



Thomas A. Schatz  
*President*

January 24, 2018

Chairman Ajit Pai  
Commissioner Mignon Clyburn  
Commissioner Michael O'Rielly  
Commissioner Branden Carr  
Commissioner Jessica Rosenworcel  
Commission Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW-A325  
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)

Dear Chairman Pai, Commissioner Clyburn, Commissioner O'Rielly, Commissioner Carr, and Commissioner Rosenworcel:

On behalf of the more than one million members and supporters of Citizens Against Government Waste, I submit the attached public comments to the Federal Communications Commission about the following proceedings: 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), and Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197).

If you have any questions or concerns, please contact either myself or Deborah Collier at (202) 467-5300. Thank you for your consideration of our remarks.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive, slightly stylized font.

President  
Citizens Against Government Waste

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of	)	
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Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
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Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
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Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
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Comments of  
Thomas A. Schatz  
President  
Citizens Against Government Waste

January 23, 2018

Citizens Against Government Waste (CAGW) is a private, nonprofit, nonpartisan organization dedicated to educating the American public about waste, mismanagement, and inefficiency in government. On behalf of the more than one million members and supporters of CAGW, I offer the following comments regarding 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), and Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197).

The concept of universal service for all Americans traces its origins to the Communications Act of 1934, which in its General Provisions Title, states,

...so as to make available, so far as possible, to all the people of the United States, ... for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communications, there is hereby created a commission to be known as the 'Federal Communications Commission,' which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this Act.<sup>1</sup>

Universal service was refined and expanded in the Telecommunications Act of 1996, which created the current mechanism for collecting fees to support the universal service fund (USF), and authorized the creation of the Universal Service Administrative Company (USAC).

On September 6, 2017, Senate Commerce, Science, and Transportation Committee Chairman John Thune (R-S.D.) stated that universal service has been a “bedrock of our nation’s communications policies for more than 80 years, and programs that efficiently and prudently further the goal of universal service have contributed greatly to our nation’s economy, and to the safety and well-being of Americans.”<sup>2</sup>

However, as the program has expanded, waste, fraud, and abuse has become problematic. On January 31, 2012, the FCC approved a report and order to reform and modernize the Lifeline and Linkup programs.<sup>3</sup> The order created the National Lifeline Accountability Database (NLAD), ensured that providers understood the one-per-household rule, and established clear goals and metrics to measure the program’s performance and effectiveness.

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<sup>1</sup> Communications Act of 1934, Sec. 1 [47 U.S.C. 151] Purposes of Act, Creation of Federal Communications Commission, <https://transition.fcc.gov/Reports/1934new.pdf>.

<sup>2</sup> Opening Statement of Chairman John Thune (R-S.D.), Oversight Hearing Addressing the Risk of Waste, Fraud and Abuse in the Federal Communications Commission’s Lifeline Program, United States Senate Committee on Commerce, Science, & Transportation, September 6, 2017, [https://www.commerce.senate.gov/public/index.cfm/hearings?Id=23A59347-5129-408F-B7A7-2F3340B7DDED&Statement\\_id=F0BE6F75-03A2-4592-B923-1722FF8FC955](https://www.commerce.senate.gov/public/index.cfm/hearings?Id=23A59347-5129-408F-B7A7-2F3340B7DDED&Statement_id=F0BE6F75-03A2-4592-B923-1722FF8FC955).

<sup>3</sup> In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Lifeline and Link Up (WC Docket No. 03-109), Federal-State Joint Board on Universal Service (CC Docket No. 96-45), Advancing Broadband Availability Through Digital Literacy Training (WC Docket No. 12-23), Federal Communications Commission, Adopted January 31, 2012, Released February 6, 2012, [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-12-11A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1_Rcd.pdf).

On March 31, 2016, the FCC expanded the Lifeline program by adding subsidized broadband internet service at the amount of \$9.25 per month per eligible household, and increased the annual budget for Lifeline from \$1.75 billion to \$2.25 billion, without a spending limit or cap.<sup>4</sup> This decision also stripped the ability of states to designate Eligible Telecommunications Carriers (ETCs) to administer the USF. The FCC also established a National Verifier System to assist in ensuring that only qualified households can participate in the Lifeline program. However, some ETCs have found ways to skirt the verification system.

In 2016, FCC Commissioner (now Chairman) Ajit Pai reviewed issues within the Lifeline program relating to continued duplicate enrollment fraud, and narrowed the problem down to the manner in which carriers are able to override the verification system, including the use of an independent economic household (EIH) override<sup>5</sup> and Third-Party Independent Verifications (TPIV).<sup>6</sup> These processes permitted carriers to subscribe more than one resident of a household for service through the Lifeline program, which is limited to one service per household.

Commissioner Pai also questioned the USAC as to why 400,000 subscribers were enrolled in the program without first being verified as eligible through the NLAD.<sup>7</sup> One result of the FCC's investigation was a December 2016 settlement with Total Call Mobile, which

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<sup>4</sup> Third Report and Order, Further Report and Order, and Order on Reconsideration, In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197), and Connect America Fund (WC Docket No. 10-90), Adopted March 31, 2016, Released April 27, 2016, Federal Communications Commission, [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-38A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf).

<sup>5</sup> Giuseppe Macri, "FCC Commissioner Questions High Duplicate Enrollment Rate in Lifeline," *Inside Sources*, June 8, 2016, <http://www.insidesources.com/fcc-investigation-uncovers-new-fraud-in-lifeline-program/>.

