

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)

The Emergency Connectivity Fund for)
Educational Connections and Devices to)
Address the Homework Gap During the)
Pandemic)

WC Docket No. 21-93

COMMENTS OF ALTICE USA, INC.

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Altice USA, Inc. (“Altice” or the “Company”) welcomes the opportunity to submit comments on implementation of the Emergency Connectivity Fund (“ECF” or “Fund”) in the above-captioned proceeding.¹ As with its participation in the Commission’s Emergency Broadband Benefit (“EBB”) Fund,² Altice is enthusiastic about participating in the ECF as another mechanism to facilitate remote learning. Based on its experience connecting schools, students and libraries to broadband—including through the existing E-Rate program, free service to libraries, and the Company’s heavily discounted (or free) broadband offerings to households with students—Altice respectfully offers suggestions to maximize the Fund’s success.

I. INTRODUCTION AND SUMMARY

The \$7.17 billion ECF holds promise as a tool to facilitate student and library patron remote learning. The Fund³ builds on Acting Chairwoman Rosenworcel’s leadership in closing

¹ American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, tit. VII, § 7402, 135 Stat. 4, 109, <https://www.congress.gov/bill/117th-congress/house-bill/1319/text> (enrolled bill) (the “Act”); *see also Wireline Competition Bureau Seeks Comment on Emergency Connectivity Fund for Educational Connections and Devices to Address the Homework Gap During the Pandemic*, Public Notice, WC Docket No. 21-93, DA 21-317 (rel. Mar. 16, 2021) (“Public Notice”).

² Altice is preparing to offer the EBB discount across its full broadband product suite and throughout its service territory upon approval of its Election Notice and establishment of the EBB start date.

³ Act, § 7402.

the homework gap by ensuring student access to robust broadband services.⁴ To achieve Congressional objectives and advance the Commission’s broader efforts to facilitate remote learning, Altice suggests that the following principles guide promulgation of rules for the Fund:

- Expedite Student Access to Robust Broadband, Prioritizing Students Without Home Connectivity: Consistent with the emergency nature and finite amount of the Fund, the Commission should leverage existing broadband infrastructure to connect students, prioritize connectivity to students in households who do not currently subscribe to broadband, and ensure broadband supported by the Fund is sufficiently robust to enable video conferencing and other applications schools deem necessary for remote learning. As with its other universal service programs targeting “unserved” households, ECF funding should not support deployment of new broadband facilities where broadband service already exists. Excluding the deployment of new networks will maximize the Fund’s immediate impact in closing the homework gap.
- Maximize Flexibility for Schools and Households: The Commission should design rules for the Fund that ensure flexibility for schools. Arrangements such as bulk purchasing streamline the process for schools and may reduce costs. Altice has successfully employed the centralized purchaser model in Connecticut, where the state coordinates with school districts to purchase at-home internet access through broadband providers.
- Allow Competitive Bidding, Factoring in Performance Capability: The Commission should adopt its abbreviated 14-day window. To the extent the Commission applies the E-Rate competitive bidding rules, the Commission should ensure that the “lowest corresponding price” rule captures the benefits of faster speeds, more capacity, and other performance attributes of a fixed broadband offer.
- Use a Market-Based Approach for Reasonableness: The Commission should permit full reimbursement for any retail broadband plan that existed as of March 1, 2021, which, as with the EBB, is a date before the Act was passed. This approach builds upon the Emergency Broadband Benefit Program and ensures that rates for any services are market-based and do not exceed those of preexisting plans.
- Adopt a Safe Harbor to Encourage Broad Participation by Fund Participants: As with EBB, the Commission can incentivize broad participation by schools, libraries and service providers while taking actions to minimize waste, fraud, and abuse by adopting broad safe harbors for liability purposes. In particular, given the unique, emergency, and temporary nature of the Fund, the Commission should conclude that the Children’s Internet Protection Act (“CIPA”) does not apply to off-campus use of ECF-funded devices or permit a safe harbor upon school certification of the availability of a filter. In

⁴ See, e.g., Jessica Rosenworcel, *Ending the Homework Gap*, Democracy, <https://democracyjournal.org/magazine/60/ending-the-homework-gap/> (last visited Apr. 5, 2021).

addition, to avoid duplicative funding, a consumer self-certification that they do not receive EBB should be sufficient.

