

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Modernizing the E-rate	)	WC Docket No. 13-184
Program for Schools and Libraries	)	

**COMMENTS OF THE  
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION**

The National Cable & Telecommunications Association (NCTA) supports the Commission’s continuing efforts to reform the E-rate program. In particular, NCTA encourages the Commission to quickly adopt and implement proposals to provide more E-rate funding for Wi-Fi and other services that enable bandwidth to be used effectively within the classroom. The Commission should take a more cautious approach with respect to other proposals in the *Notice*,<sup>1</sup> such as encouraging the use of consortia that may rely on single-source contracts or funding potentially inefficient construction of new facilities by schools and libraries, because it is not clear that the net effect of those proposals would be beneficial.

**I. NCTA SUPPORTS THE COMMISSION’S PROPOSAL TO UPDATE THE PRIORITY OF VARIOUS SERVICES**

**A. Additional Funding for Wi-Fi and Other Services Is Critical to Achieving the Commission’s Objectives for the E-Rate Program**

NCTA welcomes the Commission’s recognition that additional funding for the deployment of Wi-Fi and other equipment and services inside school and library buildings is essential and that achieving this objective requires changes in the current treatment of these services as Priority 2 services.<sup>2</sup> As NCTA explained in its reply comments, there is broad

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<sup>1</sup> Public Notice, *Wireline Competition Bureau Seeks Focused Comment on E-Rate Modernization*, WC Docket No. 13-184, DA 14-308 (rel. Mar. 6, 2014) (*Notice*).

<sup>2</sup> *Id.* at ¶¶ 8-10.

support for changing the rules to ensure that money is made available for internal connections and Wi-Fi that enable high-speed connections to be delivered all the way to the classroom.<sup>3</sup>

The *Notice* solicits comment on the scope of services to be included in any new or revised funding approach for internal connections. In particular, the Commission is focused on identifying equipment and software “that is essential to getting high-capacity broadband from the building’s front door to the computer, tablet, or other learning devices in schools and libraries.”<sup>4</sup> The Commission is correct to focus on the task of getting broadband to where it will be used by students, but it should be careful not to be overly prescriptive in identifying services or equipment to achieve that objective. NCTA previously suggested that the Commission simply eliminate the Priority 1/Priority 2 distinction and let schools decide how best to spend the money they receive to achieve the goal of enabling all students to access high-speed broadband.<sup>5</sup> But if the Commission does identify particular services for special treatment, it should include not only Wi-Fi and internal wiring, but also filtering software and firewalls that are essential to the provision of broadband within the classroom or library.<sup>6</sup>

The *Notice* also seeks comment on a number of proposals for revising the distribution of funding for Wi-Fi and other internal connections. To varying degrees, each of these proposals likely would have the effect of increasing the amount of funding that is directed toward these essential services. In deciding which approach to take, the Commission should strive to ensure that it provides all schools with an opportunity to receive some support for these services and that each school has sufficient certainty as to the timing and size of distributions so that it can

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<sup>3</sup> NCTA Reply Comments at 6-8.

<sup>4</sup> *Notice* at ¶ 11.

<sup>5</sup> NCTA Comments at 14.

<sup>6</sup> *Id.* at 7-8.

plan its purchases accordingly. For example, the Commission’s proposal to establish an annual allocation of funding for all eligible applicants would be one way to encourage additional deployment of Wi-Fi and other services and equipment within schools.<sup>7</sup> As the *Notice* explains, a significant benefit of this approach is that it provides schools and libraries a measure of certainty regarding the funding that would be available to them each year.<sup>8</sup> Alternatively, the Commission could establish a system of rotating eligibility to ensure that it begins to address pent-up demand for these services in a manner that, over some period of time, gives all schools an opportunity to receive some support. Regardless of which approach it takes, the Commission could use a portion of the additional \$2 billion it plans to inject into the E-rate program as a down payment on this important investment.

**B. Support for Voice Services Should Be Focused on VoIP Services**

As described in the *Notice*, there is widespread support for reducing the funding provided for voice services, which currently receive a substantial portion of the funds distributed through the E-rate program.<sup>9</sup> Reducing the amount of support for voice services is essential to achieving the Commission’s broadband objectives while ensuring that the budget for the E-rate program remains affordable for the consumers who pay into the universal service fund. At the same time, the *Notice* recognizes that a transition process will be needed so that schools and libraries can plan appropriately and it proposes a number of alternatives that could be implemented by the Commission.<sup>10</sup>

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<sup>7</sup> *Notice* at ¶ 20.

<sup>8</sup> *Id.* at ¶ 22.

<sup>9</sup> *Id.* at ¶ 40.

<sup>10</sup> *Id.* at ¶¶ 41-49.

