anthony Romero

American Civil Liberties Union

David Saperstein

Religious Action Center

of Reform Judaism

Shanna Smith

National Fair Housing Alliance

Dennis Van Roekel

National Education Association

Randi Weingarten

American Federation of Teachers

**Compliance/Enforcement**

**Committee Chair**

Michael Lieberman

Anti-Defamation League

**President & CEO**

Wade J. Henderson

**Executive Vice President & COO**

Karen McGill Lawson



transforming education. It provides students, teachers and parents with new individualized and interactive learning opportunities and innovative analytical tools to track student progress. It also enables high-quality distance learning for resource-strapped rural and low income schools and districts. But these benefits require proper broadband capacity, and we share the Commission's concern over survey results suggesting that only 1 in 10 schools and libraries enjoy minimally robust capacity.<sup>iv</sup>

A failure to modernize E-Rate will further entrench the digital divide. For many of our under-represented and underserved communities, high-capacity broadband access at schools and libraries is absolutely essential for educational, economic, and health attainment, and reducing the number of technological "have-nots" in America.<sup>v</sup> Unfortunately, under the current state of the program, demand is far outstripping available funding, certain inefficiencies may be artificially limiting available resources, and a lack of technological neutrality may be depriving certain schools of funding for important services.

We agree with commenters who suggest adopting a technology neutral policy that would allow schools and libraries the flexibility to determine how best to allocate their E-Rate funding among various services.<sup>vi</sup> The primary problem driving underfunding is demand that greatly exceeds the cap. We emphasize that funding for the neediest schools should not be jeopardized.

We urge the Commission to proceed cautiously in any phase-out of eligible services.<sup>vii</sup> Our repeated experience within the civil rights community has been that low-income and minority Americans tend to be later adopters of advanced technology. This would be all the more true in many under-resourced rural or low-income schools, or schools that serve predominantly children of color. The Commission should be attentive to comments suggesting that certain ostensibly "outdated" services do in fact still serve important educational purposes.

Additionally, while we support increasing the E-Rate funding cap, we note that education takes place at schools, libraries, *and* at home. The Commission is already working on expanding Lifeline to include support for broadband,<sup>viii</sup> and it must ensure it can achieve both goals. Lifeline-supported broadband would provide crucial Internet connectivity for students at home, who increasingly need to use the Internet for assignments. Expanding access at school while cutting access to broadband at home would be deeply counterproductive.

We urge the Commission to focus on increasing efficiencies in E-Rate and identify where E-Rate funding may be duplicative of other subsidies,<sup>ix</sup> but we counsel strong caution in repurposing Lifeline savings. The Commission should remember that the Lifeline program remains woefully undersubscribed, and thus, if it were to reach its full potential, all of the Lifeline savings resulting from recent reforms will be needed for the Lifeline program. We also continue to oppose any cap on the Lifeline program, and one should not be imposed to provide additional funds to increase the E-Rate cap.<sup>x</sup>

Finally, we very much support the proposal to allow schools to provide wireless hotspot services both on school grounds after hours and in surrounding communities.<sup>xi</sup> Allowing schools, especially those who receive the highest discount rates, the flexibility to provide hotspot services to surrounding students and other residents would prove a formidable and innovative tool to further combat the broadband access and adoption gap.

We look forward to working with the Commission as this important review and update of the E-Rate program continues. Please contact Leadership Conference Media/Telecommunications Task Force Co-Chairs Cheryl Leanza, United Church of Christ, OC Inc., at 202-841-6033; Gabe Rottman, American



Civil Liberties Union, at 202-675-2325; or Corrine Yu, Leadership Conference Managing Policy Director, at 202-466-5670, if you would like to discuss the above issues or any other issues of importance to The Leadership Conference.

Sincerely,

American Civil Liberties Union  
Asian Americans Advancing Justice | AAJC  
Common Cause  
Communications Workers of America (CWA)  
The Leadership Conference on Civil and Human Rights  
NAACP  
National Consumer Law Center, on behalf of its low-income clients  
National Hispanic Media Coalition  
NCLR  
United Church of Christ, OC Inc.

---

<sup>i</sup> Modernizing the E-Rate Program for Schools and Libraries, 78 Fed. Reg. 51,598 (proposed July 23, 2013) (to be codified at 47 C.F.R. pt. 54) [hereinafter the “Notice”].

<sup>ii</sup> Press Release, White House, President Obama Unveils ConnectED Initiative to Bring America’s Students Into Digital Age (June 6, 2013), available at <http://1.usa.gov/186vUBv>.

<sup>iii</sup> Press Release, Fed. Commc’ns Comm’n, FCC Commissioner Jessica Rosenworcel on the ConnectED Initiative (June 6, 2013), available at <http://fcc.us/1aztg8R>.

<sup>iv</sup> Notice, *supra* note 1, ¶ 5, 6 (noting that only 10 percent of respondents in 2010 study and 9 percent of libraries in 2011-2012 American Library Association study reported speeds of over 100 Mbps).

<sup>v</sup> The digital divide is starkly on display in the classroom. For instance, a 2013 report by the Pew Internet and American Life Project showed marked disparities based on income in the use of digital tools like e-readers and tablet computers in schools. These disparities are another manifestation of the larger digital divide, in which low income, rural and minority communities lag significantly in broadband access and adoption. *See* Eighth Broadband Progress Report, 27 F.C.C. 10,342 (2012). Additionally, minority groups are far more likely than whites to use broadband services at “anchor institutions” like schools or libraries, and are therefore more reliant for access to telecommunications services on subsidies like E-Rate. *See* Jon P. Gant et al., Joint Ctr. for Political and Econ. Studies, National Minority Broadband Adoption: Comparative Trends in Adoption, Acceptance and Use 3 (2010).

<sup>vi</sup> Notice, *supra* note 1, ¶¶ 131-50.

<sup>vii</sup> *Id.* ¶¶ 80-86.

<sup>viii</sup> Order on the Lifeline Broadband Pilots, *In re* Lifeline and Link Up Reform and Modernization, 27, FCC Rcd. 15842 (2012).



---

<sup>ix</sup> *Notice, supra* note 1, ¶¶ 240-44.

<sup>x</sup> *See* Letter to Fed. Commc'ns Comm'n from The Leadership Conference 9-10, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109 (Aug. 21, 2011).

<sup>xi</sup> *Notice, supra* note 1, ¶¶ 304-08.