

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Universal Service Contribution	)	WC Dkt. No. 06-122
Methodology	)	
	)	
A National Broadband Plan for Our Future	)	GN Dkt. No. 09-51
	)	

**REPLY COMMENTS OF GOOGLE INC.**

Google Inc. (“Google”) submits these Reply Comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking seeking comment on reform and modernization of the Universal Service Fund (“USF”) contribution mechanism.<sup>1</sup> The record strongly supports expanding the USF contribution base to include broadband Internet access services. The comments also show that the FCC should focus on a forward-looking connections-based contribution mechanism that better reflects technological and marketplace evolution rather than try to fix the broken revenues-based system. Similarly, the FCC should not impose a new, direct USF burden on innovative Internet applications and services, which would undermine their enormous economic and societal benefits.

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<sup>1</sup> *Universal Service Contribution Methodology, Further Notice of Proposed Rulemaking*, WC Dkt. 06-122, *et al.*, FCC 12-46 (rel. Apr. 30, 2012) (“FNPRM”). Initial comments were filed July 9, 2012 and all citations to comments herein refer to filings made on this date.

**I. The Comments Show Widespread Support for Expanding the USF Contribution Base to Include Broadband Internet Access Service**

The most striking area of agreement in the record is the extensive support for expanding the USF contribution obligation to include broadband Internet access service.<sup>2</sup> Not only is this step logical given the expansion of USF distributions to broadband deployment, it will create sustainability consistent with the evolution from narrowband communications to broadband.

As AT&T asserts, including broadband Internet access service in the contribution base meets “central principles . . . that should guide the Commission,” including “sustainability, competitive neutrality, ease of administration, and equitable fairness.”<sup>3</sup> Competitive providers agree. For instance, XO Communications emphasizes that “[i]t is nonsensical to deploy scarce universal service funds to subsidize expansion of broadband Internet access services while simultaneously giving the providers of broadband universal Internet access services a ‘free pass’ on contributing any financial support to the

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<sup>2</sup> See Comments of AARP at 29 (“AARP Comments”); Comments of Ad Hoc Telecommunications Users Committee at 38-40 (“Ad Hoc Comments”); Comments of Alexicon Telecommunications Consulting at 3; Comments of AT&T at 13 (“AT&T Comments”); Comments of the California Public Utilities Commission and the People of the State of California at 7 (“California PUC Comments”); Comments of CenturyLink at 5 (“CenturyLink Comments”); Comments of the Coalition for Rational Universal Service and Inter-carrier Reform at 2-3; Comments of COMPTTEL at 16 (“COMPTTEL Comments”); Comments of EarthLink, Integra, and tw telecom at 7 (“EarthLink, Integra, and tw telecom Comments”); Comments of Frontier Communications Corporation at 5; Comments of GVNW Consulting, Inc. at 15; Comments of MetroPCS Communications, Inc. at 13 (“MetroPCS Comments”); Comments of the National Association of State Utility Consumer Advocates at 8 (“NASUCA Comments”); Comments of the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, and the Western Telecommunications Alliance at 15 (“Rural Associations Comments”); Comments of Peerless Network, Inc. at 12; Comments of the Rural Telecommunications Group, Inc. at 4-5 (“RTG Comments”); Comments of XO Communications Services, LLC at 30 (“XO Comments”).

<sup>3</sup> AT&T Comments at 13.

universal service program.”<sup>4</sup> Smaller and rural carriers likewise urge that this step “is critical to the long-term sustainability of the USF, and to establishing a contribution system that is fair and efficient.”<sup>5</sup> The California PUC and NASUCA also support FCC action to include broadband Internet access service in the contribution base.<sup>6</sup>

The FCC should reject arguments that expanding the contribution base to include broadband will somehow dampen broadband adoption and deployment.<sup>7</sup> All recent broadband data show an inexorable trend of increased broadband deployment and uptake that will not be impacted by a modest assessment on broadband Internet access services (which would simultaneously support additional broadband rollout).<sup>8</sup> Obstacles to greater broadband deployment and usage are also increasingly addressed by technological innovation that will not be affected by expanding the contribution base, such as better utilization of unlicensed spectrum to expand wireless broadband.<sup>9</sup>

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<sup>4</sup> XO Comments at 30. *See also* Ad Hoc Comments at 39; COMPTTEL Comments at 15-16; EarthLink, Integra, and tw telecom Comments at 7.

<sup>5</sup> Rural Associations Comments at 15.

<sup>6</sup> California PUC Comments at 7 (“[s]ince broadband Internet access service providers will now benefit from USF contributions, it would be only equitable that they also contribute to the [USF].”); NASUCA Comments at 7 (“if the USF is to support broadband, then broadband must support the USF.”).

<sup>7</sup> *See, e.g.*, Comments of Verizon at 41-43 (“Verizon Comments”); Comments of ADTRAN, Inc. at 6; Comments of Time Warner Cable Inc. at 9.

