Before the

Federal Communications Commission

Washington, D.C. 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

Comments of AARP

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Introduction and Summary

The *2017 NPRM*[1] indicates that the Commission will take a "fresh look at how the Universal Service Fund's . . . Lifeline program can effectively and efficiently help close the digital divide for low-income consumers."[2] The *2017 NPRM* then identifies efforts in three areas: (1) directing Lifeline funds "to the areas where they are most needed, to encourage investment"; (2) clarifying and streamlining rules to deliver increased certainty to service providers and consumers; and (3) curbing "waste, fraud, and abuse."[3] The *2017 NPRM* indicates that the culmination of actions in these three areas will "help low-income families access the Internet so they may take full advantage of the educational, employment, civic, social, and other benefits broadband offers."[4] AARP is certainly in agreement with the goals set out in the *2017 NPRM's* opening paragraph. However, the proposals advanced in the *2017 NPRM* are at odds with the objectives of "supporting affordable voice telephony and high-speed broadband for low-income households."[5] Rather, the *2017 NPRM* will reduce the ability of low-income households to access the critical telecommunications services that are essential to the everyday lives of all Americans.

AARP is deeply disappointed by the apparent direction of the Lifeline policy that is evident in the *2017 NPRM.* Rather than pursuing policies and programs that have the potential to level the

[1] *In the Matter of Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*. WC Docket No. 17-287, WC Docket No. 11-42, WC Docket No. 09-197. Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice Of Inquiry. December 1, 2017. Hereinafter, to economize on notation, all references to either the NPRM or the NOI will be to "*2017 NPRM*".
[2] *2017 NPRM*, ¶1.
[3] *Id.*
[4] *Id.*
[5] *Id.*

playing field, thus enabling social mobility that will at least allow some consumers the opportunity to move out of poverty, the *2017 NPRM* describes a program that will result in reduced support and a growing digital divide. As will be discussed in detail below, AARP strongly urges the Commission to reject the unreasonable proposals contained in the *2017 NPRM*. Before making the proposed restrictive changes that will directly impact low-income participants in the existing Lifeline program, many of which appear to be motivated by concerns associated with "waste, fraud, and abuse,"[6] the Commission should fully implement the National Verifier program, which is slated to be completed by 2019.[7]

AARP offers the following recommendations in light of the questions and proposals raised in the *2017 NPRM:*

- The *2017 NPRM* does not address the fundamental problem of the contribution base that supports the Lifeline program. Continuing reliance on assessments from voice services alone limits the ability of the Lifeline program to adequately support the expanded set of services now covered by Lifeline. Continued reliance on voice-only assessments also unfairly burdens consumers who purchase voice services, and older Americans are observed to purchase more voice services than other age groups.
- The *2017 NPRM* does not address the foundational issues of consumer education and access to equipment that are necessary to encourage adoption of broadband services by low-income individuals and families. The continued focus on smartphone-only access limits the ability of households to share Internet connections, and does little to address the "homework gap."
- The *2017 NPRM's* proposal to eliminate resellers from the program will harm competition and disadvantage consumers. Competition among facilities-based Lifeline providers is limited, as not all facilities-based Lifeline providers operate in all states. As the *2017 NPRM's* reseller ban appears to be motivated by concerns associated with waste, fraud, and abuse, implementation of the National Verifier will provide a superior

[6] *2017 NPRM*, ¶1.
[7] AARP supports the proposals appearing in ¶¶90-94 that directly address "waste, fraud, and abuse" as perpetrated by Eligible Telecommunications Providers.

method to ensure the proper use of funds—eliminating resellers is not a reasonable solution.

- The *2017 NPRM* also indicates that investment will be encouraged if resellers are banned from participation in the Lifeline program. Elimination of resellers is unlikely to result in expanded investment. Resellers buy capacity from facilities-based providers, and thus are already encouraging investment. If resellers are banned, the reduction in reseller demand for capacity (and the reduction in competition) is unlikely to spur additional investment.
- The *2017 NPRM* indicates that continued support for voice services may be appropriate in rural areas, due to higher prices for voice in these areas. AARP agrees with this assessment, however, support for voice services in all areas of the nation continues to be appropriate. Voice services provide critical communication capability, and evidence indicates that low-income consumers find voice service prices to be unaffordable. AARP strongly urges the Commission to suspend the phase-out of support for voice services.
- AARP is opposed to TracFone's proposal to combine voice and data usage into a single set of "units." Customer confusion and increased costs to consumers are more likely with a "unit" approach.
- AARP is opposed to the *2017 NPRM's* proposal to suspend "equipment requirements" that mandate that devices provided as part of the Lifeline program be Wi-Fi enabled, free of tethering charges, and capable of delivering a "hotspot." These requirements encourage the sharing of Internet access, and consumers' ability to economize on the use of data allowances. Elimination of these requirements will encourage abusive practices by service providers.
- The *2017 NPRM* proposes to require copayments by Lifeline users. AARP does not believe that copayments are a reasonable policy. Evidence indicates that the introduction of mandatory copayments reduces participation in programs designed to benefit low-income individuals.
- AARP is strongly opposed to the *2017 NPRM's* proposal to cap the size of the Lifeline program through a "self-enforcing budget." This proposal would reduce the effectiveness of the program, and be highly disruptive to consumers who utilize the Lifeline program.
- The *2017 NPRM* proposes to eliminate the 12-month port freeze that is currently associated with broadband Lifeline plans. AARP believes that it is reasonable to implement a 60-day port freeze, and for the Commission to later reevaluate the impact of the change on Lifeline offerings.
- The *2017 NPRM* proposes to limit benefits, so that low-income households face the potential suspension of benefits, once the limitation period is reached. AARP is

strongly opposed to this proposal as it ignores the plight of the elderly and disabled who are dependent on Lifeline benefits. The *2017 NPRM* appears to envision a world where all low-income individuals can move into the workforce and earn incomes sufficient to support the purchase of unsubsidized voice and broadband services. For the elderly and disabled, such a vision is unreasonable.

