

MASSACHUSETTS  
40 main st, suite 301  
florence, ma 01062  
tel 413.585.1533  
fax 413.585.8904

WASHINGTON  
1025 connecticut ave. nw, suite 1110  
washington, dc 20036  
tel 202.265.1490  
fax 202.265.1489



March 23, 2016

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20054

***Via Electronic Filing***

**Re: WC Docket No. 11-42, *Lifeline and Link Up Reform and Modernization*  
WC Docket No. 09-197, *Telecom Carriers Eligible for Universal Service Support***

Dear Ms. Dortch,

On Monday, March 21, I spoke by telephone with Matt DelNero, Chief of the Wireline Competition Bureau, to discuss matters in the above-captioned dockets.

I noted Free Press's position, articulated in our initial comments and throughout the course of this proceeding, that Lifeline support should be fully portable and available for any telecommunications service the user chooses.<sup>1</sup> This means that even as the Commission laudably modernizes the program to support broadband, it should continue to support standalone voice at this time if it is the service that a Lifeline recipient most values.

The fact sheet issued in Chairman Wheeler's and Commissioner Clyburn's name earlier this month clearly indicates that the Commission has charted a different course. That fact sheet suggests the Commission will phase out support for standalone mobile voice by the end of 2019.<sup>2</sup>

In our comments and in subsequent *ex parte* notifications, Free Press has described the benefits from retaining such options in terms of preserving individuals' choice and maximizing user utility. Though many people today may substitute broadband or a bundle for standalone voice, that choice rightfully belongs to telecom users, including Lifeline participants. Some Lifeline recipients (including older Americans) may prefer to keep their standalone voice product for the sake of familiarity, and that should be a factor. For while it is undoubtedly true that "technological advances in the convergence of mobile voice and data" anticipated by the Fact Sheet will come to fruition (or already have, from a technical standpoint), the precise timetable for widespread acceptance of such convergence by all populations is less clear. So too is the amount of user education that may be required to ensure a smooth transition.

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<sup>1</sup> See, e.g., Comments of Free Press, WC Docket No. 11-42 *et al.*, at 31-32, 59-60 (filed Aug. 31, 2015).

<sup>2</sup> See "Chairman Wheeler & Commissioner Clyburn Propose Rules to Modernize Lifeline Program to Provide Affordable Broadband for Low-Income Americans," DOC-338113 (rel. Mar. 8, 2016) ("Fact Sheet").

Yet we have also explained the benefits of preserving people’s choices in terms of plain dollars and cents, based on affordability concerns. As we noted in a joint filing with New America’s Open Technology Institute last month, some Lifeline participants may find a mobile voice product far more attractive than broadband, assuming the support amount stays fixed at a maximum of \$9.25 per month.<sup>3</sup> That’s because such a voice service may be completely paid for by the subsidy, and thus may be more useful or affordable than a mobile or fixed broadband service for which these individuals would likely need to pay an additional amount. As we said in that joint filing, while broadband may indeed provide more technological bang for the buck than standalone voice, some families simply don’t have that buck to spend.

The Commission apparently has declined to mandate such a “co-pay” in a legal sense, gratefully, by evidently rejecting calls a formal requirement for such out-of-pocket expenditures. Some critics of the Lifeline program have suggested that such measures could curb abuse, but their speculation is unfounded and unsupported by sound evidence. And as the Center on Budget Policy and Priorities, imposing this type of cost-sharing on benefits recipients may serve only to decrease participation by eligible individuals and families.<sup>4</sup> Free Press has not opposed the possibility of a co-pay in some instances, and in fact has called upon the Commission to let Lifeline participants choose to apply their \$9.25 in support to a service even if the subsidy amount does not pay for the service in full.<sup>5</sup> That is different from requiring one in all instances.

Having declined to explicitly mandate such a co-pay, the Commission should take great care not to create a *de facto* co-pay in every practical sense and scenario, through a combination of its 2019 support phase-out plans and Lifeline-eligible service minimum standards requirements. The Commission’s desire to incentivize Lifeline recipients’ adoption of broadband is commendable. So is its apparent intent to encourage Lifeline providers to compete, thereby fostering innovation while putting downward pressure on costs. As I expressed to Mr. DelNero, Free Press is not in the habit of accepting without healthy skepticism any telecommunications carriers’ cost and pricing claims. Nevertheless, the record evidence in the docket is mounting, with not only carriers<sup>6</sup> and their trade associations<sup>7</sup> expressing concerns, but public interest organizations,<sup>8</sup> advocates for consumers and seniors,<sup>9</sup> disabilities rights groups,<sup>10</sup> and Members of Congress who strongly support Lifeline joining the chorus.

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<sup>3</sup> Free Press/OTI *Ex Parte* Notification, WC Docket Nos. 11-42, 09-197, at 3 (filed Feb. 26, 2016).

<sup>4</sup> CBPP *Ex Parte* Notification, WC Docket No. 11-42, at 1 (filed Mar. 8, 2016).

<sup>5</sup> *See* Comments of Free Press at 59-60. We also suggested that a far better way to curb any waste in a system the provides windfall profits to carriers is not artificial limits on eligibility or obstacles for individual subscribers in an already under-utilized program; but rather a system of reverse auctions for determining support levels if and when carriers can profitably provide a particular service for something less than \$9.25. *See id.* at 51, 59.

<sup>6</sup> Sprint *Ex Parte* Notification, WC Docket No. 11-42 *et al.*, at 1 (filed Mar. 14, 2016).

<sup>7</sup> CCIA/CTIA/CCA/INCOMPAS *Ex Parte* Notice, WC Docket No. 11-42 *et al.*, at 2-3 (filed Mar. 17, 2016).

<sup>8</sup> Public Knowledge/Benton Foundation/UCC/NCLC/Leadership Conference *Ex Parte* Notice, WC Docket No. 11-42 *et al.*, at 2 (filed Mar. 17, 2016).

<sup>9</sup> AARP *Ex Parte*, WC Docket No. 11-42, at 1 (filed Feb. 22, 2016).

<sup>10</sup> Disability Advocates *Ex Parte* Notification, WC Docket No. 11-42 *et al.*, at 1 (filed Mar. 22, 2016).

As various Disability Advocates made clear in a filing just this week:

[W]hether the requirement to make a payment [is] explicit...or whether it [is] implicit as a result of the Commission adopting minimum service standards that would exceed the cost of the current subsidy and force a contribution from Lifeline participants, the result would be the same – many needy and deserving people who have come to rely on the critical connection of Lifeline voice service but who can't afford to make any level of payment would be forced to drop out of the program.<sup>11</sup>

That is why, at the conclusion of our conversation, I asked Mr. DelNero if the Commission had any data or models for the impact on Lifeline participation rates if a co-pay were a *de facto* requirement of the reforms currently under consideration.

I noted that even if the admittedly shorthand calculations appearing in Mr. DelNero's and Wireless Bureau Chief Jon Wilkins joint blog post were entirely accurate – concerning retail prices and carrier cost trends over the course of the next several years – it appears that the final retail price for any Lifeline eligible service or product could exceed \$9.25 by several dollars a month or more. If that is the case, the Commission should study the possibility that such a price increase could in fact decrease Lifeline participation instead of sending it in the right direction.

Respectfully submitted,

/s/ Matthew F. Wood

Policy Director

Free Press

202-265-1490

[mwood@freepress.net](mailto:mwood@freepress.net)

cc: Matthew S. DelNero

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<sup>11</sup> *Id.*