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November 8, 2019

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Notice of Ex Parte Presentation*
E-rate Category 2 Budgets and Security (WC Docket No. 13-184)

Dear Ms. Dortch:

On November 7, 2019, Cisco Systems, Inc. (“Cisco”) met with William Davenport of the Office of Commissioner Geoffrey Starks and, on November 8, with Travis Litman of the Office of Commissioner Jessica Rosenworcel. The meeting with Mr. Litman was telephonic. The purpose of the meetings was to discuss issues related to E-rated Category Two support raised in the Commission’s July 2019 Notice of Proposed Rulemaking.¹ Cisco was represented by Jeff Campbell, Vice President, Government Affairs and Technology Policy, and undersigned counsel.

In the meetings, Cisco’s presentation was consistent with Cisco’s comments in response to the NPRM and followed the attached talking points, which were distributed to the meeting attendees.

This letter is filed consistent with the Commission’s ex parte rules.

Sincerely,

/s/

L. Charles Keller
Counsel to Cisco Systems, Inc.

Attachment

cc: Travis Litman, FCC (email)
William Davenport, FCC (email)

¹ *Modernizing the E-rate Program for Schools and Libraries*, Notice of Proposed Rulemaking, 34 FCC Rcd 5406 (2019) (“NPRM”).

Cisco Systems, Inc.
E-rate Category 2 Support and Network Security
November 2019

- **The Commission should restore the five-year budgets for E-rate Category 2 services.**
 - Support in the record was effectively universal.
 - Fixed budget approach ensures equitable distribution of C2 support among schools, including rural schools.
 - Fixed budget approach controls spending.
- **The Commission should recognize that network security capabilities are a necessary and integral part of today's internal networks.**
 - The record is clear that cybersecurity is a major challenge for educational networks today.
 - The Attachment provides a sampling of the evidence in the record of cybersecurity incidents that have negatively affected schools and libraries in recent years, and shows that such incidents are increasing in frequency and severity.
 - Record support is unanimous for allowing E-rate C2 support to be used for network security capabilities.
 - The record also shows that network security functions are being integrated into internal network equipment or bundled into internal connections equipment.
 - As a result, in many instances, allowing C2 support to be used for security functionality will simply avoid the need for burdensome cost-allocation.
 - The Commission's public interest obligations under Section 254 include a responsibility to protect against cyber attacks.
 - In the draft USF Supply Chain Order and NPRM, the Commission will hold:
 - “In today's increasingly connected world, safeguarding the security and integrity of America's communications infrastructure has never been more important.” (¶ 1)
 - “[T]he promotion of national security is consistent with the public interest, and USF funds should be used to deploy infrastructure and provide services that do not undermine our national security.” (¶ 28) “Or, to put it another way, providing a secure service is part of providing a quality service.” (¶ 29)
 - “The action we take today also implements section 105 of CALEA [requiring telecommunications carriers to prevent unlawful interceptions of communications].” (¶ 35)
 - “Ensuring the safety, reliability, and security of the nation's communications networks is vital not only to fulfilling the purpose of the Act but to furthering the public interest and the provision of quality services nationwide.” (¶ 114)

- The Commission has the authority to provide USF support for network security functionality.
 - Section 254(h)(2) explicitly gives the Commission authority to “enhance...access to advanced telecommunications and information services” for E-rate recipients.
 - The Commission has used this authority over the years to support a range of information services through E-rate, including Internet access.
 - Since 1997, the Commission has held that it has particular authority to support networks and services in order to connect “classrooms” as required by Section 254(b)(6), and this was upheld by the 5th Circuit in *TOPUC*, 183 F.3d 393, 440-443 (5th Cir. 1999).
 - As noted above, network security functionality is now often integrated with internal connections equipment.
 - In light of all of this, the Commission has the authority to allow C2 E-rate support to be used for network security products to promote “access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school *classrooms* ... and libraries.” 47 U.S.C. § 254(h)(2).
- Supporting network security functionality through E-rate C2 support will have no impact on the size of the fund.
 - The per-applicant five-year budgets impose a strict limit on spending.
 - The overall E-rate fund is capped (and has had carryover funds in recent years).

Attachment

The K-12 Cybersecurity Resource Center, Cyber Incident Map,
<https://k12cybersecure.com/map/>.