- The *2017 NPRM* raises questions regarding the role of the Lifeline program to remedy problems with infrastructure investment in rural and tribal areas, and in urban areas that are subject to technology "redlining." AARP agrees that these are significant problems, but it is not clear how they can be solved through the Lifeline program, especially given the limited budget, and the narrowly targeted contribution base. Expansion of the contribution base could enable support for increased investment in the areas identified in the *2017 NPRM*. However, the Commission should immediately investigate broadband ISP practices that result in technology redlining in low-income areas.

At Current Funding Levels, Low-Income Households are being Left Behind

Consumers pay a substantial portion of their incomes for both the voice and broadband services that are essential for full realization of the "educational, employment, civic, social, and other benefits broadband offers."[8] The Bureau of Labor Statistics (BLS) reports that the average household expenditure for telephone services (wireless and landline) was $1,398 per year in 2016.[9] For broadband services, the 2018 *Urban Rate Survey* shows that for 25 Mbps service, the average charge is about $75 per month.[10] However, even for lower-speed broadband service offerings (such as 3-5 Mbps), the average charge is $50 per month.[11] Thus, a household that purchases the "BLS average" of telephone services, and a low-end broadband plan can expect to

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[8] *2017 NPRM*, ¶1.
[9] Table 1300. Age of reference person: Annual expenditure means, shares, standard errors, and coefficient of variation, Consumer Expenditure Survey, 3rd quarter 2015 through 2nd quarter 2016. https://www.bls.gov/cex/22016/midyear/age.pdf
[10] Urban Rate Survey, download speed of 25 Mbps (all upload speeds). https://www.fcc.gov/general/urban-rate-survey-data-resources
[11] Urban Rate Survey, *id*. Filtered for 3-5 Mbps offerings (all upload speeds).

pay a total of about $167 per month for those services.[12] This is a far cry from the level of telecommunications spending when the Lifeline program was founded in 1985. At that time the Bureau of Labor Statistics estimated annual telephone expenditures of $36 per month (of course, broadband and wireless mobility services did not exist at that time).[13] Lifeline has made getting a telephone and paying for monthly service more affordable for millions of low-income people throughout the U.S. The program has had a positive impact on the lives of many low-income households, enabling them to access healthcare providers, employers, and friends and family.[14] However, even with the Lifeline program, a substantial digital divide has developed, with lower income households much less likely to have essential telecommunications services. Table 1 presents data from a 2017 Pew Research study.[15]

Table 1: Technology adoption and income (2017)			
	Percent of U.S. adults with the technology at each income level.		
Technology	**Less than $30,000**	**$30,000-$99,000**	**$100,000+**
Smartphone	64%	81%	95%
Home Broadband	53%	80%	94%
Desktop or Laptop	56%	87%	97%
Tablet Computer	32%	55%	72%
All Technologies	17%	43%	66%

[12] That is, the BLS average annual expenditure for telephone service ($1,398/12) plus $50 equals $166.50.
[13] See, "The Industry Analysis Division's Reference Book of Rates Price Indices and Expenditures for Telephone Service." Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, July 1998, Table 3.1. https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/ref98.pdf
[14] *2017 NPRM*, ¶1, Lifeline helps "low-income families access the Internet so they may take full advantage of the educational, employment, civic, social, and other benefits broadband offers."
[15] Pew Research Center, "Lower-income Americans continue to lag behind in technology adoption." March 21, 2017. http://www.pewresearch.org/fact-tank/2017/03/22/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/ft_17-03-21_low-incometech_adoption/

The data shown in Table 1 shows dramatic differences in technology adoption in the three income groups. Given the transformative impact that both fixed and mobile broadband services have on the ability of individuals to seek and retain employment, to access news and information, to receive medical treatment, to engage in educational activities, and to connect with family and friends, the gap in technology adoption is a significant concern. The statutory directive for this Commission[16] mandates that the Commission take action to correct the observed deficiencies.

AARP has previously advised the Commission to expand the Lifeline program to level the playing field for low-income individuals.[17] "Advanced" telecommunications services like broadband are now commonplace, and have been integrated into the fabric of economic and social relationships. Education, medical care, access to government services, job search, and commercial activities have all been enhanced and expanded by broadband networks, and the absence of high-quality and affordable broadband threatens to further divide us into a nation of "haves" and "have-nots." While broadband has transformed telecommunications technology, traditional services, such as voice communications, continue to be highly valued by consumers, and for those who can afford it, voice and broadband are consumed in a complementary fashion. Certainly, low-income consumers deserve access to the opportunities that are provided by both voice and broadband services.

[16] "[T]o make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges," 47 U.S.C. 151, Sec. 1.
[17] See, AARP Comments *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90, August 31, 2015.