II. ALTICE HAS DEPLOYED INITIATIVES TO CLOSE THE HOMEWORK GAP AND EXPAND CONNECTIVITY BEFORE AND DURING THE PANDEMIC.

Altice offers a suite of advanced broadband services to approximately five million subscribers across its 21-state footprint. The Company’s service territory covers dense urban markets, smaller cities, suburban areas and very rural areas, spanning from the Northeast, to the South, to the West.

Altice has deployed a variety of initiatives to keep people connected to reliable, fast broadband access and expand connectivity, both before and during the COVID-19 pandemic. These include offering its 30 Mbps service—*Altice Advantage Internet (“AAI”)*, originally designed for qualifying low income customers—free for 60 days (and \$14.99/mo. thereafter) for households with K-12 and/or college students, irrespective of income and with balances deferred.⁵ The *AAI* offer includes a free router and modem, discounted installation, unlimited data, and access to the Optimum WiFi network at no additional cost.⁶ To address any perceived barrier to adoption associated with a household lacking a computer, Altice partnered with a device manufacturer to offer eligible households digital skills training and an internet-ready, refurbished laptop at a discounted price.⁷ Altice has also partnered with schools, libraries, elected officials and community organizations to promote *AAI* and its other initiatives facilitating access to broadband. Altice has also elected to participate in the EBB Program, which will

⁵ See, e.g., Press Release, Altice USA, Inc., *Altice USA Provides Complimentary 60-Day Student Broadband Offer to Support Remote Learning*, (Oct. 19, 2020), <https://www.alticeusa.com/news/articles/press-release/community/altice-usa-provides-complimentary-60-day-student-broadband-offer-support-remote-learning>.

⁶ See *Altice Advantage Internet*, Altice USA, Inc., <https://www.alticeadvantageinternet.com/> (last visited Apr. 5, 2021).

⁷ See *Altice Advantage Internet: Laptop*, Altice USA, Inc., <https://www.alticeadvantageinternet.com/laptop> (last visited Apr. 5, 2021).

provide significant subsidies to support reliable broadband service for millions of individuals across the nation.

Beyond *AAI* and its participation in the EBB Program, Altice has several other initiatives to support remote learning and reduce barriers to connectivity, including:

- Centralized Purchaser Program: Altice has developed partnerships with school districts and nonprofit organizations to facilitate the bulk purchase of in-home connectivity for students without broadband, including in several school districts throughout Connecticut;
- Free Broadband to Community Organizations: Altice offers free broadband to certain community organizations in Altice’s service footprint;
- Digital Smarts: Altice has developed free curricula to help young people navigate the internet safely;
- Educator Discount: Altice offers an educator discount on home broadband connectivity, which applies to select broadband plans;⁸ and
- Flexible Payment Plans, Choice of Broadband Offerings: Altice offers several options, including payment plans, to help struggling subscribers maintain service during the pandemic. In addition, customers can easily move among broadband offerings, as Altice has no contracts or early termination fees.

The above initiatives are just part of the Company’s overall strategy to invest in broadband. As demand was increasing due to remote learning and work during the pandemic, Altice accelerated its investment in its network. Altice offers its customers a range of broadband offerings at different price points, and the Company’s 1 Gig product is available in more than 90 percent of its service territory. The popular “triple play” promotion includes speeds of up to 200 Mbps. While increasing the speeds available over its hybrid fiberoptic-coaxial cable network, Altice is deploying a fiber-to-the-home network capable of speeds up to 10 Gbps and beyond.

⁸ See *Exclusive Educators and Teachers Discount*, CSC Holdings, LLC, <https://www.optimum.com/educator> (last visited Mar. 27, 2021).