<sup>6</sup> Giuseppe Macri, "Dem Report On Lifeline Examines Only 1 of 5 Potential Forms of Fraud," *Inside Sources*, July 28, 2016, <http://www.insidesources.com/dem-report-on-lifeline-fraud-only-looks-at-one-of-five-overrides/>.

<sup>7</sup> Giuseppe Macri, "FCC Commissioner Investigates Hundreds of Thousands of 'Phantom' Lifeline Subscribers," *Inside Sources*, August 1, 2016, <http://www.insidesources.com/fccs-pai-investigates-phantom-lifeline-subscribers/>.

included a \$30 million fine and the termination of the company's participation in the Lifeline program.<sup>8</sup>

On May 30, 2017, the Government Accountability Office (GAO) released a report that detailed continuing problems in verifying the eligibility of subscribers to the Lifeline program.<sup>9</sup> According to GAO, the program disbursed about \$1.5 billion in subsidies to 12.3 million households in 2016; of the 3.5 million subscribers reviewed by GAO, 1.2 million individuals (36 percent) could not be confirmed as eligible for the program.<sup>10</sup>

On July 11, 2017, Chairman Pai directed the USAC to safeguard the Lifeline program from further fraud and abuse by 1) identifying and auditing the top 10 ETCs with the highest number of potentially ineligible subscribers identified in the GAO study to determine whether they are properly verifying subscriber eligibility; 2) reviewing a statistically valid sample of subscribers to determine whether they are eligible to participate in the Lifeline program; 3) requiring all ETCs with GAO-identified potentially ineligible subscribers to verify the eligibility of the subscribers, and de-enrolling any ineligible subscriber from the Lifeline program; and, 4) referring the substantial enrollment or recertification of ineligible subscribers by any ETC to the FCC's Office of Inspector General for evaluation, and to the Enforcement Bureau.<sup>11</sup>

On September 6, 2017, the Senate Committee on Commerce, Science, and Transportation held an oversight hearing entitled, "Addressing the Risk of Waste, Fraud and Abuse in the Federal Communications Commission's Lifeline Program." CAGW Director of Technology and

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<sup>8</sup> Diana Goovaerts, "Total Call Mobile to Pay \$30M Fine, Lose Lifeline Licenses in FCC Fraud Case," *Wireless Week*, December 23, 2016, <https://www.wirelessweek.com/news/2016/12/total-call-mobile-pay-30m-fine-lose-lifeline-licenses-fcc-fraud-case>.

<sup>9</sup> "Telecommunications: Additional Action Needed to Address Significant Risks in FCC's Lifeline Program," U.S. Government Accountability Office, GAO-17-538, May 30, 2017, <https://www.gao.gov/assets/690/684974.pdf>.

<sup>10</sup> Ibid.

<sup>11</sup> Letter to the Universal Service Administrative Company from Federal Communications Commission Chairman Ajit Pai, July 11, 2017, [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db0711/DOC-345729A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0711/DOC-345729A1.pdf).

Telecommunications Policy Deborah Collier testified regarding the problematic history of the Lifeline program, particularly following its expansion to include wireless services in 2008. During the hearing, Ms. Collier emphasized the important role the National Verifier System will play in providing improved verification of eligible subscribers, currently slated to begin in 2018. She also reiterated the need for continued maintenance and updates to the database to ensure strict adherence with the eligibility requirements by those distributing Lifeline services.

In addition, Ms. Collier stressed the importance for the FCC to reach out to state stakeholders to obtain memorandums of understanding, enabling the sharing of eligibility data between state and federal agencies to ensure appropriate eligibility criteria is maintained, while keeping secure the privacy and personal data of individual subscribers. A copy of her testimony is attached for the record (Appendix A).

During his testimony, economist Dr. Jeffrey Eisenach discussed the inevitable waste, fraud, and abuse that has been built into the Lifeline program from its inception. According to Dr. Eisenach, the Lifeline program,

... is administered by over 2,000 companies, most of them resellers of services actually provided by others, which can be certified for participation by any of 55 or so state and territorial entities, plus the FCC. The companies receive checks from the Universal Service Administrative Company (USAC) based on how many qualifying customers they claim to serve. Once a customer is signed up, the payments – about \$9.25 per month, unless one happens to be serving a customer on an Indian reservation, in which case the amount is tripled – keep coming, even if the customer never actually uses the service. The companies self-certify that the participants are eligible, but in just over a third of the cases it recently reviewed, the GAO could not verify that the subscriber actually qualified for the subsidy.<sup>12</sup>

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<sup>12</sup> Testimony of Jeffrey A. Eisenach, Ph.D., before the Committee on Commerce, Science, and Transportation, United States Senate, September 6, 2017, <https://www.commerce.senate.gov/public/cache/files/79b60e24-1b86-4935-a88d-5dc594a2b806/8EEC0A109971FD2106D767E79290933D.eisenach-testimony.pdf>.

In other words, the Lifeline subsidy program encourages the distribution of improper payments to companies through the self-certification process. GAO Director for Audit Services, Forensic Audits & Investigative Service Seto Bagdoyan testified that the USAC currently engages in a pay-and-chase activity to retrieve the funds already disbursed to the subscriber's ETC,<sup>13</sup> which is an inefficient method to recoup improper payments. It is better to verify eligibility at the front end through the National Verifier System before payment is made to an ETC.