It is also important to note that older Americans are likely to be overrepresented among those who can benefit from Commission efforts to close the growing income-based digital divide. A large number of older adults are poor. 2015 data from the Kaiser Family Foundation, the most recent available, indicates that 45 percent of older adults have incomes below 200 percent of the federal poverty guideline.[18] Use of advanced technologies by households aged 65+ is growing, but still lagging younger demographics. However, income levels have a profound impact on technology adoption by older households. Table 2 summarizes 2017 data from the Pew Research Center on income and technology usage for older households.[19]

Table 2: Pew Research: 65+ households and technology usage, 2017.		
Percent 65+ households going online; with broadband at home		
Income Group	Percent Online	Percent with Broadband at Home
$75,000 and above	94	87
Less than $30,000	46	27
Percent 65+ households using mobility services; smartphones		
Income Group	Mobility Services	Smartphone
$75,000 and above	97	81
Less than $30,000	73	27

[18] Juliette Cubanski, Giselle Casillas, and Anthony Damico, "Poverty Among Seniors: An Updated Analysis of National and State Level Poverty Rates Under the Official and Supplemental Poverty Measures." The Henry J. Kaiser Family Foundation, Jun 10, 2015. http://kff.org/medicare/issue-brief/poverty-among-seniors-an-updated-analysis-of-national-and-state-level-poverty-rates-under-the-official-and-supplemental-poverty-measures/
[19] Pew Research Center, "Technology use among seniors," Monica Anderson and Andrew Perrin, May 17, 2017. http://www.pewinternet.org/2017/05/17/technology-use-among-seniors/

The data shown in Tables 1 and 2 support the proposition that the cost of these important telecommunications services has a significant impact on the choices that seniors and other low-income individuals make regarding telecommunications services other than basic wireline voice service.[20]

The Contribution Base must be Expanded

The Lifeline program was originally established in 1985 to ensure that low-income consumers had access to affordable telephone service following the divestiture of AT&T.[21] Thus, the Lifeline program was founded when telephone service meant having a wireline telephone. Over time, the Lifeline program was transitioned from a wireline-only program to one that supports both wireless and wireline voice communications.[22] As technology evolved, the Commission further expanded the reach of Lifeline services by introducing support for broadband services in 2016.[23] Thus, as telecommunications technology has advanced, consumers have expanded their use of new technologies like mobility services and broadband, and the Commission has followed with modifications to the Lifeline program that reflect the evolving use of these technologies. However, while aspiring to expand support for more services, the Lifeline program continues to

[20] According to data from the National Health Interview Survey, over 82 percent of adults aged 65 and above reside in a household with wireline telephone service. See, Stephen J. Blumberg, Ph.D., and Julian V. Luke, "Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July–December 2014," Division of Health Interview Statistics, National Center for Health Statistics, June 2015. http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201506.pdf

[21] See, *MTS and WATS Market Structure, and Amendment of Parts 67 & 69 of the Commission's Rules and Establishment of a Joint Board*, Report and Order, 50 Fed. Reg. 939 (Jan. 8, 1985).

[22] See, *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8952, paras. 326-28 (1997).

[23] See, *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*. WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90. Third Report and Order, Further Report and Order, and Order on Reconsideration, April 27, 2016.

be mired in a backward-looking and inequitable funding mechanism that limits the potential for the success of the program.

While there have been dramatic changes in technology, and an expanded set of services that need support to ensure that universal service objectives are fulfilled, the contribution base continues to assess only voice services. Not only does this approach limit the potential for delivering solutions to the growing digital divide, but it also unfairly burdens consumers who purchase voice services. AARP believes that it is important for the Commission to appreciate the current contribution profile of older Americans. Because both wireline and wireless voice services are currently assessed services, older Americans are likely to shoulder a disproportionate share of universal service support under the current regime. According to the most recent data from the National Health Interview Survey, older Americans purchase fixed and mobile voice services at higher rates than their younger counterparts. Among those households headed by individuals in the 50+ age group, 51.6% purchase both wireless and wireline voice services. For the age groups below 50+, only 22.8% purchase both wireline and wireless voice.[24]

While AARP appreciates the potential controversy associated with the assessment of broadband services for Universal Service purposes, AARP believes that the Commission must now address the assessment of broadband revenues to support Universal Service objectives. Broadband is no longer an infant industry that might be harmed by a modest contribution to support universal service objectives. Furthermore, in the not too distant future it is likely that all

[24] Subscription statistics based on microdata from the 2016 National Health Interview Survey. https://www.cdc.gov/nchs/nhis/data-questionnaires-documentation.htm

telecommunications services will ride over-the-top of broadband connections. In such a setting, relying on contributions from voice services alone may not be feasible.

The economics of assessment are straightforward. Previously, the State Members of the Joint Board have recommended that both telecommunications and information services be assessed,[25] specifically noting that if most of the revenues reported on FCC Form 499, line 418, were assessed, the result would be a contribution factor of about two percent.[26] Because demand for broadband is inelastic, the assessment of broadband for universal service support purposes will not result in a substantial negative impact on broadband subscription.[27] AARP believes that expanding the contribution base to include broadband services will open the door for expanded support, and also have the potential to result in a smaller contribution from each assessed service.

In conclusion, the time is ripe for the assessment of broadband services. The Lifeline program will benefit from an expanded contribution base. For example, a $0.50 per month assessment on all current broadband connections would generate over $2.2 billion per year in additional

[25] This Joint Board recommendation was made prior to the Commission's 2015 reclassification of broadband as a telecommunications service.