Public Service Announcement, Fed. Bureau of Investigation, Education Technologies: Data Collection and Unsecured Systems Could Pose Risks to Students (Sept. 13, 2018),
<https://www.ic3.gov/media/2018/180913.aspx>.

Doug Olenick, Cyberattack Forces Houston County Schools to Postpone Opening Day, SC Media, July 31, 2019, <https://www.scmagazine.com/home/security-news/malware/cyberattack-forces-houston-county-schools-to-postpone-opening-day/> (reporting that the Houston County (Ala.) School District was forced to delay the start of school by 11 days).

FUSD Schools Closed Thursday Due to Cybersecurity Intrusion, Ariz. Daily Sun, Sept. 4, 2019, https://azdailysun.com/news/local/fusd-schools-closed-thursday-due-to-cybersecurity-intrusion/article_eee18f30-03b4-5114-84ee-24f986e03215.html (reporting that schools in Flagstaff, Arizona were closed due to cyberattack).

Bob Keeler, Souderton Area School District Hit by Cyber Attack, Souderton Indep., Sept. 4, 2019, http://www.montgomerynews.com/soudertonindependent/news/souderton-area-school-district-hit-by-cyber-attack/article_c191fcce-cf1c-11e9-bbe5-2730cc5d33c3.html (reporting that internet and network services, including school-issued devices, in Pennsylvania school district were unavailable due to cyberattack).

Tiina Rodrigue, ALERT! – CyberAdvisory – New Type of Cyber Extortion/Threat, U.S. Dept. of Educ., Fed. Student Aid (Oct. 16, 2017),
<https://ifap.ed.gov/eannouncements/101617ALERTCyberAdvisoryNewTypeCyberExtortionThreat.html>.

Initial Comments of the New Mexico Public School Facilities Authority at 12-14, WC Docket No. 13-184 (filed Aug. 16, 2019) (explaining that cyberattacks compromise personally identifiable information, waste money, and stymie productivity).

Comments of the Nebraska Department of Education at 6-9, WC Docket No. 13-184 (filed Aug. 29, 2019) (“Nebraska schools have had several instances of ransomware and malware that have stopped teaching and learning from happening, costing districts extreme amounts of time and money to rectify.”).

Reply Comments by the Iowa Department of Education at 4, WC Docket No. 13-184 (filed Sept. 3, 2019).

Reply Comments of the Ohio Information Technology Centers at 8-10, WC Docket No. 13-184 (filed Sept. 3, 2019).

Comments of the State of South Carolina on the Proposed Rulemaking for the Category 2 Program at 3, WC Docket No. 13-184 (filed Aug. 16, 2019).

Comments of the Kentucky Department of Education at 3, WC Docket No. 13-184 (filed Aug. 16, 2019).

Reply Comments of the Florida State E-rate Coordinator Team in Response to FCC Public Notice DA 19-58 at 13-14, WC Docket No. 13-184 (filed Aug. 22, 2019).

Reply Comments of the Illinois Department of Innovation and Technology at 5, WC Docket No. 13-184 (filed Sept. 3, 2019) (explaining that network security services enhance network performance and improve repair times).

Reply Comments of the American Library Association at 3-4, WC Docket No. 13-184 (filed Sept. 3, 2019) (“[I]t is time to urgently address this serious issue.”).

Initial Comments of the State E-rate Coordinators’ Alliance in Response to DA 19-738 at 6-7, WC Docket No. 13-184 (filed Sept. 3, 2019).

Reply Comments of the State Educational Technology Directors Association Regarding E-rate Category Two at 4, WC Docket No. 13-184 (filed Sept. 3, 2019).

Reply Comments of CoSN, AASA and ASBO Regarding E-rate Category Two at 2-5, WC Docket No. 13-184 (filed Sept. 3, 2019).

Comments of EducationSuperHighway at 6-7, WC Docket No. 13-184 (filed Aug. 16, 2019); Joint Initial Comments to Notice of Proposed Rulemaking (FCC 19-58) Submitted by State E-rate Coordinators’ Alliance and Schools, Health & Libraries Broadband Coalition at 26, WC Docket No. 13-184 (filed Aug. 16, 2019).