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**Before the**
**Federal Communications Commission**
**Washington, DC 20054**

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**In the Matter of:**

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| **Universal Service Contribution** | ) | |
| **Methodology** | ) | **WC Docket No. 06-122** |

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**Comments of the American Library Association**

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The American Library Association (ALA) is the foremost national organization providing resources to inspire library and information professionals to transform their communities through essential programs and services. For more than 140 years, ALA has been the trusted voice for academic, public, school, government and special libraries, advocating for the profession and the library's role in enhancing learning and ensuring access to information for all. ALA represents the nation's 120,000 libraries, which includes 16,557 public libraries.

We appreciate the opportunity to comment on the above referenced proceeding. To state our position upfront: The American Library Association opposes the proposal to establish a cap on the Universal Service Fund (USF). We articulate our reasons below.

At the outset of this *Notice* the Commission states its intent to seek comments on how a cap on the USF could "enable the Commission to evaluate the financial aspects of the four USF programs in a more holistic way, and thereby better achieve the overarching universal service principles Congress directed the Commission to preserve and advance."[1] It is, of course, healthy to periodically evaluate program needs and funding. However, the Commission does not need a cap on the USF to enable it to conduct such an evaluation. In fact, establishing an overall cap

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[1] *Universal Service Contribution Methodology*, WC Docket No. 06-122, Notice of Proposed Rulemaking, FCC 19-46. (May 31, 2019). (*"Notice"*). Para. 1.

first potentially compromises or unduly influences the outcome of such an evaluation. For example, what if an evaluation shows there is no need for a cap?  Enacting a cap *before* an evaluation places the "cart before the horse."

At a high level, we do not see how a cap will enable the Commission to preserve and advance the Universal Service principles as directed by Congress.  These principles include the intent of Congress that all Americans, regardless of where they live, shall have access to advanced telecommunications and information services provided at just, reasonable, and affordable rates.[2] The Telecommunications Act of 1996 established principles for universal service that focused on increasing access to evolving services for consumers in rural areas, consumers with low-incomes, and for the nation's schools and libraries, and for rural health care facilities.  Each of the four federal Universal Service programs that were implemented is very different in the constituents they serve, how they are administered, and how funds are dispersed.  As Commissioner Starks notes: "The Chairman's proposal to arbitrarily cap all of the Universal Service programs flies in the face of Congress's direction to the FCC and of all of the FCC's efforts to use these programs as tools to provide comparable access to communications services."[3]  As such, any evaluation of the USF should be conducted at the program level. If an evaluation shows a need to increase a particular program's funding, the Commission should initiate action to address the issue and thus meet the goals established by Congress.

As the Commission has acknowledged, it has set caps for three of the Universal Service programs and a "funding target" for the fourth (Lifeline).[4]  We do not see a need to "layer on" another overall funding cap on top of those already established.  The Commission claims that one rationale for establishing an overall cap is "to protect against Fund waste…."[5]  We do not understand how an overall cap will protect against fund waste any better than having individual program caps.

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[2] 47 U.S.C. Section 254(b)(1)(2).
[3] *Notice.* Commissioner Starks Comments. Page 54.
[4] *Id.* Para. 3.
[5] *Id.* Para. 3.

Several of the other rationales given for establishing an overall fund cap raise more significant concerns.  For example, the *Notice* states, "a cap would require us to expressly consider the *consequences and tradeoffs* of spending decisions for the overall fund…."[6] (emphasis added); and "By explicitly linking the expenditures in multiple USF programs through the overall cap, we seek to promote a robust debate on *the relative effectiveness of the programs*."[7] (emphasis added). These rationales clearly indicate that an overall cap will result in each program competing against each other should the cap be exceeded. We agree with the comments by Commissioner Rosenworcel that this will result in "a fight for support between connecting kids in schools and hooking up hospitals for telemedicine."[8] And by extension we posit that this will result in a funding fight between all four Universal Service programs. We assume this is not an outcome anyone wants.