[26] Comments by State Members of the Federal State Joint Board on Universal Service, In the Matters of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, May 2, 2011, p. 120. http://www.in.gov/iurc/files/11_0502_USF_State_JB_Member_Comments_10_90_fin_%282%29.pdf

[27] Researchers studying OECD data find short-run price elasticity for broadband Internet access of -0.43. See, "Price and Income Elasticity of Demand for Broadband Subscriptions: A Cross-Sectional Model of OECD Countries," Richard Cadman and Chris Dineen, February 2008. http://spcnetwork.eu/uploads/Broadband_Price_Elasticity.pdf This value is similar in magnitude to earlier work done by Rappaport, Taylor, and Kridel, who found elasticity for cable-based broadband to be inelastic across most price ranges. See, "Willingness to Pay and the Demand for Broadband Service," Paul Rappoport, Lestor D. Taylor, and Donald J. Kridel. Mimeo, 2002. http://www.economics.smu.edu.sg/events/Paper/Rappoport_3.pdf
Given the -0.43 elasticity estimate discussed above, an assessment of 2% might dampen demand for broadband by about 0.86%.

support, which would create a sustainable financial foundation for the broadband Lifeline program.[28]

Lifeline, Resellers, and "Investment"

One of the stated priorities of the *2017 NPRM* is to address "waste, fraud, and abuse."[29] While the *2017 NPRM* does address the transition to the National Verifier (looking for ways to expedite that process), the *2017 NPRM* otherwise proposes dramatic revisions to the nature of Lifeline service that purport to address problems that the National Verifier will shortly solve. Specifically, the *2017 NPRM* proposes to substantially modify the methods through which Lifeline service is delivered to consumers.[30] The overwhelming majority of Lifeline customers (nearly 70%) are today served through wireless resellers.[31] The *2017 NPRM* proposes to eliminate all support for resale-based Lifeline providers. If implemented, this change would dramatically alter the current marketplace, and dramatically reduce consumer choice. Many facilities-based wireless providers do not provide lifeline service on a nationwide basis.[32] The only facilities-based carrier believed to be offering Lifeline service on a nationwide basis is Sprint. The dramatic reduction in choice will harm consumers.

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[28] According to the most recent FCC report on broadband subscription, there are about 370 million broadband connections in the U.S. See, Federal Communications Commission, "Internet Access Services: Status as of June 30, 2016", Industry Analysis and Technology Division, Wireline Competition Bureau, April 2017, Figure 1. https://apps.fcc.gov/edocs_public/attachmatch/DOC-344499A1.pdf
[29] *2017 NPRM*. ¶83.
[30] *2017 NPRM*, ¶65.
[31] TracFone *ex parte*, November 2017, p. 4.
[32] For example, AT&T Wireless provides Lifeline service in 13 states and Puerto Rico (https://www.att.com/esupport/article.html#!/wireless/KM1008768); T-Mobile provides Lifeline service in 9 states and Puerto Rico (https://www.t-mobile.com/Promotions/ResourceTemplate.aspx?PAsset=Pro_Pro_Lifeline); Verizon Wireless provides Lifeline service in 3 states (https://www.verizonwireless.com/solutions-and-services/lifeline/); US Cellular provides Lifeline service in 15 states (https://www.uscellular.com/plans/lifeline/qualifications.html).

While there have been significant problems in the past regarding wireless resellers engaging in fraudulent activities, recent Commission actions have resulted in significant reductions in these problems.[33] The level of annual Lifeline distributions has fallen by about $1 billion between 2012 and 2017. The Government Accountability Office (GAO) has concluded that the new mechanisms have had a positive impact on blocking fraudulent Eligible Telecommunications Carrier (ETC) applications for support (the GAO, while calling for further measures to control fraud, also concluded that the introduction of the National Verifier, which is scheduled to be completed by 2019, is another step in the right direction).[34]

Given the substantial improvements in program controls that are expected through the implementation of the National Verifier, it is not clear how a flat ban on the participation of wireless resellers will deliver benefits that exceed the costs. Consumers will face a substantial reduction in competitive choice, and will also face the prospect of service disruption.

Reduced Resale Competition Will Discourage Investment

The *2017 NPRM* states that the elimination of support for wireless resellers will promote "investment in broadband-capable networks."[35] It is not reasonable to expect expanded investment if wireless resellers are excluded from supplying the Lifeline program. Resellers buy capacity from facilities-based providers, and the increased demand from resellers thus encourages investment by facilities-based providers. Resellers expand sales efforts to target niche markets (such as low-income consumers), thus encouraging expanded consumption of

[33] Rather than pointing to the improvements that have been achieved, the *2017 NPRM* emphasizes problems that followed the approval of resellers in 2009. *2017 NPRM*, ¶68.
[34] See for example, Government Accountability Office, "Additional Action Needed to Address Significant Risks in FCC's Lifeline Program," May 2017, pp. 20, 35-36.
[35] *2017 NPRM*, ¶65.

telecommunications services (and likewise encouraging investment to meet that demand). As noted in a recent industry analysis:

> Traditionally, the relationship between resellers and network operators has been mutually beneficial. Resellers' serviced micro-niche markets, like small and medium-sized businesses, expats, tourists and price-sensitive consumers, while network operators improved efficiency by wholesaling excess network capacity. Resellers were cost-effective bulk distributors of their suppliers' own services.[36]

However, this same industry analyst notes that changing industry dynamics has led to facilities-based carriers repositioning themselves to serve niche markets that had previously been targeted by resellers:

> However, with network operators increasing their subscriber bases, economies of scale allowed them to decrease the cost of providing wireless phone services for both local and long distance calling. In addition, as more people acquired mobile phones, the market became saturated and subscriber growth slowed. For network operators to maximize profit, they have started to target markets that were typically serviced by industry resellers, such as price-sensitive consumers. Currently, AT&T, Verizon, Sprint and T-Mobile all offer monthly talk, text and data packages that directly compete with MVNOs' services and pricing, and have also recently acquired MVNOs.[37]