On January 19, 2017, USAC awarded the contract to develop the National Verifier System to Accenture Federal Services.<sup>14</sup> Swift and effective deployment is critical to the future success of the Lifeline program. It is a disservice to those who are truly in need and taxpayers who foot the bill for the Lifeline program to continue to provide services to ineligible individuals and households.

## **II. FOURTH REPORT AND ORDER**

CAGW agrees that the same definition for “urban” and “rural” currently applied to the USF’s E-Rate program for schools and libraries should also apply to the Lifeline Tribal support programs. These definitions should be consistent not only throughout all USF programs, but also other federal government agencies. Uniform definitions will also improve data gathering for future rural and urban broadband deployment reports, and help determine where there is true lack of access to broadband services, often called the “digital divide.”

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<sup>13</sup> Seto Bagdoyan, “Telecommunications: Additional Action Needed to Address Significant Risks in FCC’s Lifeline Program,” Testimony before the Committee on Commerce, Science, and Transportation, United States Senate, September 6, 2017, [https://www.commerce.senate.gov/public/\\_cache/files/b7cc2643-2e1c-4b24-8d92-02487f939a87/DD7342D74AB8D81A7CD07099117F1D85.bagdoyan-testimony.pdf](https://www.commerce.senate.gov/public/_cache/files/b7cc2643-2e1c-4b24-8d92-02487f939a87/DD7342D74AB8D81A7CD07099117F1D85.bagdoyan-testimony.pdf).

<sup>14</sup> USAC Award Notice, Lifeline National Eligibility Verifier, USAC-LI-2016-10-021, Award Date: January 19, 2017, [http://www.usac.org/\\_res/documents/about/pdf/rfp/AN-RFP-Lifeline-National-Eligibility-Verifier.pdf](http://www.usac.org/_res/documents/about/pdf/rfp/AN-RFP-Lifeline-National-Eligibility-Verifier.pdf).

However, before these determinations can be made, broadband maps must be updated. The National Broadband Map was last updated in 2014, and the Rural Broadband Report was last updated in 2011. Current data and mapping of existing broadband capabilities is critical to any proposal intended to bridge the digital divide, and reduce the homework gap. As noted by Commissioner Jessica Rosenworcel during her testimony before the House Energy and Commerce Committee on October 25, 2017,

Nearly nine years ago, in the American Recovery and Reinvestment Act, Congress had a good idea. It created a National Broadband Map, identifying where deployment has and has not occurred. But if you check that map online now you will see that it was last updated over three years ago. In the Internet age, three years is an eternity. ... You cannot manage what you do not measure. So, I think it's time for a National Broadband Map that offers an honest picture of wired and wireless broadband across the country.<sup>15</sup>

This information is key to bridging the digital divide and ensuring that areas without broadband service can obtain service.

## **V. NOTICE OF PROPOSED RULEMAKING**

With respect to the Notice of Proposed Rulemaking, CAGW supports the reauthorization of state commissions to designate Lifeline ETCs. The states' role within the Lifeline program will become even more important as the National Verifier System is activated. CAGW encourages the USAC to initiate memorandums of understanding (MOUs) with each of the states that will create data sharing agreements in keeping with the privacy protection afforded to consumers and their personal data within state boundaries. These MOUs will be critical to the integrity of the National Verifier System, and will help ensure that benefits will only be provided to those who truly need the program.

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<sup>15</sup> Statement of Jessica Rosenworcel, Commissioner, Federal Communications Commission, Before the Subcommittee on Communications and Technology, Energy and Commerce Committee, United States House of Representatives, "Oversight of the Federal Communications Commission," October 25, 2017, <http://docs.house.gov/meetings/IF/IF16/20171025/106534/HHRG-115-IF16-Wstate-RosenworcelJ-20171025-U5000.pdf>.



CAGW also encourages the FCC to continue enforcement actions against companies seeking to take advantage of the subsidies by subscribing as many households as possible without proper vetting. However, CAGW is concerned about Section B1 of the proposed rule, which would restrict the Lifeline broadband subsidies to facilities-based providers only. This provision would make it impossible for non-facilities based wireless providers to remain in the program, leaving many Lifeline subscribers in search of a new provider.

According to the FCC's 2016 Universal Service Monitoring Report, there are more than 12.5 million subscribers to the Lifeline program, 68.5 percent of whom obtain their service through non-facilities based providers.<sup>16</sup> While some providers have engaged in practices leading to the subscription of ineligible subscribers (as detailed in Ms. Collier's testimony and the FCC's list of USF enforcement activities<sup>17</sup>), a total ban on non-facilities based resellers of wireless services could have a negative impact on eligible subscribers.

While the desire to promote broadband capable services for Lifeline support is understandable, the commission should consider the potential use of wireless/mobile broadband services using Smartphones as an additional means to bridge the digital divide in communities where either access to facilities-based providers is difficult to achieve or cost-prohibitive for lower-income Americans.

A 2015 Pew Internet study found that nearly two-thirds of Americans were Smartphone owners, and 10 percent of Americans owned a Smartphone with a data plan, but had no other form of high-speed internet access at their home.<sup>18</sup> A March 2017 Pew Research Center report

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<sup>16</sup> Universal Service Monitoring Report 2016 (Data Received Through September 2016), Federal and State Staff for the Federal - State Joint Board on Universal Service, Federal Communications Commission, December 2016, pp. 22-30, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-343025A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-343025A1.pdf).