<sup>8</sup> *See, e.g.*, NTIA, *Digital Nation: Expanding Internet Usage* at 7 (2011) (households subscribing to broadband Internet access service increased from 4.4% in 2000 to 68.2% in 2010 and remains on an upward trend); National Broadband Map, *Broadband Statistics Report: Access to Broadband Technology by Speed* at 3 (2012), available at <http://www.broadbandmap.gov/download/Technology%20by%20Speed%20JUNE%202011.pdf> (approximately 99% of all households in the United States have access to some form of terrestrial broadband).

<sup>9</sup> *See, e.g.*, Letter from Tamara Preiss, Verizon, to Marlene H. Dortch, Secretary, FCC, WT Dkt. 12-4 (filed June 1, 2012) (stating Verizon’s need to add spectrum in order to meet strong (Footnote continued on following page)

## **II. The Record Underscores Numerous Irreparable Problems with the Revenues-Based Contribution Scheme**

There is broad agreement among diverse industry stakeholders that the current system of assessing and collecting USF contributions based on provider revenues no longer fulfills the FCC's statutory mandates or best serves the innovative communications sector. Business telecommunications users describe the revenues-based system as "unsustainable," explaining that the methodology is "badly broken" and "unfit to adapt to changing market conditions."<sup>10</sup> Other comments note that "the telecommunications marketplace has evolved significantly since the current contribution mechanism was implemented," which has "compromised the effectiveness of the revenues-based methodology."<sup>11</sup> The VON Coalition points out that the revenues-based system has sowed confusion among providers and has failed to account for the way services are actually delivered in the marketplace today.<sup>12</sup> Simply put, "[a] revenues-based approach is not a good fit with the increasingly favored charging model of grouping different kinds of features and services into price bundles."<sup>13</sup>

Nor should the FCC waste resources attempting to "cure" the many infirmities of the revenues-based system by adopting various modifications proposed in the FNPRM.

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consumer demand for mobile broadband). *See also* Omnibus Broadband Initiative, Connecting America: The National Broadband Plan at 84, GN Dkt. 09-51 (rel. Mar. 16, 2010) (describing benefits of allowing greater use of unlicensed spectrum for broadband).

<sup>10</sup> Ad Hoc Comments 36-37.

<sup>11</sup> Comments of Comcast Corporation at 7 ("Comcast Comments").

<sup>12</sup> Comments of the Voice on the Net Coalition at 2 ("VON Comments"). *See also* Comments of Vonage Holdings Corp. at 2 ("Vonage Comments").

<sup>13</sup> Comments of Microsoft Corporation at 14 ("Microsoft Comments").

Changes and tweaks to the revenues-based system “may buy the Commission some time,” but will not reflect ongoing changes to “business models where an entity’s revenue streams will have nothing to do with the provision of interstate telecommunications.”<sup>14</sup>

Global innovation leaders, represented by the Information Technology Industry Council, concur:

Continuing on a revenue-based, service-by-service basis as the FNPRM proposes would be complicated and burdensome to administer, difficult to structure to ensure competitive neutrality, harmful to small business and innovators, and potentially ever expanding. It would also be susceptible to consumer trends and changes in technology, services, and applications, and require constant updating, which is costly as companies must make changes to billing and recordkeeping.<sup>15</sup>

As Vonage advocates, “[r]ather than attempting to reform a system that is a poor fit for the modern and ever-evolving communications marketplace,” the Commission should move to adopt a new contribution mechanism.<sup>16</sup>

### **III. The FCC Should Further Explore Connections-Based Contribution Mechanisms**

The record highlights extensive support for the FCC to move to a connections-based contribution mechanism. A wide cross-section of commenters describe the myriad benefits of a USF contribution system derived from communications connections, including simplicity and administrative ease, increased sustainability, greater equity and enhanced efficiency. While some parties have not yet determined precisely which

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<sup>14</sup> AT&T Comments at 18.

<sup>15</sup> Comments of the Information Technology Industry Council at 2-3 (“ITI Comments”).

<sup>16</sup> Vonage Comments at 2. *See also* Comcast Comments at 7 (“The Commission’s proposals to update and modify the current system, however, are both problematic and likely ineffective and, consequently, would undermine achievement of the Commission’s policy goals.”).

contribution mechanism will best serve consumers and meet FCC goals,<sup>17</sup> numerous commenters from across the communications landscape make clear that they are open to further exploration of a connections-based system.<sup>18</sup>

Comcast explains that a connections-based system “may be better suited to an industry that is characterized by ongoing, rapid changes in service offerings, because it would focus on physical connections with a communications network rather than the services provided over those connections.”<sup>19</sup> Another filer states that it is “more consistent with the increasingly layered nature of communications, in which various communications applications and services are independent of the transmission networks over which they are used,” so that it is “better suited to the ways in which communications networks are now used and to how providers deliver and charge their customers for communications services.”<sup>20</sup>

Parties also describe a connections-based mechanism as more “equitable and nondiscriminatory; more consumer friendly; more efficient; more sustainable; and less regulatory intrusive.”<sup>21</sup> Commenters note that a connections mechanism likely will make

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<sup>17</sup> *See, e.g.*, AT&T Comments at 18-20; CenturyLink Comments at 15-18; Comments of CTIA – The Wireless Association at 8-9; Comcast Comments at 2; Comments of the National Cable & Telecommunications Association at 2-3; Verizon Comments at 45-46.