Thus, the *2017 NPRM's* proposal to eliminate resellers would reduce competition that facilities-based carriers face, advantaging facilities-based carriers, and disadvantaging consumers. The Commission should not implement policies that reduce competition, especially in light of the impending improvement in Lifeline controls that the National Verifier will introduce. The harm to low-income consumers will be significant. Facilities-based carriers do not provide Lifeline services in all states, thus leaving low-income consumers with fewer choices, and likely higher

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[36] Jonathan Hadad. "Better signal: Revenue will grow as price-sensitive consumers look to resellers for less costly options." IBISWorld Industry Report 51791a, Telecommunications Resellers in the US. December 2017. http://clients1.ibisworld.com/reports/us/industry/default.aspx?entid=1270

[37] Jonathan Hadad. "Better signal: Revenue will grow as price-sensitive consumers look to resellers for less costly options." IBISWorld Industry Report 51791a, Telecommunications Resellers in the US. December 2017. http://clients1.ibisworld.com/reports/us/industry/default.aspx?entid=1270

prices. In those states where facilities-based carriers do provide service, the outcome is similar—fewer choices and potentially higher prices.[38]

In summary, the flat ban on reseller offerings of Lifeline service would hand a market victory to facilities-based carriers by reducing the competition they currently face from resellers. This will likely harm large numbers of low-income consumers by disrupting service availability, and reducing consumer choice and competition. If the FCC is interested in promoting investment, it should pursue those efforts directly through universal service programs that encourage investment, especially in areas where there are high numbers of low-income consumers. The ban on resellers proposed by the *2017 NPRM* will not achieve the stated objectives of increased investment.

Support for Voice Services Should be Maintained

The *2016 Lifeline Order* launched a phase-out of support for voice services, which is scheduled to be completed by December 1, 2021. AARP has previously stressed the importance of the availability of voice services,[39] and AARP continues to believe that phasing out support for Lifeline voice services is a bad idea. Voice services provide critical communication functions to consumers, but lower income households are observed to purchase fewer voice services, indicating issues with affordability. Access to employment resources, healthcare, and emergency services are all promoted by voice services, and older Americans are more likely to be users of

[38] The *2017 NPRM* elsewhere eliminates "premium Wi-Fi" plans from receiving Lifeline support (*2017 NPRM*, ¶49). These "premium Wi-Fi" plans enabled consumers to get enhanced Internet access at Wi-Fi hotspots outside of the home. It is not clear how the elimination of "premium Wi-Fi" will encourage investment by any service provider.
[39] AARP comments in WC Docket No. 11-42, August 31, 2015, p. 4 and *passim.*

(and to be dependent upon) voice services. The *2017 NPRM* offers no rationale as to why voice services will not deserve continued support.

The *2017 NPRM* concludes that in urban areas, low-income consumers will have no trouble affording stand-alone voice services, which the *2017 NPRM* indicates are available at "affordable" rates. Specifically, the *2017 NPRM* states that data from the most recent *Urban Rate Survey*, shows that the monthly rate for fixed wireline voice-only service is "$25.50."[40] This figure, however, ignores the federal Subscriber Line Charge, and other taxes and fees. The *Urban Rate Survey* shows that the average rate including SLC is $30.93.[41] This is not a trivial expenditure for low-income households, and 2016 data show that low income households do not find fixed wireline voice services to be affordable. The most recent microdata from the National Health Interview Survey shows that for households at 1.5 times the poverty line and below, only 33.3% have a wireline telephone. For those above 1.5 times the poverty line and above, 47.5% have a wireline telephone.[42] This data suggests that low-income households have difficulty affording wireline telephone service, even with the existence of the current Lifeline subsidy, and the allegedly "affordable" rates identified by the *2017 NPRM*.

The *2017 NPRM* also points to the 2016 *Universal Service Monitoring Report* to bolster its claims that the low percentage of expenditures (relative to household income) indicate that low-income households find urban rates to be affordable.[43] However, even the *Universal Service Monitoring Report* shows a statistically significant difference in adoption of both telephone and

[40] *2017 NPRM*, ¶75.
[41] https://www.fcc.gov/general/urban-rate-survey-data-resources . See the "Methodology" document for 2018.
[42] NHIS 2016 Data Release. https://www.cdc.gov/nchs/nhis/nhis_2016_data_release.htm
[43] *2017 NPRM*, ¶75.

Internet access services for households at or below 135% of the Federal Poverty Guidelines, and those between 135% and 200% of the Federal Poverty Guidelines.[44] Figure 1, below, reproduces the information from the 2016 *Universal Service Monitoring Report.* The information for "Group 1" contains occupied housing units where the household income is less than or equal to 135% of the 2015 Federal Poverty Guideline for the household. "Group 2" contains occupied housing units where household income is greater than 135% of the Federal Poverty Guideline, but less than or equal to 200% of the Federal Poverty Guideline for that Household.

Telephone Service, Internet Access, Telephone Expenses, and Internet Expenses in Low-Income Households, 2015

Group[1]	Telephone Service (%)	Internet Access (%)	Telephone Expenses (% after-tax income)[3]		Cellular Phone Expenses (% after-tax income)		Internet Expenses (% after-tax income)	
			All[4]	With Expenses Only	All	With Expenses Only	All	With Expenses Only
1	95.7	58.9	3.1	3.2	2.2	2.4	0.9	1.4
2	97.4	68.9	3.5	3.9	2.5	2.9	1	1.7
Statistically Significant Difference[2]	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Figure 1: Table 2.16 from 2016 Universal Service Monitoring Report

The fact that there is a statistically significant difference between these two groups for subscription to telephone services indicates that affordability continues to be an issue. Furthermore, the statistically significant ten (10) percent difference in adoption of Internet access services is a strong indicator that issues with affordability persist, even with the existence of the Lifeline program, and suggest that support for Lifeline broadband needs to be expanded.