Related to the above paragraph, the Commission seeks comments on what actions it should take if program demand exceeds the overall cap.  Many questions the Commission asks in paragraphs 12-16 glaringly illustrate the complexity of establishing rules to address this situation. We offer just two examples from the *Notice*:

- USAC also issues commitments in some programs long before the funding is disbursed to recipients. Should the cap mechanism limit the commitments USAC makes or should it limit total disbursements?[9]
- How would we correct a scenario where projected demand is expected to exceed the cap, but actual disbursements do not hit the cap?[10]

We do not have any good suggestions on how to address the above questions because the questions themselves show the extremely difficult position the Commission would confront if it had to address these situations.

We are also very concerned about the *Reduction Mechanisms* articulated in paragraphs 17-20. As above, we offer just two examples from the *Notice*:

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[6] *Id.* Para. 3.
[7] *Id.* Para. 9.
[8] *Id*. Commissioner Rosenworcel Comments. Page 53.
[9] *Id*. Para. 13.
[10] *Id.* Para. 16.

- What criteria should be used in prioritizing reductions of one program against reduction in another?[11]
- Should we prioritize based on the cost-effectiveness of each program or the estimated improper payment rates?[12]

What the Commission asks for will clearly result in pitting the needs and constituencies of each of the four programs against one another resulting in the "Hunger Games" scenario envisioned by Commissioner Rosenworcel.[13]  This was not the intent of Congress.

The Commission also seeks comments on combining the E-Rate and the Rural Health Care program caps.  While we agree with the *Notice's* statement "that both programs promote the use of advanced services to anchor institutions that have similar needs for high-quality broadband services," these programs were created as two distinct programs in the statutes, and we believe their funding—like the great majority of their processes and rules—should remain separate.

For many years the E-rate program was chronically underfunded, undermining the ability of libraries and schools to meet the diverse and high-bandwidth needs of our learners and students.  This was finally addressed with the increased funding made as part of the 2014 E-rate Modernization reforms.[14]  And while the E-rate program is now sufficiently funded, we are very concerned that combining the two programs' funding will again result in the E-rate program being insufficiently funded.  We urge the Commission to refrain from any rule changes that once more jeopardize the E-rate community's hard won battle to finally get the program adequately funded.  With many students and patrons having their own tablets and other mobile devices, the additional funding has been particularly useful in ensuring adequate in-building network infrastructure.[15]

While indirectly related to this *Notice*, we would be remiss if we did not mention the larger issue of Universal Service contribution reform. While program demand has not substantially changed

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[11] *Id*. Para. 17.
[12] *Id*. Para. 19.
[13] *Id*. Commissioner Rosenworcel Comments. Page 53.
[14] *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Second Report and Order and Order on Reconsideration. (December 19, 2014.) Paras. 77.
[15] Prior to the fund increase very few libraries or schools received any E-rate funding for in-building networking. (This was then known as "Priority 2" funding and since 2014 is "Category 2" funding.)

over the past several years, we note a continued decline in the contribution base.[16] It is critically important to place funding for all four US programs on a more solid foundation. The Commission opened a proceeding on this issue in April 2012,[17] and ALA filed initial comments in July 2012.[18] We suggest the Commission open another proceeding on this important issue to refresh the record.

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In conclusion, ALA strongly opposes setting an overall cap on the Universal Service program. Rather, one of the Commission's primary responsibilities is to ensure that each of the four programs is adequately funded and effectively managed to meet the still-relevant intent and goals of universal service articulated by Congress.

Respectfully submitted,

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[16] The 2Q 2018 contribution base ($12.8B est.) was $1.9 billion less than the 2Q 2016 base of $14.7B. This is a 13% decline in just two years. USAC Board of Directors Quarterly Meeting. Page 90. (January 30, 2018). (https://www.usac.org/_res/documents/about/pdf/bod/materials/2018/2018-01-30-board-briefing-book.pdf.)

[17] *Universal Service Contribution Methodology et al*., WC Docket No. 06-122, GN Docket No. 09-51. (April 30, 2012).

[18] ALA comments on *Universal Service Contribution Methodology.* (July 9, 2012). (https://ecfsapi.fcc.gov/file/7021984944.pdf)