

August 20, 2008

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: REPLY COMMENTS

FCC 08-180

Released: July 31, 2008.

Commission Seeks Comments on Draft Eligible Services List for Schools and
Libraries Universal Mechanism

CC Docket No. 02-6

Kellogg & Sovereign[®] Consulting, LLC (“KSLLC”) has been assisting schools and libraries with the universal service discount mechanism for schools and libraries (“E-Rate”) since the program’s inception in 1998. Our clients range from districts servicing 17 students to districts serving 45,000 students. For the 2009-2010 filing window, our firm filed over 350 Form 471 applications representing over 220 school districts and library systems in eight states.

The following acronyms are used in our comments:

- SLD-Schools and Libraries Division of the Universal Service Administrative Company (USAC)
- ESL-Eligible Services List
- E-Rate-Education Rate. Universal Service Discount Mechanism for Schools and Libraries.

We submit our Reply Comments in response to comments filed by August 14, 2008 regarding the following changes proposed by USAC:

1. a clarification E-mail archiving is an ineligible component of an Eligible service. The draft also clarifies that e-mail storage is limited to eligible e-mail files and is not intended for e-mail archiving
2. a proposal to list intranet web hosting as an ineligible feature of an eligible web hosting service
3. a clarification that Video On-Demand servers are not eligible for discounts

1. E-Mail Archiving.

We agree with the comments submitted by the E-Rate Service Providers Association (ESPA) requesting that USAC provide a clear distinction between ineligible archiving and eligible storage of e-mail data. We agree with the criteria set forth by ESPA as follows except as noted below:

- a. *“Account Status: To be considered storage, the user must be a current member of the organization. Former employees, students or library patrons must have their storage transitioned to archival form (see, “Time Frame.”)”*

We agree with this statement as written.

- b. *“Time Frame: Storage is a limited duration, not to exceed 1 year, set by organizational policy. Archiving is long term, and may not expire.”*

Users of email must be able to store messages that are currently being used for a reasonable period of time. FCC records retention requirements currently require that all documents (including e-mail) must be retained for a period of five years from the last date of service. If USAC needs e-mails stored for the five year period, then a reasonable period of time to store standard e-mail correspondence would accordingly be for a five year period. Due to the large volume of e-mails many corporations require that e-mail correspondence be archived after one year. Therefore, the archive period may be after one or after five years depending on USAC’s desire to have e-mail correspondence available for audit purposes.

- c. *“Location: Storage must occur within the email solution (at the service provider or “on-site” at a district owned building). Archiving may occur anywhere.*

We agree with this statement as written.

2. Intranet Web Hosting.

We agree with the comments submitted by the E-Rate Service Providers Association (ESPA), Edline, and E-Rate Central. Specifically, that “Funding will be available for web hosting services that reach the boundary of public Internet space.”

We agree with the following points discussed by ESPA and Edline:

- The products necessary to implement a password-protected section on a website are generally included with the basic cost of the service and any minimal costs that could be saved are likely outweighed by the administrative burden of removing them by cost allocation
- Removal of restrictive access utilities reduces the utility of the website in question
- Loss of new technology available for restricting access will make the process more complex and burdensome
- Restrictive access allows schools & libraries to meet legal privacy requirements – safety and security of students in school. If removed, this will undermine the important public policy goal of student safety
- USAC should be promoting emerging technologies and technological neutrality yet the proposal of making intranet web hosting ineligible is at odds with these goals
- To stay within FCC precedent, the broadcast model/static web site of old technology is eligible for funding. For technology neutrality purposes, USAC should also consider fully featured, interactive web sites that enable the larger constituent community to access resources more quickly and easily while protecting sensitive data as eligible
- The preconceived idea about “web hosting” being inherently different from e-mail or other web services is inappropriate given the pace of new and converging technologies
- The critical requirement of student safety and security would be significantly undermined if the proposal is adopted
- Applying the same logic to email would require that all email be publicly available to all Internet users.

- For the Commission to decide that such restrictions for an e-mail service are eligible, but that similar protections for a web hosting service are not eligible, is inconsistent and inappropriate.

Kellogg & Sovereign Consulting questions why USAC would consider an email service that provides for sending information specifically from one person to another as eligible while a web hosting service that provides information for a specific group of people would be considered ineligible? In the early years of web site development, programmers were not able to restrict access to sensitive areas. However, with current technology, password protection is now ubiquitous in the industry and enables information to be posted that previously could not because of state, federal and local law including the Children's Internet Protection Act (CIPA). It makes absolutely no sense for USAC to ask schools and libraries to use obsolete technology that does not protect minors and is in direct conflict with the great strides made in technology over the last decade including efforts by Homeland Security.

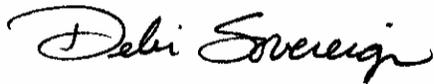
We encourage USAC to seriously reconsider its plan to list intranet web hosting service as ineligible. A web hosting service that reaches the boundary of public Internet space should be considered as eligible even if it incorporates technologically advanced utilities for restricting access to certain areas of the site. Furthermore, it meets the eligibility requirements for all Internet Access Services as it offers "the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications."

3. Video On-Demand Servers.

We agree with the comments submitted by Funds for Learning (FFL) regarding Video On-Demand Servers. The product, "Video On-Demand Server" usually includes a conduit function that is eligible for E-Rate discount. The issue at hand is the storage component of the server which should be ineligible. FFL further explains that USAC may want to clarify that "video content storage" is an ineligible component rather than the entire unit itself. Current cost allocation methods implemented by USAC properly

cost allocate the ineligible storage function based on the functionality of each manufacturer's product. Since there is an eligible conduit function there would be no reason for USAC to determine that the eligible conduit functionality should be ineligible. To do this would be similar to denying all funding for a firewall that has ineligible functionality or any of the other products regularly considered by USAC for funding after cost allocation has been applied. In keeping with the program goal of technological neutrality, we do not believe it makes sense to treat a video on demand server differently than any other product that includes both eligible and ineligible functionality.

Respectfully submitted,



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The following comments are referenced in our reply comments above:

- ESPA - E-Rate Service Providers Association. Comments submitted 8/13/08
- Funds for Learning. Comments submitted 8/14/08
- Edline. Comments submitted 8/14/08