The *2017 NPRM* also discusses rates for voice services outside of urban areas, and concludes that the 2018 benchmark for affordable voice services[45] ($45.38—excluding SLC) may create

[44] 2016 *Universal Service Monitoring Report*, Table 6.12.
[45] High cost ETCs are required to set rates for basic voice services that do not exceed a "reasonably comparable benchmark." That benchmark is a multiple of the average urban rate.

problems for low-income consumers.[46] Given this fact, the *2017 NPRM* asks whether continued support for voice services in non-urban areas is appropriate. Certainly it is, and the other data discussed above indicates that support for voice services in both urban and non-urban areas is appropriate. Continued support for voice-only services should be a priority for the Lifeline program—voice continues to play a critical role in basic communications, access to medical services, and emergency calls.

TracFone's "Unit" Proposal is Unreasonable

The *2017 NPRM* asks questions about a proposal from TracFone to replace allowances of voice minutes and bytes of data provided with Lifeline plans with alternative "units" that can be utilized for either voice or broadband services.[47] AARP is opposed to TracFone's "unit" approach. Consumers' access to voice services should not be impinged by broadband usage. Voice minutes and broadband data, as sold by wireless carriers, are distinct services, and consumers continue to treat voice and data services as separate. Blending all usage into "units," as proposed by TracFone, would make it more difficult for consumers to manage their service. While consumers have the potential to easily track minutes of usage, tracking data usage is more complex (e.g., a minute is a minute for voice; online usage does not have a similar observable correspondence for the user). Under the TracFone proposal, downloads or data streams that may quickly use up data allowances could leave the customer with nothing for voice, potentially leading to increased expenditures to refill the "unit" allowance so as to be able to make voice calls.

[46] *2017 NPRM*, ¶76.
[47] *2017 NPRM*, ¶80.

The "Equipment Requirement" Protects Consumers

The *2017 NPRM* asks whether certain requirements imposed on Lifeline service providers should be maintained, specifically, the rule that mandates:

> that any Lifeline provider that "provides devices to its consumers[] must ensure that all such devices are Wi-Fi enabled," prohibits "tethering charge[s]," and requires mobile broadband providers to offer devices "capable of being used as a hotspot."[48]

AARP believes that these requirements provide essential consumer protection. Keeping in mind that the limited nature of the Lifeline program has oriented the broadband component toward smartphone-based mobility broadband services, the hotspot and tethering requirements enable the sharing of the broadband services delivered through the smartphone. The *2017 NPRM* states that there is a lack of record evidence to support the proposition that these technology requirements that favor sharing of a smartphone-based broadband plan have any favorable impact on the "homework gap." What is clear at a foundational level is that given the limit of Lifeline support to "one-per-household," absent sharing, the ability of the broadband connection to be utilized within the household for homework (or other purposes) is substantially reduced.

Similarly, the Wi-Fi requirements have the potential to enable a more efficient and economical usage of Lifeline-supported broadband services. While the *2017 NPRM* indicates most Americans already own a Wi-Fi enabled smartphone,[49] it is all too easy to imagine Lifeline providers offering smartphones that have limited Wi-Fi capabilities, thus forcing consumers to recharge data allowances more frequently.[50] The *2017 NPRM* asserts that these requirements raise the costs of equipment, and limit consumer choice. The *2017 NPRM also* asserts that the

[48] *2017 NPRM*, ¶81.
[49] *2017 NPRM*, ¶81.
[50] Service providers could easily block Wi-Fi on smartphones that they provide using software.

requirement prevents cable providers from offering low-cost modems that do not have Wi-Fi capabilities that would benefit those consumers who want to use desktop computers.[51] This example ignores the fact that Wi-Fi capability is included with many desktop computers, or can be added with an inexpensive USB Wi-Fi antenna.[52] Furthermore, by excluding Wi-Fi capability, significant costs would be imposed on all those consumers who want to rely on Wi-Fi when using their PC, laptop, smartphone, or tablet. Wi-Fi capability has become the *lingua franca* for Internet access, and the promotion of the Wi-Fi platform benefits consumers. The Commission should continue to impose the equipment requirements.

The "Maximum Discount Level" is Inappropriate

The *2017 NPRM* indicates that 85 percent of all Lifeline program participants subscribe to plans that provide the consumer with free services.[53] The *2017 NPRM* then proposes that Lifeline subscribers be required to pay some portion of their service costs, and points to the E-rate program as an example.[54] The *2017 NPRM* asks whether "the users of the supported service value that service more if they contribute financially"?[55] Here too, the *2017 NPRM* justifies its desire to burden low-income consumers on the potential for "fraud and abuse," indicating that some service providers may be enticing consumers who "do not value" the program with no-cost service.[56] AARP is not persuaded that voice and broadband services do not have value absent an

[51] *2017 NPRM*, ¶81.
[52] Wi-Fi adapters can be found at retailers like WalMart at low prices. https://www.walmart.com/c/kp/wi-fi-adapters
[53] *2017 NPRM*, ¶112, citing to a February 3, 2016 *ex parte* letter from John Heitmann, Kelly Drye & Warren LLP, to Marlene Dortch in WC Docket No. 11-42.
[54] *2017 NPRM*, ¶112.
[55] *2017 NPRM*, ¶112.
[56] *2017 NPRM*, ¶114.

out-of-pocket expenditure, and the *2017 NPRM's* concerns regarding fraud and abuse can be better addressed through the full implementation of the National Verifier program.