<sup>17</sup> Other Universal Service Fund Actions – USFC, Federal Communications Commission, November 14, 2017, <https://www.fcc.gov/enforcement/orders/1865>.

<sup>18</sup> Aaron Smith, "U.S. Smartphone Use in 2015," Pew Research Center, Internet and Technology, April 1, 2015, <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>.

found that among individuals earning less than \$30,000 annually, 64 percent owned a Smartphone; 56 percent owned a desktop or laptop computer; 53 percent had a broadband connection to their home; 32 percent owned a Tablet computer, and 17 percent had all of these items.<sup>19</sup> According the Department of Health and Human Services, 50.5 percent of households have only wireless service.<sup>20</sup> Among households with small children, that figure is 60.7 percent.<sup>21</sup>

CAGW urges the commission to reconsider the proposal to ban non-facilities based providers until after the National Verifier system has become fully tested and operational. If abuses continue once the National Verifier System is in place, then this issue can and should be revisited. If, at that time, the FCC determines that moving to a facilities-based provider structure only is the best resolution, then the commission should provide a straightforward method for eligible households currently enrolled through a non-facility based provider to migrate to a new service provider without disruption of service.

CAGW applauds the efforts by the FCC to include further safeguards to the Lifeline enrollment and recertification process by adding requirements for Lifeline agents and their representatives to register with the USAC, and by prohibiting practices engaged in by ETCs that have encouraged sales and marketing agents to disregard eligibility criteria when enrolling individuals to the program, enroll consumers into the program without their consent, or any other practice that increases waste, fraud, and abuse within the program.

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<sup>19</sup> Monica Anderson, “Digital Divide Persists Even As Lower-income Americans Make Gains in Tech Adoption,” Pew Research Center, March 22, 2017, <http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>.

<sup>20</sup> Stephen J. Blumberg and Julian V. Luke, “Wireless Substitution: Early release of estimates from the National Health Interview Survey, July – December 2016,” National Center for Health Statistics, Center for Disease Control and Prevention, U.S. Department of Health and Human Services, May 2017, <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf>.

<sup>21</sup> Ibid.

Because of the sensitive personal information provided for enrollment verification, all ETC customer enrollment representatives should be registered, trained, and certified by the USAC prior to submitting information into the NLAD or National Verifier systems. This would provide additional protection for the personal identifying information and verification of Lifeline subscribers, as well as provide for a tracking mechanism to root out fraudulent activity should it occur within the systems.

### **Adopting a Self-Enforcing Budget**

CAGW agrees with FCC Commissioner Michael O’Rielly that there should be a cap on the Lifeline budget. While the 2012 and 2016 Reform Orders slowed the increase in costs of the program to consumers, placing a budgetary cap on the program, as suggested in the NPRM, provides an actionable limit on the amount of Lifeline support that can be allocated within a given year. Should that cap be met or exceeded, the commission would have the opportunity to reevaluate the program and make any necessary adjustments before additional funding is expended. This is a fiscally responsible approach to managing costs and an appropriate method for the commission to restrain the growth of a program whose budget has exponentially increased over many years. CAGW also supports the establishment of a self-enforcing budget mechanism within the Lifeline program.

In addition, since the contribution factor is determined by the USAC on a quarterly basis, it would behoove the USAC to be in constant communication with the FCC on the status of the self-enforcing budget expenditures, so that appropriate adjustments can be made prior to reaching the budgetary limit set annually by the FCC.

## VI. NOTICE OF INQUIRY

The Notice of Inquiry seeks to determine whether households receiving a Lifeline subsidy are concurrently subscribed for either telephone, wireless, or broadband service at a non-subsidized rate. As noted by the GAO, the FCC has not had a very effective metric to determine adoption rates. The FCC should include in its metrics a factor determining whether those who subscribe for service through the Lifeline program already subscribe to a non-Lifeline provided phone or internet service.

Commissioner O’Rielly and Rep. Marsha Blackburn (R-Tenn.) wrote in 2015 that “the program must be better targeted to eligible low-income individuals who would not otherwise sign up for service,”<sup>22</sup> since GAO found that only 1 in 8 subscribers would not have service without the Lifeline subsidy. They made it clear that adoption of advanced communications should be the highest priority, as set forth in the 1934 Act, and used as a performance metric for the program.<sup>23</sup>

There are several key factors in whether a household would adopt advanced communications, including a potential consumer’s or subscriber’s perceived lack of relevance, lack of computer skills, or affordability of service offerings.<sup>24</sup> If the FCC intends for the Lifeline program to address adoption rates across the U.S., then there must be clearly-defined metrics for eligible subscribers that include whether these subscribers would have adopted the technology if not for the availability of the subsidy program to reduce their overall costs. According to GAO, the FCC does not know how many of its Lifeline recipients also have non-Lifeline phone service.<sup>25</sup>

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<sup>22</sup> Mike O’Rielly and Rep. Marsha Blackburn, “FCC’s Lifeline Program Ripe for Fraud, Abuse,” *Politico*, July 12, 2015, <https://www.politico.com/magazine/story/2015/07/fccs-lifeline-program-expansion-without-reform-120008>.