III. THE COMMISSION SHOULD STRUCTURE THE FUND TO EXPEDITE ROBUST BROADBAND SERVICE TO STUDENTS.

Altice supports the Commission’s proposal in the *Public Notice* that the Act’s purpose is to provide emergency assistance to “[s]tudents who lack home broadband access”⁹ and therefore “now find themselves at risk of being unable to participate in any remote learning.”¹⁰ Given the emergency nature of the COVID-19 pandemic and the need to connect students with reliable broadband access on an expedited basis, the Commission should prioritize funding to students that either lack access to broadband altogether or who need more robust speeds to support remote learning applications.

Such an approach would be consistent with the Commission’s historical approach to universal service. To maximize finite resources in USF, the Commission has traditionally limited funding to unserved households. For instance, in the Connect America Fund, the Commission identified its objective as “maximizing the effectiveness of our funds to serve consumers across unserved areas with our finite budget.”¹¹ Additionally, the Rural Digital Opportunity Fund program assigned the first phase of the auction to areas that were wholly unserved by 25/3 Mbps broadband service.¹² Likewise, many comments in the record suggested prioritizing reimbursement through the E-Rate program for schools that serve communities with higher rates of poverty and eligibility for the National School Lunch Program.¹³

⁹ *Public Notice* at 1.

¹⁰ *Id.*

¹¹ *In re Connect America Fund*, Report and Order and Order on Reconsideration, 32 FCC Rcd 1624, 1627 ¶ 14 (2017) (“*Connect America Fund Order*”).

¹² *In re Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 688 ¶ 5 (2020) (“*RDOF Order*”).

¹³ *See, e.g.*, Comments of ITIF (“Information Technology & Innovation Foundation”), WC Docket No. 21-31, at 4 (Feb. 16, 2021); Comments of National Urban League, WC Docket No. 21-31, at 3 (Feb. 16, 2021).

To ensure that as many students as possible get online as quickly as possible, the Commission should target households that have students but lack broadband service and ensure that schools have the necessary resources to purchase broadband for those households if an existing provider is able to serve them in the normal course of business. The ECF should build upon existing efforts to identify households that lack broadband access and connect them with such service. For example, school districts have existing methods of identifying students without broadband, including the Bridge to Broadband.¹⁴ The Bridge to Broadband is a partnership with EducationSuperHighway that enables school districts and providers to confidentially share information to identify students without access to broadband. Altice participates in the Bridge to Broadband, and the Commission may want to investigate whether this or other organizations may help identify students who lack access to at-home broadband service.

Because time is of the essence in implementing the Fund and connecting eligible applicants to broadband, funding for new broadband infrastructure to a household should only be allowed in areas where there is no current broadband service available and no broadband provider is willing and able to provide service. Additionally, dark fiber should be excluded from ECF funding—unless there is no established broadband service in a certain area—for the same reasons. Limited funding should be reserved for ensuring that as many students as possible are connected to existing broadband networks.

At the same time, a limited opportunity for competitive bidding, such as the 14 day window proposed in the *Public Notice*, is appropriate.¹⁵ A modified approach to competitive

¹⁴ See *K-12 Bridge to Broadband*, EducationSuperHighway, <https://www.educationsuperhighway.org/bridge-to-broadband/> (last visited Apr. 5, 2021).

¹⁵ See *Public Notice* at 10-11.

bidding balances the need to expedite delivery of service with the benefits of competition. If the Commission adopts the abbreviated competitive bidding process, it should clarify how the “lowest corresponding price” applies in the context of the Fund.¹⁶ The measure of the lowest corresponding price should capture the value of the relative broadband offerings, including high capacity and faster speeds. The Commission has recognized the need to weigh non-price factors of speed and capacity in the auction of universal service support in the Connect America Fund Phase II and Rural Digital Opportunity Fund Auctions. There, the Commission adopted weights to recognize the relative value of 1 Gig service over 25/3 Mbps.¹⁷ A similar approach should be taken with the ECF.