There is also evidence that requiring co-payments is disruptive to the objectives of low-income programs. As previously noted by Georgetown University Law Professor David A. Super, in an *ex parte* letter filed with this Commission, the introduction of co-payments has a long history of depressing the participation of low-income individuals in programs designed to assist the poor.[57] Professor Super concludes that "even if requiring recipients to contribute their own funds seems a means of expanding the services provided, the effect of any such mandate is likely to reduce participation radically among the poorest and most isolated potential recipients."[58] AARP finds Professor Super's analysis to be compelling and discourages the Commission from adopting co-payments.

Targeting "Non-Adopters" is Good Policy

The *2017 NPRM* questions whether Lifeline support should be targeted at "low-income consumers who have not yet adopted broadband service."[59] AARP has previously addressed this issue with the Commission, and noted that a reasonable program to encourage broadband adoption must include educational efforts directed at non-adopters.[60] The Commission should encourage participating Lifeline broadband providers to provide educational outreach to inform non-adopters of the potential benefits of broadband, and to offer training of how to utilize (1) the equipment necessary to experience the benefits of broadband, (2) the broadband service itself,

[57] Letter from David A. Super to Marlene Dortch, WC Docket 11-42, August 31, 2015.
[58] Letter from David A. Super to Marlene Dortch, WC Docket 11-42, August 31, 2015, p. 17.
[59] *2017 NPRM,* ¶117.
[60] AARP Comments in WC Docket No. 11-42, August 31, 2015, p. 20.

and (3) the Internet services that ride over the top of a broadband connection. These efforts should be in addition to existing Lifeline programs.

The "Self-Enforcing Budget" should be Rejected

The *2017 NPRM* proposes to introduce a "self-enforcing budget." Such a mechanism would automatically curtail Lifeline disbursements after an "annual cap" is reached.[61] The *2017 NPRM* seeks comment on whether to utilize previous cap amounts as a benchmark, floating an $820 million annual figure based on 2008 distributions (i.e., prior to both non-facilities-based ETCs and prior to support for broadband). Given that support for 2017 is on track for an annual level of about $1.3 billion, such a cap would result in loss of support for large numbers of consumers, and AARP is strongly opposed to such a cap.

To implement the "self-enforcing budget," the *2017 NPRM* proposes a highly disruptive process. The *2017 NPRM* envisions USAC forecasting Lifeline disbursements and administrative expenses over a six-month period. If this amount were to exceed one-half of the annual cap, Lifeline support amounts for the following six-month period would be reduced proportionally.[62] This type of mechanism would potentially destabilize the program, with consumers facing the prospect of service discontinuance or modification based on the fluctuating levels of support, which would likely have a negative impact on the financial viability of service providers.

The *2017 NPRM*'s "self-enforcing budget" proposal also ignores the countercyclical nature of demand for Lifeline support. Demand for Lifeline services is inversely related to income levels, and during times of economic contraction, it is reasonable to expect growing reliance on Lifeline.

[61] *2017 NPRM*, ¶105.
[62] *2017 NPRM*, ¶106.

The statutory objectives do not specify that "all Americans" should have access to high quality and affordable services only during good economic times. The proposed mechanism would disrupt and undermine the objectives of the Lifeline program.

In summary, the idea of a "self-enforcing" cap is fraught with problems and implementation of such a cap is inconsistent with the objectives of the Lifeline program. AARP is strongly opposed to the implementation of a cap and urges the Commission to reject the idea.

The Port Freeze should be Modified

In the *2016 Lifeline Order*, the Commission noted advantages associated with a "port freeze," which limited the ability of consumers to switch between Lifeline providers. The Commission adopted a 12-month port freeze for broadband services, and a 60-day port freeze for voice service customers:

> We find that allowing broadband providers the security of a longer term relationship with subscribers will incentivize greater up-front investments from providers. Those investments in broadband-capable devices and broadband services should improve the quality of new offers for subscribers and further spur competition among providers to offer more innovative services. While we acknowledge that this rule will decrease Lifeline providers' incentive to compete for customers that have recently signed up with another Lifeline provider, we find that Lifeline-eligible consumers will nonetheless benefit more from a Lifeline market in which a benefit port freeze gives providers stronger incentive to vigorously compete for eligible customers through better broadband service offerings and outreach.[63]

This approach limits consumer choice, and there is not a clear-cut benefit to consumers of being locked into a 12-month contract, as getting a "free" device may come at the expense of a year-long relationship with a substandard service provider. On the other hand, the *2016 Lifeline*

[63] *2016 Lifeline Order*, ¶389.

Order did provide consumers the ability to terminate the 12-month contract if customers moved, or if the service provider "fails to provide service."

The *2017 NPRM* proposes to eliminate the port freeze for both voice and broadband Lifeline services. This will certainly provide greater mobility for consumers, but may diminish provider incentives to supply devices at no charge. Sprint (the only facilities-based nationwide Lifeline provider) argues that elimination of the port freeze will make it more difficult to supply free devices.[64] On the other hand, TracFone is opposed to a 12-month freeze, but instead favors a 60-day approach to the port freeze.[65] Given the complexity of the port-freeze issue, AARP believes that the Commission should adopt a 60-day port freeze approach (and apply the same consumer protections associated with the previous 12-month port freeze).[66] The Commission should also reevaluate the impact of the port freeze change at six-month intervals.