<sup>23</sup> Ibid.

<sup>24</sup> “Broadband: Intended Outcomes and Effectiveness of Efforts to Address Adoption Barriers Are Unclear,” U.S. Government Accountability Office, June 2, 2015, GAO-15-473, <https://www.gao.gov/assets/680/670588.pdf>.

<sup>25</sup> Bagdoyan, Testimony before the Senate Commerce, Science, and Transportation Committee, September 6, 2017.

## **Conclusion**

Combatting waste, fraud, and abuse in the Lifeline program through the use of the National Verifier System, a self-enforcing budget, and strong enforcement against those who would undermine the eligibility process would enable the FCC to address the needs of eligible households, while protecting taxpayers from increased universal service fund costs on their telecommunications bills. CAGW appreciates the FCC's efforts to rein in abusive practices, while working to improve the effectiveness of the Lifeline Program.

**Testimony of Deborah Collier**  
**Citizens Against Government Waste**  
**Before the Senate Commerce, Science, and Transportation Committee**  
**“Addressing the Risk of Fraud, Waste, and Abuse in the FCC’s Lifeline Program”**

**September 6, 2017**

Mr. Chairman and members of the Committee. Thank you for the opportunity to speak to you today. My name is Deborah Collier, and I am the technology and telecommunications policy director for Citizens Against Government Waste, a nonpartisan, nonprofit organization dedicated to eliminating waste, fraud, and abuse in government. Citizens Against Government Waste has not received at any time any federal grant and we do not wish to receive any in the future.

Many Americans have heard of the “Obamaphones,” made infamous by the viral 2012 video of a Cleveland woman touting the “free” Lifeline program.<sup>1</sup> However, few Americans realize is that Lifeline is part of the Low-Income support program, which was created in 1985 to provide subsidies for low-income households to obtain a telephone enabling them to communicate in emergencies. Following the enactment of the Telecommunications Act of 1996, the Low-Income support program became part of the Universal Service Fund (USF), which is administered by the Universal Service Administrative Company (USAC). Participation in the program is based on eligibility for

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<sup>1</sup> Joshua Rhett Miller, “Viral Video Touting Free ‘Obama Phone’ puts spotlight on federal program, Fox News, September 29, 2012, <http://www.foxnews.com/politics/2012/09/28/viral-video-touting-obama-phone-puts-spotlight-on-16-billion-federal-program.html>.

one of the following federal or tribal assistance programs: Medicaid; Supplemental Nutrition Assistance Program (Food Stamps or SNAP); Supplemental Security Income; Federal Public Housing Assistance (Section 8); Bureau of Indian Affairs General Assistance; Tribally-Administered Temporary Assistance for Needy Families; Food Distribution Program on Indian Reservations; or Head Start (subject to income eligibility criteria).<sup>2</sup> Over the years, the Lifeline program has evolved from initially providing one landline telephone per household in need, to offering low-income, qualified subscribers a choice between a landline telephone, a wireless phone, or broadband internet service at a reduced cost (with a limit of one per household).

The USF is funded through fees on consumer telephone bills, and is used to support the following four programs: the Schools and Libraries program (also known as E-Rate); the High Cost program, which provides grants to build out telecommunications infrastructure in underserved or unserved areas of the country; the Rural Healthcare program, which provides telecommunications services, including broadband, to eligible health care providers; and, the Low-Income Support program, which includes Lifeline and Link-Up.

In October 2010, the Government Accountability Office (GAO) published a report on the Lifeline and Link-Up programs that showed a significant increase in demand for the program from 2008 to 2009, attributable in part to the increased availability of

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<sup>2</sup> “How Lifeline Works,” Lifeline Program Overview, Federal Communications Commission, viewed: July 31, 2017, <https://www.fcc.gov/consumers/guides/lifeline-support-affordable-communications>.

discounted wireless service for eligible individuals.<sup>3</sup> From 2005 to 2008, payments ranged from between \$802 million to \$823 million annually. However, in 2009, these payments increased to approximately \$1 billion.<sup>4</sup>

GAO also revealed multiple instances of fraud and abuse within the program. For example, some recipients were using Craigslist to advertise the sale of Lifeline-subsidized phones and service. In other instances, Lifeline beneficiaries violated the one phone line restriction of the program by signing up for service from multiple carriers. On June 29, 2011, the FCC published final rules to address the fraud and eligibility issues highlighted in the GAO report, by restricting eligible low-income consumers to one Lifeline-supported service at a time and ordering that any subscriber receiving multiple benefits in violation of the rule must be removed from the program.<sup>5</sup>

In remarks before Third Way on January 9, 2012, then-FCC Chairman Julius Genachowski laid out plans to close loopholes in the program's eligibility requirements and strengthen cost controls to further reduce the amount of waste, fraud and abuse.<sup>6</sup> He also suggested expanding the Lifeline program choices to include broadband services,

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<sup>3</sup> "Telecommunications: Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program," U.S. Government Accountability Office, GAO-11-11, October 28, 2010, <http://www.gao.gov/assets/320/312708.pdf>.

<sup>4</sup> Ibid.

<sup>5</sup> "Federal Communications Commission, Lifeline and Link-up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link-up, Final Rule," Federal Register, Volume 76, Number 125, Federal Communications Commission, June 29, 2011, <http://www.gpo.gov/fdsys/pkg/FR-2011-06-29/pdf/2011-16312.pdf>.