<sup>18</sup> *See, e.g.*, Comments of the American Cable Association at 9-10; Ad Hoc Comments at 28-36; Comments of the Association of Teleservices International, Inc. at 9; AT&T Comments at 18-19; Comments of Cincinnati Bell Inc. at 8; Comments of the Critical Messaging Association at 9-10; Comments of the Fiber-to-the-Home Council at 2; Comments of Level 3 Communications, LLC at 21-22 (“Level 3 Comments”); Comments of the Nebraska Rural Independent Companies at 16-17.

<sup>19</sup> Comcast Comments at 19.

<sup>20</sup> Microsoft Comments at 14-15.

<sup>21</sup> Sprint Comments at 26.

it easier for providers to understand when they must pay and how their contributions are calculated, and will help reduce disputes and lower the costs of administration and compliance.<sup>22</sup> A connections-based approach also could be more transparent for consumers, enabling them to better understand the USF contribution requirements.<sup>23</sup> Parties also assert that by removing the guesswork from the contribution process, a shift to a connections-based contribution mechanism will support, rather than thwart, the ability of IP-based services to emerge and grow.<sup>24</sup>

Implementation details will require thoughtful input and attention. With participation from all segments of the industry, as well as from consumers and other users, the FCC is well-positioned to explore in depth how best to move from the current contribution mechanism to a connections-based system. This process will best create a “future proof,” sustainable USF contribution mechanism that embraces the accelerating evolution of communications.

#### **IV. A Contribution Mechanism Should Not Impose New Burdens on Innovative Over-the-Top Information and Edge Services**

While some commenters urge that one-way VoIP and similar offerings should be brought directly within the contribution base and subject to direct USF assessments, the FCC should not heed pleas to hamstring new technologies and capabilities.<sup>25</sup> Offerings such as one-way VoIP, email, IM, SMS and applications still on the horizon “reflect the trend toward enabling communications across various platforms and networks through

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<sup>22</sup> See, e.g., ITI Comments at 3-4.

<sup>23</sup> Comcast Comments at 19.

<sup>24</sup> VON Comments at 2. See also Vonage Comments at 2.

<sup>25</sup> See, e.g., AT&T Comments at 6-8; MetroPCS Comments at 13-15; RTG Comments at 11-12.

so-called ‘over-the-top’ or ‘network-independent’ applications.”<sup>26</sup> These online and edge applications and services harness technological progress, deliver broad societal benefits, and foster demand for broadband.<sup>27</sup>

To the extent Internet-based content and services rely on underlying “telecommunications,” they already contribute indirectly to the USF. Saddling these offerings with new, direct USF contribution obligations is likely to restrict innovative options for all communications consumers and cause immediate and lasting harm to the users, pioneers, and innovators of Internet-based services. Inflating the contribution base in this manner is also likely to be impractical and unworkable, effectively sweeping in “entities offering Internet-based services that would have no way of knowing that they were now subject to universal service contribution accounting and reporting requirements.”<sup>28</sup>

Instead of seeking to subject each of the services that ride over the communications network to new direct assessments, a more logical approach is to assess the underlying networks that provide the foundation for all applications and services. Notably, multiple parties also caution that the Communications Act (“Act”) does not authorize the FCC to regulate services that do not provide “telecommunications.”<sup>29</sup> As Sprint states, “these providers would appear to be beyond the reach of the FCC’s funding

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<sup>26</sup> Microsoft Comments at 5-6.

<sup>27</sup> See, e.g., Broadband US TV, *US Ignite Webcast: What’s the Opportunity for Communities, Network Providers, and Developers*, July 25, 2012, available at <http://www.tvworldwide.com/events/broadbandpolicy/120725/default.cfm?action=2>.

<sup>28</sup> Level 3 Comments at 10.

<sup>29</sup> See, e.g., Comments of the Coalition for Rational Universal Service and Intercarrier Reform at 9; Level 3 Comments at 8-9; Sprint Comments at 23.



authority.”<sup>30</sup> The FCC’s authority to create a sustainable USF mechanism is substantial but not unlimited. Exceeding the bounds of the Act could jeopardize the FCC’s ability to enact long-term reform.

### CONCLUSION

The FCC should embrace a new, forward-looking contribution mechanism based on physical connections, including broadband Internet access. This approach best reflects technological and marketplace trends and promotes continued broadband usage and innovation.

Respectfully submitted,



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<sup>30</sup> Sprint Comments at 23.