Underserved Areas Need Immediate Attention

The *2017 NPRM*[67] seeks comment on potential activities that might result in increased incentives for investment in rural, tribal, and urban underserved areas.[68] The general problems sketched out in the *2017 NPRM*, such as reduced deployment incentives, resulting from higher costs and lower density in rural areas, or potential redlining of low-income areas in urban areas, provide a reasonable assessment of the problem. The *2017 NPRM* notes recent studies identifying

[64] Sprint *ex parte* letter to Marlene Dortch, November 9, 2017.
[65] TracFone *ex parte* letter to Marlene Dortch, November 9, 2017.
[66] *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*. WC Docket No. 11-42, WC Docket No. 09-197, WC Docket No. 10-90. Third Report and Order, Further Report and Order, and Order on Reconsideration, April 27, 2016, ¶¶393-394.
[67] While this proposal appears in the NOI, to economize notation *2017 NPRM* is used to reference the proposal.
[68] *2017 NPRM*, ¶¶121-129.

technology redlining, with low-income areas being left behind as broadband ISPs upgrade facilities in higher-income areas,[69] and raises the issue of subpar investment in low-income geographic areas.[70] The *2017 NPRM* asks what data is needed to determine where investment is not sufficient, and whether the Lifeline program can be adjusted to address this issue. The FCC's Form 477 data, which identifies data speeds at the Census Block level, should provide sufficient information to identify where carriers have upgraded facilities.

While the lack of investment in low-income areas is a significant problem, addressing the issue given the financial constraints of the existing Lifeline program is not a reasonable solution. While the *2017 NPRM* elsewhere is critical of the spending level for the Lifeline program (with annual spending falling from $2.1 billion to $1.3 billion over the past five years), how the potentially widespread problem of redlining in low-income areas could be addressed with the small and decreasing Lifeline budget is not clear. Solving the problems associated with rural, tribal, and urban underserved areas is likely to require resources that exceed current Lifeline budgets. AARP believes that the reform of the universal service contribution base, as discussed earlier in these comments, could provide the foundation needed to deliver an appropriate source of funds to address these structural issues associated with the lack of investment in both urban

[69] The *2017 NPRM* references: Press Release, Advocates for Basic Legal Equality, Inc., AT&T Fails to Invest in Low-Income Montgomery County Neighborhoods (Mar. 21, 2017), http://ablelaw.org/media-room/news-and-press-releases/3403-att-fails-to-invest-in-low-income-montgomery-county ; Allan Holmes, Center for Public Integrity, DSL Providers Save Faster Internet for Wealthier Communities (Oct. 14, 2016), https://www.publicintegrity.org/2016/10/14/20341/dsl-providers-save-faster-internet-wealthier-communities . See also Clare Malone, Lots of People in Cities Still Can't Afford Broadband, FiveThirtyEight (Aug. 2, 2017), https://fivethirtyeight.com/features/lots-of-people-incities-still-cant-afford-broadband/ (discussing potential causes of low broadband adoption rates in low-income urban areas); Clare Malone, The Worst Internet in America, FiveThirtyEight (July 27, 2017), https://fivethirtyeight.com/features/the-worst-internet-in-america/ (discussing broadband deployment and adoption in rural areas).

[70] *2017 NPRM*, ¶¶127-129.

and rural areas. The Commission should immediately investigate broadband ISP practices that result in technology redlining.

Benefit Limits will harm the Most Vulnerable

The *2017 NPRM*[71] proposes to implement a benefit limit. The logic associated with this limit, as expressed in the *2017 NPRM*, is to provide "low-income households incentives to not take the subsidy unless it is needed, since taking the subsidy in a given month will forfeit the opportunity to use it in a future month."[72] This proposal seems to assume that dependence on Lifeline service is necessarily a transitory phenomenon (the *2017 NPRM* notes that Lifeline households remain enrolled for 1.75 years on average).[73] This perspective completely ignores the plight of the elderly and disabled, whose reliance on Lifeline is not the result of transitory economic conditions. The *2017 NPRM*'s proposed benefit limits would undermine the effectiveness of the Lifeline program, and place the most vulnerable consumers at greater risk of losing support.

AARP is opposed to a benefit eligibility limit, as such a limit would place unnecessary hardships on the elderly and other vulnerable populations who have few opportunities for social mobility.

Conclusion

The *2017 NPRM* proposes a number of inappropriate solutions to perceived problems with the Lifeline program. The likely impact of these proposals, as discussed above, will be to undermine support for low-income households, further exacerbating the digital divide. The *2017 NPRM's* efforts to address issues associated with "waste, fraud, and abuse" prior to the full

[71] While this proposal appears in the NOI, to economize notation *2017 NPRM* is used to reference the proposal.
[72] *2017 NPRM*, ¶130.
[73] *2017 NPRM*, ¶131.

implementation of the National Verifier program are particularly unfortunate, and measures such as the flat ban on resale providers will do nothing to help low-income consumers. Instead, low-income consumers will be harmed, and facilities-based providers will benefit from the elimination of resale-based competition.

Successful reform of the Lifeline program must address the contribution base. Until broadband services are assessed, Commission efforts to meet the statutory directives will be hamstrung by the lack of funding. Closing the digital divide requires more than the existing voice-service-based contribution mechanism can deliver. Closing the digital divide will require programs that subsidize the purchase of voice and broadband services by low-income households. However, support for education and training is also appropriate, as is support for equipment purchases. A more equitable resolution of funding issues can be achieved through a modest assessment on broadband services.

Finally, the Lifeline program must continue to support voice services. Access to basic voice services provides consumers with critical elements of communication. Access to first responders, employment, education, and commerce continue to depend on voice communication, and continued support for voice will deliver substantial benefits to consumers and the communities in which they reside.