<sup>6</sup> "FCC Chairman Genachowski Addresses Smart, Responsible Government and Reforms to Modernize the Lifeline Program for Broadband," Remarks before Third Way, Washington, D.C., January 9, 2012, [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2012/db0109/DOC-311894A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0109/DOC-311894A1.pdf).



emphasizing that he believed the current service options were outdated by providing only telephone service.

On January 31, 2012, the FCC approved a report and order (“2012 Reform Order”) to reform and modernize the Lifeline and Linkup programs.<sup>7</sup> The rulemaking set a savings target of \$200 million for 2012; created the National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same subscriber; created an eligibility database; established a one-per-household rule applicable to all providers in the program; established clear goals and metrics to measure the program’s performance and effectiveness; phased out support for certain services, such as toll limitations; and, established a uniform, interim flat rate of reimbursement.

The FCC also began a pilot program for a broadband initiative and proposed transforming the USF High Cost program into the Connect America Fund. According to the FCC, by July 31, 2012, the reforms had generated \$43 million in savings, and were on track to save the USF fund a total of \$200 million by the end of December 2012.

However, despite the efforts made at the FCC to rein in fraud and abuse within the Lifeline program, some companies offering Lifeline phone services, known as Eligible Telecommunications Carriers (ETCs), found ways to skirt around the agency’s new verification system.

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<sup>7</sup> In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Lifeline and Link Up (WC Docket No. 03-109), Federal-State Joint Board on Universal Service (CC Docket No. 96-45), Advancing Broadband Availability Through Digital Literacy Training (WC Docket No. 12-23), Federal Communications Commission, Adopted January 31, 2012, Released February 6, 2012, [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-12-11A1\\_Rcd.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1_Rcd.pdf).

On February 11, 2013, *The Wall Street Journal* reported that government spending on the Lifeline program had reached \$2.2 billion despite the efforts to reduce costs through stronger enforcement measures.<sup>8</sup> The article showed “that a large number of those who received the phones haven’t proved they are eligible to receive them.”

Lack of accountability in the Lifeline program was described by Charles C.W. Cooke in a March 11, 2013 *National Review* article.<sup>9</sup> Cooke noted that in response to an inquiry by Senator Claire McCaskill (D-Mo.), the FCC confessed that in the 15 years the program had been operational, the agency had yet to build a database of subscribers that could have helped companies avoid adding duplicate recipients to the rolls.<sup>10</sup>

On November 1, 2013, the FCC proposed imposing \$33 million in penalties against three Lifeline providers for seeking duplicate payments for ineligible subscribers.<sup>11</sup>

On February 13, 2015, FCC Commissioner Michael O’Rielly recommended further reforms of the Lifeline program, including a budget with a cap on spending.<sup>12</sup> Noting that GAO’s 2010 report also highlighted the lack of a budget cap, Commissioner O’Rielly concluded, “setting a ceiling on reimbursements is a prudent step to protect

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<sup>8</sup> Spencer E. Ante, “Millions Improperly Claimed U.S. Phone Subsidies,” *The Wall Street Journal*, February 11, 2013, <https://www.wsj.com/news/articles/SB10001424127887323511804578296001368122888>.

<sup>9</sup> Charles C.W. Cooke, “Life, Liberty, and a Free Phone,” *National Review*, March 11, 2013, <https://www.nationalreview.com/magazine/2013-02-19-2300/life-liberty-and-free-phone>.

<sup>10</sup> Ibid.

<sup>11</sup> “FCC Proposes Nearly \$33 Million in Penalties Against Lifeline Providers That Sought Duplicate Payments for Ineligible Subscribers,” Federal Communications Commission, Press Release, November 1, 2013, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-323852A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-323852A1.pdf).

<sup>12</sup> Michael O’Rielly, Commissioner, “Sound Principles for Lifeline Reform,” Federal Communications Commission, February 13, 2015, <https://www.fcc.gov/news-events/blog/2015/02/13/sound-principles-lifeline-reform>.

ratepayers. Dollars lost to fraud may be returned to the federal government, but not to ratepayers who have already footed the bill.” He also recommended maintaining the existing reimbursement rate for broadband; limiting services eligible for support; prohibiting double dipping; improving the targeting of funding to those who really need it, tightening eligibility requirements; requiring a minimum contribution from beneficiaries; making carrier participation voluntary; implementing automatic safeguards against abuse; and, requiring document retention by providers to reduce abuse and fraud.<sup>13</sup>

On March 24, 2015, GAO released another report finding that many of the FCC’s 2012 reforms were not working, and the agency needed to do more to address deficiencies within the Lifeline program.<sup>14</sup> GAO found that at its peak in 2012, the Lifeline program served about 18 million households following the introduction of prepaid wireless phone service. Following the 2012 Reform Order, that number was reduced to approximately 12 million households and disbursements in the program declined from \$2.2 billion in 2012 to \$1.7 billion in 2014 due to the elimination of many ineligible households. However, GAO determined that the FCC lacked an evaluation plan for the data it had gathered from its Lifeline broadband pilot program, and recommended the agency “conduct a program evaluation prior to determine the extent to which the Lifeline program is efficiently and effectively reaching its performance goals

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<sup>13</sup> Ibid.