IV. THE COMMISSION SHOULD MAXIMIZE FLEXIBILITY FOR SCHOOLS, INCLUDING THROUGH CENTRALIZED PURCHASER MODELS.

Given the emergency nature of the Fund, flexibility for schools to pursue models for remote connectivity will be critical to the Fund’s success. The *Public Notice* recognizes that bulk purchasing programs may represent a possible approach to streamlining the process for administering the ECF and funding broadband access.¹⁸ Bulk purchase programs allow schools and libraries to form agreements with service providers to coordinate the purchase of broadband service for groups of students or library patrons at no cost to the student or library patron.¹⁹

Altice supports the proposal to provide for bulk purchasing programs in connection with the ECF because bulk purchasing programs would streamline the provision of broadband to students in

¹⁶ E-Rate rules preclude providers from charging eligible school districts and libraries any price “above the lowest corresponding price for supported services, unless the Commission . . . finds that the lowest corresponding price is not compensatory.” 47 C.F.R. § 54.511(b).

¹⁷ *Connect America Fund Order*, 33 FCC Rcd at 1627-28 ¶¶ 13-17; *RDOF Order*, 35 FCC Rcd at 705-06 ¶¶ 38-39.

¹⁸ *See Public Notice* at 9.

¹⁹ *See id.*

need and remove logistical barriers associated with the submission and processing of individual applications for subsidies.

Joining with government, community partners, and other broadband providers, Altice has developed a Centralized Purchaser Program in Connecticut. There, the state government coordinates with school districts to facilitate the bulk purchase of at-home broadband internet access from providers through the Everybody Learns Initiative.²⁰ In total, through all providers, the Everybody Learns Initiative anticipates delivering 50,000 laptops for students and 12 months of at-home internet for 60,000 students.²¹

The Centralized Purchaser Program has proven successful in connecting households without broadband service to reliable service. As the State of Connecticut administered the Everybody Learns Initiative and purchased at-home broadband and connected devices for students in low-income households throughout the autumn months of 2020, the percentage of disconnected students fell steadily while attendance at remote classes increased.²² The Commission should permit schools and libraries to use these bulk purchase programs to coordinate the purchase of at-home broadband service from providers, which would speed delivery of broadband service to students and library patrons in need.

This flexibility for schools and libraries to select broadband offerings that they reasonably conclude will facilitate remote learning should also extend to other aspects of the

²⁰ See Press Release, Office of Conn. Governor, *Governor Lamont Announces the Everybody Learns Initiative: A \$43.5 Million Program to Close the Digital Divide for Connecticut Students* (July 28, 2020), <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2020/07-2020/Governor-Lamont-Announces-the-Everybody-Learns-Initiative>.

²¹ *Id.*

²² See Amanda Blanco, *Connecticut Has Provided Laptops to Every Student in Need During the Pandemic, but Thousands are Still Not Showing Up for Online Class*, Hartford Courant (Dec. 2, 2020), <https://www.courant.com/news/connecticut/hc-news-connecticut-digital-divide-update-20201202-v3zcry7ahnrcpo23eg7eqc3niu-story.html>.

Fund’s rules. For example, schools and libraries should have flexibility to select speed tiers and other performance characteristics that are sufficiently robust to enable particular remote learning applications, such as video conferencing.

V. THE COMMISSION SHOULD ADOPT BROAD SAFE HARBORS FOR ECF PARTICIPANTS AND SERVICE PROVIDERS TO ENCOURAGE PARTICIPATION IN THE FUND.

Similarly, to incentivize broadband participation in the Fund, the Commission should adopt safe harbors against liability for schools, libraries, and service providers alike. The Commission can and should adopt such liability standards consistent with its obligations to minimize waste, fraud, and abuse in E-Rate. For instance, Altice supports the Commission’s proposal to avoid duplication of funding with other federal programs, including EBB.²³ To implement this proposal, however, the Commission should not place obligations on the service provider. Rather, consumers and/or schools should be required to certify, as part of the application process, that the applicant’s household is not receiving alternative funding for the service. These certifications will be sufficient to prevent duplicate funding. To reduce the administrative burdens associated with provider participation in the ECF and encourage providers to participate, service providers should not be responsible for such determination nor face any liability if the certification is not accurate. Here, the Commission can look to the emergency nature of the Fund as more than sufficient Congressional sanction of a modified approach to oversight that balances the need for appropriate oversight of universal service with Congress’s directive to quickly ensure connectivity to support remote learning.²⁴

²³ *Public Notice* at 15.

