

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

In the Matter of:

Modernizing the E-Rate Program for)
Schools and Libraries) WC Docket No. 13-184

Reply Comments of the American Library Association

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.

As stated in our initial comments¹ in this proceeding, ALA strongly supports the changes made in Category 2 (C2) as part of the 2014 E-rate Modernization process. This being noted, our initial comments made several recommendations for changes in C2 and we submit these reply comments to highlight several additional changes we support.

Eligibility of Content Filtering. In paragraph 18 of this Notice² the FCC asks if there are other services that should be eligible in C2. We agree with several parties who advocate in their initial comments that content filtering be made eligible for E-rate discounts. We find very persuasive

¹ American Library Association (ALA) comments filed August 16, 2019. Page 2.

² *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, *Notice of Proposed Rulemaking*, FCC. (Released July 9, 2019) (*Notice*).

the joint comments filed by the State E-rate Coordinators' Alliance and the Schools, Health & Libraries Broadband Coalition (SECA/SHLB comments).³ Their comments provide a solid legal justification to make filtering eligible. The Commission's position from the early 2000s when the Children's Internet Protection Act (CIPA) was passed is that the law prevents E-rate funds from being used to support the cost of filters. Our analysis leads to a different interpretation of the law, congruent with SECA's and SHLB's. CIPA passed Congress as part of the 2001 Consolidated Appropriations Act.⁴ Section 1721(g) states that funds from the Elementary and Secondary Education Act or the Library Services and Technology Act can be used to purchase technology protection measures (i.e., filters). This section further states that "No other sources of funds for the purchase or acquisition of such measures *are authorized by this title*, or the amendments made by this title." (Emphasis added.) We believe this italicized phrase simply states that this *particular legislation* does not authorize other funding for filters. However, we do not think this precludes the Commission from allowing E-rate funds to be used to support the cost of filters because such funds come from another source; namely the Universal Service Fund (USF). In the proper use of the USF we think the statutory language in the 1996 Telecommunications Act (section 254(h)) creating the E-rate program is the controlling language to determine E-rate eligibility. While this language is fairly general the Commission has made the interpretation that all of the specific services in the Eligible Services List are covered within this general language. For example, firewalls are E-rate eligible, yet the statutes make no reference to firewalls. Thus in our opinion the Commission can make the statutory interpretation that filter services are eligible just like firewalls.⁵ In addition, the Commission itself recognized that CIPA's filtering requirement was likely an impediment to library E-rate participation.⁶ Making filters eligible for E-rate discounts will help address this impediment. We encourage the FCC to review this issue

³ E-rate Coordinators' Alliance and the Schools, Health & Libraries Broadband Coalition comments filed August 16, 2019. Pages 27-28. (*SECA/SHLB comments.*)

⁴ Consolidated Appropriations Act, 2001. (PL 106-554). Title XVII – Children's Internet Protection; Subtitle B -- Universal Service Discounts; Section 1721(g). Page 352. (<https://www.govinfo.gov/content/pkg/PLAW-106publ554/pdf/PLAW-106publ554.pdf>.)

⁵ We also call attention to section 254(c)(3) of the statutes which states, "the Commission *may designate additional services for such support* mechanisms for schools, libraries, and health care providers for the purposes of subsection (h) of this section." Emphasis added.

⁶ *Modernizing the E-Rate Program for Schools and Libraries, Report*, WC Docket No. 13-184. *Category Two Budget Report*. Released February 11, 2019. Page 5.

and hope it agrees with our interpretation of the law and the interpretation taken by various other parties who support E-rate funding for filtering.⁷

