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February 16, 2021

## **REPLY COMMENTS**

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

**RE: Emergency Broadband Connectivity Fund Assistance (No. 20-445).**

Dear Ms. Dortch:

The U.S. Chamber of Commerce’s Technology Engagement Center (“C\_TEC” or “Chamber”) appreciates the opportunity to comment on the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice concerning implementation of the Emergency Broadband Benefit.<sup>1</sup>

America’s private sector broadband networks have led the world in keeping up with the capacity needs of their most demanding users and the demand shifts caused by remote work, e-commerce, telehealth, and online learning necessitated by the pandemic. These same private sector broadband companies keeping the “digital lights on” for the economy have also voluntarily participated in programs like the FCC’s Keep Americans Connected pledge to allow broadband users to remain online despite an inability to pay.<sup>2</sup>

Unfortunately, the effects of the pandemic have taken a tremendous toll on Americans working in industries impacted most. According to one report, “[m]ore than 80 million adults—35 percent of all adults—reported it was somewhat or very difficult for their household to cover usual expenses in the last seven days.”<sup>3</sup> In October 2020, C\_TEC, concerned with the current extraordinary circumstances, called on Congress to address issues with broadband affordability

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, Public Notice, WC Docket No. 20-445, DA 21-6 (Jan. 4, 2021) available at <https://docs.fcc.gov/public/attachments/DA-21-6A1.pdf> (hereinafter “PN”).

<sup>2</sup> *Companies Have Gone Above and Beyond the Call to Keep Americans Connected During Pandemic*, Federal Communications Commission available at <https://www.fcc.gov/companies-have-gone-above-and-beyond-call-keep-americans-connected-during-pandemic>.

<sup>3</sup> Claire Zippel, “Hardship Remains High, Latest Census Data Show,” Center on Budget and Policy Priorities (Jan. 27, 2021) available at <https://www.cbpp.org/blog/hardship-remains-high-latest-census-data-show>.

by appropriating out of general funds targeted and timely assistance for households impacted by the COVID-19 pandemic.<sup>4</sup>

At the end of 2020, Congress and the President enacted the Consolidated Appropriations Act of 2021 (“Act”) which established an Emergency Broadband Benefit Program (“EBB Program”) to provide discounted broadband service for eligible households subscribed to eligible services offered by participating providers. Eligible households are entitled up to a \$50 monthly benefit per eligible service and \$75 on Tribal lands.<sup>5</sup> Eligible households may also receive up to \$100 for connected devices to eligible households.<sup>6</sup>

C\_TEC applauds passage of the EBB program and submits these comments highlighting the importance of efficiently and quickly keeping Americans connected, informing consumers of benefits, and reducing waste, fraud, and abuse.

### **I. Flexibility is Key to Connectivity**

The Commission should implement the EBB Program in a manner that gives consumers efficient access to benefits. Key to this approach is flexibility in terms of which providers are eligible to participate and how the program is administered. The Act deems eligible telecommunications carriers (“ETCs”), as well as certain non-ETC providers approved by the Commission to participate. The FCC is required to establish and expedited process for non-ETC providers and “shall automatically approve as participating provider a broadband provider that has an established program as of April 1, 2020 that is widely available and offers internet service offerings to eligible households and maintains verification process that are sufficient to avoid waste, fraud and abuse.”<sup>7</sup>

C\_TEC urges the Commission to establish a clear, fair, streamlined process for non-ETC providers to participate in the EBB Program. The Commission must minimize to the greatest extent possible the burdens and costs imposed on providers’ participation in the EBB Program in order to maximize provider participation. Providers currently offering their own widely available affordability programs should receive automatic qualification to participate. Providers not eligible for automatic approval by the Act should be deemed technically and financially qualified to participate if they are affiliates of ETCs deemed technically and financially qualified to participate. Consumers should have the broadest choice of participating service providers, which requires a single program start date for all providers and applicants. Providers should be able to provide the EBB benefit to households that subscribe to pre-existing low-income programs.

Participating Providers should have flexibility to administer benefits to consumers in order to maximize consumer choice and early participation. The Commission should apply

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<sup>4</sup> See “American’s Next Tech Upgrade: Connecting All Americans” C\_TEC at 27 (Oct. 21, 2020) *available at* [https://americaninnovators.com/wp-content/uploads/2020/10/CTEC\\_TechUpgrade\\_Broadband.pdf](https://americaninnovators.com/wp-content/uploads/2020/10/CTEC_TechUpgrade_Broadband.pdf).

<sup>5</sup> P.L. No. 116-260 Div. N § 904(a)(7).

<sup>6</sup> *Id.* at § 904(b)(5).

<sup>7</sup> *Id.* at § 904(d)(2).