²⁴ *Cf.* H.R. Rep. No. 116-713, 116th Cong. (2020), 2020 WL 8968672 (“This legislation establishes and provides funding for the Emergency Connectivity Fund . . . Priority must be given to students, staff, or patrons who do not have access to [covered] equipment or services.”).

Additionally, the *Public Notice* seeks comment on whether CIPA (requiring schools and libraries to use a content filter to receive E-Rate funding)²⁵ applies to devices and services funded through the ECF and, if it does apply, whether any existing CIPA-related rules or procedures should be modified as applied to the ECF.²⁶ The Commission previously sought comment on whether CIPA applies outside of a school,²⁷ and should conclude here that it does not. When CIPA was enacted, students accessed the internet within a school or library building, not at home.²⁸ But Congress created the Fund to respond to a specific emergency and for a different learning environment that does not neatly translate to all elements of the existing E-Rate program. If the Commission determines that CIPA applies to the ECF, it should create a safe harbor for schools and libraries that offer a content filter, whether via a VPN connection that enables access to programs that filter content or by providing the student’s household with information about content filtering tools that their home device offers. Overly restrictive liability standards will dissuade schools, libraries, and service providers from using the ample opportunity in the Fund to close the homework gap.

VI. ANY LIMITATIONS ON REIMBURSEMENT OF ELIGIBLE SERVICES SHOULD PERMIT FULL REIMBURSEMENT FOR ANY PLAN IN EXISTENCE AS OF MARCH 1, 2021.

In determining reasonable rates for monthly broadband services to the home, the Commission sought comment on a cap on reimbursement.²⁹ The Commission should not impose

²⁵ CIPA requires each school or library “having computers with Internet access” to certify that it enforces an internet safety policy that includes a technology protection measure that operates “with respect to any of its computers with Internet access.” 47 U.S.C. § 254(h)(5)(A)(i).

²⁶ *Public Notice* at 14-15.

²⁷ *In re Modernizing the E-rate Program for Schools and Libraries*, Notice of Proposed Rulemaking, 28 FCC Rcd 11304, 11377-79 ¶¶ 271-274 (2013).

²⁸ *See id.* at 11378 ¶ 272; *see also* Reply Comments of NCTA—The Internet & Television Association, WC Docket No. 21-31, at 4 (Feb. 23, 2021).

²⁹ *Public Notice* at 12.

a hard cap on reimbursements for eligible services. Instead, it should adopt a market-based approach and permit full reimbursement for any retail broadband plan that a provider offered consumers as of March 1, 2021, a date which predates final passage and enactment of the Act and therefore excludes the possibility of service providers profiting from the manipulation of prices for broadband plans in response to the Act.

This approach would build on the Commission’s approach in the EBB program where Congress required that an internet service offering must have a “standard rate” to be eligible for reimbursement,³⁰ and that the standard rate equals “the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees.”³¹ Congress and the Commission found that standard rate-card pricing that pre-dated the EBB program is a reliable indication of market pricing and not subject to manipulation.³² Thus, allowing full reimbursement for any broadband plan in existence as of March 1, 2021—a date before Congress passed the Act and President Biden signed it into law—would ensure that rates do not exceed those of preexisting plans. The proposed approach is more consistent with Congress’s intent to reimburse the entire cost of the service than the imposition of an artificial cap on reimbursements would be.³³ At the same time, this approach precludes providers from gaming the system and allows the Commission to ensure that rates are reasonable.

³⁰ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904(a)(7), 134 Stat. 1182, 2131 (2020).

³¹ *Id.* § 904(a)(13).

³² *Id.* § 904(b)(6)(A) & (b)(6)(B)(i)(I)-(II); *see also In re Emergency Broadband Benefit Program*, Report and Order, WC Docket No. 20-445, FCC 21-29 ¶¶ 70, 93 (rel. Feb. 26, 2021).

³³ *See Act*, § 7402(b).

VII. CONCLUSION

Altice supports the Commission's implementation of the Fund in a manner that will enhance the Congressional objective of expediting remote access to robust broadband service for students and library patrons.

Respectfully submitted,

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