Eligibility of More Robust Network Security. In the July 2014 Modernization Order the Commission declined to allow more robust network security programs and tools to be E-rate eligible.⁸ The Commission stated that “we decline at this time to designate further network security services and other proposed services in order to ensure internal connections support is targeted efficiently at the equipment that is necessary for LANs/WLANs.”⁹ The Commission appears to be concerned about possible costs to the program of allowing eligibility of more robust network protection tools. But we also note the Commission left open the record for further comment on this issue.¹⁰ Our position is that there are sufficient funds in the program and it is time to urgently address this serious issue.¹¹ As EducationSuperHighway commented, “Network security is an ever more critical component of educational technology infrastructure...”¹² In addition, Cox Communications stated in its comments, “The challenges facing school and library system information technology (IT) departments across the country have grown aggressively since 2014...”¹³ Cisco’s comments also highlight the increasingly difficult issue of removing the costs of currently ineligible E-rate network security components from the cost of eligible components. It states, “While separate security appliances continue to play an important role (e.g., firewall servers), increasingly cybersecurity functionality is embedded in – or, built in to – network software and cloud solutions.” Thus, “There often is no natural breaking point that would allow for treatment of [E-rate eligible] network connectivity as one line item and [E-rate ineligible] network security as another.”¹⁴ Besides this specific cost allocation issue, Cisco

⁷ In addition to the SECA/SHLB comments, see also the EducationSuperHighway comments filed August 16, 2019. Page 7. (*ESH comments*); E-Rate Management Professionals Association comments filed August 15, 2019. Page 15. (*E-mpa comments*); Alaska Department of Education & Early Development (DEED) comments filed August 15, 2109. Page 4.

⁸ See especially paragraph 121 and footnote #275 in *Modernizing the E-Rate Program for Schools and Libraries*, Report and Order and Further Notice of Proposed Rulemaking, (Released July 14, 2014.) (*2014 First E-Rate Order*).

⁹ *Id.* Para 121.

¹⁰ *Id.* Para 121.

¹¹ For example, we note that CoSN's 2019 K-12 IT Leadership Survey Report identified cybersecurity as the most important priority for IT Leaders. *CoSN's 2019 K-12 IT Leadership Survey Report*. Page 4. https://cosn.org/sites/default/files/CoSN_ITLdrshp_Report_2019_Final.pdf.

¹² *ESH comments*. Page 6.

¹³ Cox Communication, Inc. comments filed August 16, 2019. Page 6.

¹⁴ Cisco Systems, Inc. comments filed August 16, 2019. Page 7.

provides a good overview of various security issues and we encourage the Commission to closely review its comments.

Library networks are especially vulnerable because core services, like internet access, are open to the public with few restrictions. As Waller McGuire, Executive Director of the St. Louis Public Library aptly stated after the library was a victim of a ransomware attack:

Library networks are very different from private or most government networks: our mission is to provide open and free access to information for all. Thousands of St. Louisans depend on our computers and networks every day to access a world of vital information and services. Balancing that demand for open access against the need for protection takes a great deal of staff work and expense.¹⁵

And the *New York Times* reported just two weeks ago that more than forty municipalities have been hit by ransomware attacks this year, including Wilmer, TX. As stated in the article:

At the public library in Wilmer, Tex., books were checked out not with the beeps of bar code readers but with the scratches of pen on notebook paper. When the entire computer network that keeps the small town’s bureaucracy afloat was recently hacked, Wilmer was thrown into the digital Dark Ages. Beyond the disruptions at local city halls and public libraries, the attacks have serious consequences, with recovery costing millions of dollars.¹⁶

The above are just two of many examples of what can happen when library networks are compromised. Considering how essential robust network security is to our libraries (and schools) and how costly—both in monetary terms and in loss of public services—a network breach can be, we strongly encourage the Commission to broaden the definition of E-rate eligibility to include all segments of network security.¹⁷

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¹⁵ *An update on the ransomware attack*. Statement from Waller McGuire, Executive Director of the St. Louis Public Library. (June 30, 2017.) <https://www.slpl.org/news/an-update-on-the-ransomware-attack-against-slpl/>.

¹⁶ *Ransomware Attacks Are Testing Resolve of Cities Across America*. *New York Times*. August 22, 2019. <https://www.nytimes.com/2019/08/22/us/ransomware-attacks-hacking.html>.

¹⁷ Depending on a particular network configuration, security can be a Category 1 or Category 2 service, or a combination thereof. Considering this, we do not support the West Virginia Department of Education’s position that filters “should be limited to Category 1”. See their comments filed August 15, 2019. Page 7.

In addition to the recommendations made in our initial comments filed August 16, 2019, in these reply comments we further support making filtering tools and comprehensive network security tools eligible for E-rate discounts.

Respectfully submitted,

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