Lifeline rules only where they make sense for the EBB Program, not those that do not apply or are overly burdensome such as recertification and extensive reporting requirements. Non-ETC providers should be exempt from providing eligibility documentation for any customers participating their low-income programs prior to the effective date of the Act. Technology-neutral flexibility is essential for determining eligible services and devices. For example, wireline and wireless devices such as modems, routers, and wireless pucks should be considered as associated equipment. Consumers should be able to receive connected devices like personal computers or laptops as mentioned in the statute.<sup>8</sup>

## **II. Consumer Awareness**

The Commission's Public Notice seeks comment on "the best methods to publicize the availability of the services and connected devices supported by the Emergency Broadband Benefit."<sup>9</sup> C\_TEC agrees with comments by stakeholders stating public awareness will "require active engagement by other stakeholders and civil society groups that work with financially disadvantaged consumers. In addition, involvement of the Commission itself will be critical to a successful outreach program. The Commission has vast experience with national public awareness campaigns, and unique access and credibility with national news media to publicize its efforts."<sup>10</sup> The Chamber further urges the Commission to refrain from mandating that EBB Program participating providers promote the program in any specific way. Broadband providers are already making the public aware of their low-income service programs and such a mandate would be unnecessary.

## **III. Verification**

It is critically important to the success of the program that EBB Program providers quickly be able to verify the eligibility of consumers seeking to utilize the broadband benefit and that consumers are not already receiving the benefit from another participating provider. The Act requires the Commission to "expedite availability of all participating providers to access the National Verifier and National Lifeline Accountability Database for purposes of determining whether a household is an eligible household, without regard to whether a participating provider is designated as an eligible telecommunications carrier."<sup>11</sup>

The Chamber agrees that EBB Program participating providers should have access to the National Verifier, a centralized process and data system the FCC requires consumers to use to verify eligibility for Lifeline, and National Lifeline Accountability Database. According to a GAP report, the Universal Service Administrative Company ("USAC"), which administers the National Verifier, as of June 2020 the National Verifier was set up in 38 states to recertify

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<sup>8</sup> *Supra* n.5 at § 904(a)(4).

<sup>9</sup> PN at 10.

<sup>10</sup> See Comments of NCTA, *In the Matter of Emergency Broadband Connectivity Fund Assistance* (WC. Docket No. 20-445) at 20 (Jan. 25, 2021).

<sup>11</sup> *Supra* n.5 at § 904(b)(3).

consumers.<sup>12</sup> The report found that “the majority of subscribers lived in states without state database connections to the Verifier.”<sup>13</sup> The Commission should permit alternative or flexible verification processes for the EBB Program, especially in the case of unconnected K-12 students.

#### **IV. Transparency and Program Maximization**

In addition to quickly launching the EBB Program, the Commission must also ensure that there is necessary transparency and accountability to ensure reduced waste, fraud, and abuse. To ensure the program connects as many households as possible, the EBB Program benefit should be limited to one per eligible household.

In order to enable EBB Program participating providers access to the best data for the most effective distribution of the benefit, the Commission should notify providers on a real-time basis regarding estimated depletion of funds. For example, the FCC could provide a 90-day forecast in terms of expected funding levels. The Commission should also provide timely notice of the expected conclusion of the EBB Program.

#### **V. Enforcement**

The Chamber believes that the Commission should ensure that participating providers are accountable for enrolling eligible consumers in the EBB Program. At the same time, the Commission is expediting implementation of a \$3.2 billion benefit program in the height of a global pandemic. The Commission should offer flexibility and a robust safe harbor for EBB Program participating providers operating in good faith as laid out in the Act.<sup>14</sup> C\_TEC agrees with comments that the Commission should not impose forfeitures or penalties on providers in good faith and enroll ineligible households as a result of circumstances beyond their control such as when consumers submit false documentation or schools provide inaccurate information.<sup>15</sup>

C\_TEC believes that broadband adoption and access will be critical to economic recovery and getting Americans back to work. We look forward to working with the Commission and Congress on ways to reform Lifeline to modernize it for the 21<sup>st</sup> century and connect all Americans.

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<sup>12</sup> See “FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience,” Government Accountability Office at 12 (Jan. 2021) *available at* [GAO-21-235, TELECOMMUNICATIONS: FCC Has Implemented the Lifeline National Verifier but Should Improve Consumer Awareness and Experience.](#)

<sup>13</sup> *Id.*

<sup>14</sup> *Supra* n.5 at § 904(j). “The Commission may not enforce a violation of this section under Section 501, 502, or 503 of the Communications Act of 1934 (47 U.S.C. 501; 502; 503), or any rules of the Commission promulgated under such sections of such Act, if a participating provider demonstrates to the Commission that such provider relied in good faith on information provided to such provider to make the verification required by subsection (b)(2).”

<sup>15</sup> See Comments of CTIA, *Wireline Competition Bureau Seeks Common on Emergency Broadband Connectivity Fund Assistance* (WC. Docket No. 20-445) at 7.

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Thank you for the opportunity to participate in this proceeding and if you have any follow up questions, I may be reached at (202) 463-5632 or by e-mail at [jcrenshaw@uschamber.com](mailto:jcrenshaw@uschamber.com).

Sincerely,

A handwritten signature in black ink that reads "Jordan Crenshaw". The signature is written in a cursive style with a horizontal line at the end.

Jordan Crenshaw  
Executive Director & Policy Counsel  
Chamber Technology Engagement Center