**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of<br><br>Notice of Proposed Rulemaking<br><br>Universal Service Contribution Methodology | FCC 19-46<br><br>WC Docket No. 06-122 |

## COMMENTS OF COSN ON PROPOSED UNIVERSAL SERVICE FUND CAP MODIFICATIONS

The Consortium for School Networking (CoSN) is the premier professional association for school system technology leaders. For over 25 years, CoSN has provided local education technology decision makers with the information, management, community-building, and advocacy tools they need to help prepare the next generation of Americans for success after graduation. Today, CoSN represents leaders serving over 13 million students in school districts nationwide and continues to grow as a trusted technology expert in K-12 education.

Our members guide school districts' decisions about how to best meet their broadband and other technology needs. This work requires long-term internal planning and careful alignment with school district's budget cycles. It also includes applying for, managing, and using the vitally important broadband connectivity funding provided by the Universal Service Fund's ("USF") Schools and Libraries Program ("E-rate"). The E-rate is critical to our members' efforts to ensure that students, teachers and school leaders, regardless of their community's location or wealth levels, have access to the reliable high capacity broadband required for teaching, learning, and school operations. Given the E-rate's vital importance to school districts across the country, our members are highly sensitive to program changes that could alter their districts' long-term technology plans and budgets.

For the reasons set forth below, CoSN respectfully urges the Federal Communications Commission's ("Commission") to not establish an aggregate cap on the Universal Service Fund's four programs and not merge the existing program-level caps for the E-rate and Rural Health Care programs as proposed by the above captioned proceeding.[1] The steps proposed by the Commission will not promote greater fiscal responsibility and predictability and may inadvertently frustrate the Universal Service goals established by the Telecommunications Act of 1996 (the "Act") by leading to insufficient E-rate funding and diminishing the budgetary certainty that school districts need for long term technology planning and procurement.[2]

**THE COMMISSION'S PROPOSED USF CAP CHANGES ARE NOT NEEDED TO PROMOTE FISCAL RESPONSIBILITY AND IMPROVED PROGRAM ADMINISTRATION**

The USF program's existing caps promote fiscal responsibility and provide the Commission with sufficient information to make comprehensive planning decisions. The Commission's Notice of Proposed Rule Making acknowledges that "…each of the constituent USF programs are capped or operating under a targeted budget…"[3] and offers no explanation of how adopting an aggregate cap over the four programs will enhance the agency's ability to work with the Universal Service Administrative Company (USAC) to implement the Universal Service Fund. The existing program-level caps, which have been extensively vetted with the public, already provide a sound basis for guiding USAC and the Commission's USF

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[1] Federal Communications Commission, Note of Proposed Rule Making re Universal Service Fund Contribution Methodology, FCC 19-46; WC Docket No. 06-122, Federal Register p. 27571, June 13, 2019.
[2] 47 U.S. Code § 254
[3] Ibid. p. 27571.

administration, while also delivering the certainty and stability needed by E-rate applicants for long-term infrastructure planning and budgeting.

In addition, the Commission has already adopted mechanisms for improving the program's administration. For example, the *Second E-rate Modernization Order* called on USAC to develop a performance management system for the purposes of analyzing, over time, the effectiveness of the E-rate program's administration.[4] The *Second Order* also delegated authority to the Office of the Managing Director and the Wireline Bureau to develop an annual USAC performance review to track the program's progress toward goals and administrative improvements.[5] These and other internal structures, including improved data collection and reporting by USAC, already work with the existing caps and budgets to enable the comprehensive planning sought by the Commission in this proceeding.

**RANK ORDERING THE IMPORTANCE OF THE USF PROGRAMS IS INCONSISTENT WITH THE UNIVERSAL SERVICE PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996**

Among the Universal Service principles described by Section 254 of the Telecommunications Act is that "[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."[6] Building on this principle, Section 254 directs the FCC to ensure that the system addresses the specific connectivity needs of high cost customers, rural health care providers, schools and libraries, and low income households. The Commission's proposal to sweep the discrete programs designed to serve these high-need groups into a single budget framework, and then determine which of the groups are

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[4] Second E-rate Modernization Order ¶¶ 119-132

[5] *Modernizing the E-rate Program for Schools and Libraries,* WC Docket No. 13-184, Order, 29 FCC Fcd 8870 (2014) (*E-rate Modernization Order); Modernizing the E-rate Program for Schools and Libraries, Connect America Fund,* WC Docket Nos. 13-183 and 10-90, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538 (2014) (*Second E-rate Modernization Order*).

[6] 47 U.S.C. § 254(b)(5)

most important relative to each other, contradicts the Act's intent and Congress's decision to identify them for additional support.

Furthermore, establishing an aggregate USF cap and inventing a formula or system for prioritizing universal service needs (the Act provides no impetus or guidance for such prioritization) will result in a *de facto* single program. This outcome will result in statutorily inconsistent competition among the programs that Congress established, on a co-equal demand-driven basis, to help schools, libraries, farms and rural areas, and low income households. Universal Service support cannot be specific, predictable, and sufficient under an administrative system that replaces the Act's Universal Service principles with a system that regularly alters one or more of the USF programs' discrete budgets because of demand shifts in the others.

**MERGING THE E-RATE AND RURAL HEALTH CARE PROGRAM CAPS WILL SERIOUSLY DISTRUP SCHOOL DISTRICT PLANNING**

School district infrastructure projects, including designing and building major broadband initiatives, such as Wide Area Networks, require long term planning and alignment with local budget cycles. In most cases, it is impossible for a school district to identify all of its connectivity needs, establish a plan, and then seek E-rate funding to offset a portion of the project's cost within a short time frame. Local education technology leaders, CTOs, and CIOs must not only develop sound plans and budgets, they must then work with their school boards and administrators to secure a place on the district's budget cycle. This process often takes multiple years. As a result, our members welcomed the long-term certainty created by the E-rate Modernization Orders, especially the dedicated E-rate Category 2 amounts provided for internal connections.

The Commission's proposal to establish an overall USF cap and to merge the E-rate and Rural Care cap would utterly impede a school district's long-term planning by injecting much greater uncertainty into the system. There is a distinct possibility that this policy change could create a chilling effect on districts' participation in the program. A model that shifts program level caps relative to each other could result in less available E-rate funding during a program funding year that a school district formally decided, perhaps years in advance, to apply. Without certainty about the availability of E-rate funds, it will also be more difficult for local education technology leaders to secure the support of school boards and administrators who must commit sufficient local matching funds for such projects, even as they try to meet other critical school district needs.

## CONCLUSION

Establishing an aggregate USF cap, prioritizing the USF programs, and merging the E-rate and Rural Health Care program budgets will not serve the public interest. The Commission's proposed policy actions are not only unnecessary, they threaten school districts' abilities to plan and fund major broadband projects that students need to access the instructional opportunities required to graduate ready for further learning and work. Therefore, CoSN strongly urges the Commission to not take these misguided steps.

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