<sup>14</sup> “Telecommunications: FCC Should Evaluate the Efficiency and Effectiveness of the Lifeline Program,” U.S. Government Accountability Office, GAO-15-335, March 24, 2015, <http://www.gao.gov/assets/670/669209.pdf>.

of ensuring the availability of voice service for low-income Americans while minimizing the contribution burden on consumers and businesses.”<sup>15</sup>

On June 12, 2015, a *Consumer Reports* (CR) exposé revealed how easy it was to get around the restrictions imposed in the 2012 reforms.<sup>16</sup> CR investigators in Oklahoma and Indiana found that in some cases Lifeline plans were registered with forged signatures, assigned to vacant homes, or given to individuals with fake credentials. In Colorado, the CR investigators and a Denver news team found that salesmen “routinely accepted fake food stamp cards, including one with ‘training card’ on it and another clearly printed from an internet file.”<sup>17</sup> While the FCC continued to fine carriers and vendors (more than \$96 million by the time the CR report was filed), the violations continued.

On March 3, 2016, as the FCC considered further expansion of the Lifeline program, Commissioner O’Rielly again called on the agency to put Lifeline on a strict budget to halt its runaway spending to allow for proper alignment with other USF programs, and limit its costs to consumers.<sup>18</sup> Otherwise, Commissioner O’Rielly noted, “the FCC is preparing to expand the size and scope of the Lifeline Program without the necessary inclusion of a hard budget or financial constraints.”<sup>19</sup>

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<sup>15</sup> Ibid.

<sup>16</sup> Chris Raymond, “FCC Lifeline Program has a Problem: This subsidized phone program for low-income Americans struggles with abuse,” *Consumer Reports*, June 12, 2015, <https://www.consumerreports.org/cro/news/2015/06/fcc-lifeline-program-problems/index.htm>.

<sup>17</sup> Ibid.

<sup>18</sup> Michael O’Rielly, Commissioner, “Lifeline Reform: Add a Hard Budget,” Federal Communications Commission, March 3, 2016, <https://www.fcc.gov/news-events/blog/2016/03/03/lifeline-reform-add-hard-budget>.

<sup>19</sup> Ibid.

Despite Commissioner O’Rielly’s entreaties, on March 31, 2016, the FCC adopted another expansion of the Lifeline program by adding subsidized broadband internet service at the amount of \$9.25 per month per eligible household, and increased the annual budget for Lifeline from \$1.75 billion to \$2.25 billion, without a spending limit or cap.<sup>20</sup> The decision also stripped the ability of states to designate ETCs to administer the USF, and gave that responsibility to the FCC. This provision runs contrary to Section 214 of the Communications Act of 1934, which gave that authority to the states. The FCC also established a National Verifier System to assist in ensuring that only qualified households can participate in the Lifeline program.

In statements prior to the March 31 meeting, Commissioner O’Rielly noted that an expansion of the Lifeline program to broadband internet would cost \$750 million.<sup>21</sup> Commissioner Ajit Pai stated, “It’s telling that the agency is already spending money in anticipation of getting a greater amount of revenue from the Universal Service Fund ... That money is already being spent, and it has to come from somewhere. I would respectfully submit to you that ultimately, it’s going to be in the form of a broadband tax.”<sup>22</sup>

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<sup>20</sup> Third Report and Order, Further Report and Order, and Order on Reconsideration, In the Matter of Lifeline and Link Up Reform and Modernization (WC Docket No. 11-42), Telecommunications Carriers Eligible for Universal Service Support (WC Docket No. 09-197), and Connect America Fund (WC Docket No. 10-90), Adopted March 31, 2016, Released April 27, 2016, Federal Communications Commission, [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-38A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf).

<sup>21</sup> “Statement of Commissioner Michael O’Rielly on Circulation of Lifeline Expansion Order,” Federal Communications Commission, March 8, 2016, [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2016/db0308/DOC-338130A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0308/DOC-338130A1.pdf).

<sup>22</sup> Rudy Takala, “FCC Commissioner: Expect a Broadband Internet Tax,” *The Washington Examiner*, March 2, 2016, <http://www.washingtonexaminer.com/fcc-commissioner-expect-a-broadband-internet-tax/article/2584747>.

On April 7, 2016, the FCC announced it would impose a fine of more than \$51 million on Total Call Mobile for overbilling the Lifeline program.<sup>23</sup> According to the FCC, Total Call Mobile had enrolled tens of thousands of duplicate and ineligible customers onto the Lifeline program, with 99.8 percent of Total Call Mobile’s enrollment during the fourth quarter of 2014 overriding the NLAD third-party verification system designed to catch duplicate enrollments. Ultimately, Total Call Mobile resolved the enforcement action by settling on a fine of \$30 million, after admitting its field agents engaged in “fraudulent practices,” and the company lost its authorization to participate in the Lifeline program anywhere in the United States.<sup>24</sup>

Following the verification issues raised by the Total Call Mobile enforcement action, Commissioner Pai contacted the four states that do not utilize the NLAD verification program – California,<sup>25</sup> Oregon,<sup>26</sup> Texas,<sup>27</sup> and Vermont<sup>28</sup> – to ask them to review their own processes to prevent fraud.

On May 30, 2017, the GAO released its most recent report to Congress on Lifeline’s verification system, detailing the continued need for reform and accountability

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<sup>23</sup> “FCC Charges Total Call Mobile with Overbilling the Lifeline Program, Plans \$51 million Fine,” Federal Communications Commission, April 7, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-338774A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-338774A1.pdf).

<sup>24</sup> “Total Call Mobile to Pay \$30 Million and End Lifeline Participation to Settle Fraud Investigations,” Federal Communications Commission, December 22, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-342666A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-342666A1.pdf).

<sup>25</sup> Letter from Federal Communications Commissioner Ajit Pai to Mr. Michael Picker, President, California Public Utilities Commission, July 5, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-340181A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf).

<sup>26</sup> Letter from Federal Communications Commissioner Ajit Pai to Ms. Lisa Hardie, Chair, Public Utility Commission of Oregon, July 5, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-340182A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-340182A1.pdf).

<sup>27</sup> Letter from Federal Communications Commissioner Ajit Pai to Ms. Donna L. Nelson, Chairman, Public Utility Commission of Texas, July 5, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-340181A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-340181A1.pdf).

<sup>28</sup> Letter from Federal Communications Commissioner Ajit Pai to Mr. Christopher Recchia, Commissioner of the Vermont Public Service Department, July 5, 2016, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-340180A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-340180A1.pdf).

within the Lifeline program.<sup>29</sup> GAO found that the NLAD system, created in 2012, is susceptible to risk of fraud, waste, and abuse, as companies have an incentive to enroll as many subscribers under the program as possible. GAO was unable to confirm 1.2 million individuals of the 3.5 million it reviewed, or 36 percent of the enrollees. As noted in a June 29, 2017 *Washington Post* article, “It is unclear how many ineligible subscribers may be in the remaining pool of 8.9 million subscribers GAO did not study.”<sup>30</sup>

CAGW is concerned about the inability of the USAC to coordinate its database with the Social Security Death Master File, and other efforts to reduce vulnerabilities within the system to combat improper payments. GAO noted that the USAC currently uses a “pay-and-chase” model of oversight to check for any noncompliance or improper payments, rather than verifying eligibility for the program at the front end. Without verifying eligibility at the front end, further fraud and abuse of the program will continue.

CAGW supports GAO’s recommendation that the USAC conform with GAO’s Framework for Managing Fraud Risks in Federal Programs by conducting data matching to “verify key information, including self-reporting data and information necessary to determine eligibility, prior to enrollment to avoid the ‘pay-and-chase’ approach to risk management, which is typically a less cost-effective use of resources.”<sup>31</sup> GAO also noted that states play a role in helping to verify eligibility, however, information sharing

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<sup>29</sup> “Telecommunications: Additional Action Needed to Address Significant Risks in FCC’s Lifeline Program,” U.S. Government Accountability Office, GAO-17-538, May 30, 2017, <http://www.gao.gov/assets/690/684974.pdf>.

<sup>30</sup> Brian Fung, “This low-cost phone and Internet program wastes millions in federal funding, auditors say,” *The Washington Post*, June 29, 2017, [https://www.washingtonpost.com/news/the-switch/wp/2017/06/29/critics-say-this-low-cost-phone-and-internet-program-is-riddled-with-waste-and-abuse-theyre-right/?utm\\_term=.17e3a76b9e30](https://www.washingtonpost.com/news/the-switch/wp/2017/06/29/critics-say-this-low-cost-phone-and-internet-program-is-riddled-with-waste-and-abuse-theyre-right/?utm_term=.17e3a76b9e30).

<sup>31</sup> GAO-17-538, p. 25.

between the states and the federal government will require data-sharing agreements to enable an automated eligibility confirmation process, which may be prohibited by some state privacy laws.<sup>32</sup>

On July 11, 2017, FCC Chairman Pai wrote to the USAC ordering it to take action to address the myriad of problems found in the GAO report, his own investigations, and those of the FCC Office of Inspector General. He called upon the USAC to address the deficiencies in the NLAD system; identify and refer oversubscribed addresses to NLAD; identify and ask eligible telecommunications carriers with unexplained discrepancies in subscribers to take action to remediate the issues; check the Social Security Death Master File each quarter to avoid recertifying individuals into the program who have passed away, and recover Lifeline payments associated with those deceased subscribers; identify and remediate new exact duplicate subscriber entries; and, create a registration of sales agents to help reduce fraudulent activities, such as inappropriate data manipulation.<sup>33</sup>

Continued fraud and abuse within the Lifeline program has continued despite efforts to reform the verification process in 2012 and again in 2015. If Congress intends for the Lifeline program to continue and be sustainable in the future, CAGW strongly recommends that the USAC be required to implement a front end verification process,

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<sup>32</sup> Ibid, p. 26.

<sup>33</sup> Letter from Federal Communications Commission Chairman Ajit Pai to Ms. Vickie Robinson, Acting Chief Executive Officer and General Counsel, Universal Service Administrative Company regarding his findings from his internal investigations, the FCC's Office of Inspector General Findings and the recent GAO report on waste, fraud, and abuse within the Lifeline Program, Federal Communications Commission, July 11, 2017, [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db0711/DOC-345729A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0711/DOC-345729A1.pdf).



and the FCC engage in more stringent enforcement actions against companies that actively register ineligible or duplicate recipients into the program, and skirt around the verification process.

I appreciate the committee's review of the Lifeline program, and hope that my testimony will help eliminate waste, fraud, and abuse.

Again, thank you for the opportunity to testify.