The ongoing transition from TDM-based voice services to IP-based voice services should facilitate the Commission’s ability to make this transition. Even after high-capacity broadband is deployed to, and within, a school or library, voice communications will remain an important capability for schools. But in an IP-based environment, voice over IP (VoIP) capabilities typically will be purchased as an addition to the core broadband service at a lower price than traditional stand-alone voice services.<sup>11</sup> Consequently, rather than phasing out support for voice services completely, the Commission instead should reduce the support that is made available for voice by limiting support to VoIP services. As the Commission suggests in the *Notice*, it should carry out that process over a transition period of several years to give schools appropriate time to adjust their purchasing.<sup>12</sup> In the unusual case where VoIP services are not available in an area, the Commission could consider using such services as a benchmark for how much support the E-rate program will provide for voice services.”<sup>13</sup>

**II. THE COMMISSION SHOULD NOT ARTIFICIALLY ENCOURAGE THE USE OF CONSORTIA AND IT SHOULD PROHIBIT CONSORTIA FROM SEEKING SINGLE-SOURCE CONTRACTS FOR SUPPORTED SERVICES**

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In attempting to identify ways to encourage cost-effective purchasing of E-rate services, the *Notice* asks whether the use of consortia or other mechanisms for bulk purchasing would drive down the prices for supported services.<sup>14</sup> Similarly, Chairman Wheeler and Commissioner Rosenworcel recently have suggested that greater use of consortia might enable E-rate services to be purchased at lower cost than they are today.<sup>15</sup>

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<sup>11</sup> *Id.* at ¶ 40.

<sup>12</sup> *Id.* at ¶¶ 41-43.

<sup>13</sup> *Id.* at ¶ 48.

<sup>14</sup> *Id.* at ¶ 35.

<sup>15</sup> Remarks of Chairman Tom Wheeler before the Council of Chief State School Officers Legislative Conference (March 17, 2014) (Wheeler Remarks) at 4 (“And we will make sure that consortium-based applications, those most likely to get the most services at the lowest cost, are acted on first, not last.”); Remarks of Commissioner

It is not clear that artificially encouraging the use of consortia necessarily will produce lower prices for services purchased through the E-rate program. As NCTA explained in its reply comments, the record confirms that there are many situations where consortia are not the most efficient option for purchasing the services supported by the E-rate program.<sup>16</sup> While there may be benefits associated with aggregating demand from multiple schools or districts and relieving individual schools of the burden of navigating the E-rate application process, there also may be negative consequences that result from soliciting bids for a much larger universe of customers. In addition to the administrative challenges associated with administering a consortium, there also is a significant risk that expanding the use of consortia will “unfairly disadvantage smaller providers that may be efficient local providers of high-capacity services.”<sup>17</sup>

The risk that smaller providers will be disadvantaged by expanding the use of consortia is particularly significant in cases where a consortium issues an RFP that is explicitly or implicitly designed to result in a single-source contract. Some of NCTA’s member companies have found themselves in situations where a consortium’s RFP was structured in a manner that made it difficult for anyone other than a large incumbent LEC to participate in the bidding. With cable operators and other smaller providers excluded from the bidding process, these consortia often end up paying higher prices than they would be able to obtain if each school or district purchased service individually, exactly the opposite result of what the Commission is trying to achieve.

To achieve the best results, the Commission should require that any RFP issued by a consortium explicitly provide the opportunity for multiple parties to provide supported services.

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Jessica Rosenworcel at the SXSWEDU Conference and Festival (Mar. 6, 2014) at 4 (“I also would like to see more incentives for consortia in the application process. When schools work together they can navigate the process together and benefit from more cost- effective bulk purchasing.”).

<sup>16</sup> NCTA Reply Comments at 11.

<sup>17</sup> *Notice* at ¶ 35.

Such an approach would ensure that smaller providers have a meaningful opportunity to participate, which should reduce the prices that consortia pay for supported services. In addition, the Commission should require consortia that select a single provider to demonstrate that the selection is the most cost effective use of E-rate funds.

### **III. THE COMMISSION SHOULD EXERCISE CAUTION IN FUNDING SELF-DEPLOYMENT BY SCHOOLS AND LIBRARIES**

The Commission again solicits comments on the question of how best to support the deployment of new high-capacity broadband connections to schools and libraries, particularly schools and libraries that do not have access to connections that meet the connectivity goals identified in the *E-rate NPRM*.<sup>18</sup> Specifically, the Commission asks whether it should develop a limited initiative, within the existing Priority 1 framework, to encourage the deployment of high-capacity broadband connections.

As NCTA explained previously, the record demonstrates that high-capacity broadband services are available in most areas, from cable operators and from other providers.<sup>19</sup> To the extent schools are not choosing to include such services when they issue RFPs, the problem generally is not lack of availability. Consequently, in most cases, construction of new facilities by the school is neither a necessary nor appropriate use of federal E-rate support.

The Commission also asks a variety of questions related to the mechanics of supporting broadband deployment, such as whether to adopt a flat discount rate for capital costs, provide increased support for up-front costs, or prioritize applications for deployment costs.<sup>20</sup> As NCTA and many other parties explained, deployment of high-capacity broadband networks, particularly in rural areas, can be very expensive. There are no simple procedures or administrative

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<sup>18</sup> Notice at ¶ 24.

<sup>19</sup> NCTA Reply Comments at 3-4.

<sup>20</sup> Notice at ¶¶ 26-33.

mechanisms available that would enable the Commission to significantly expand support for broadband deployment without expanding the size of the program or eliminating support for other services.

To the extent the Commission determines that there are areas where existing providers are unable or unwilling to provide sufficient bandwidth, support for construction of new facilities may be warranted, provided appropriate safeguards are established to ensure that the budget for the E-rate program is maintained and funding is not wasted. As NCTA proposed previously, the Commission generally should follow the same approach it adopted in connection with the Rural Health Care program. Specifically, the Commission should: (1) fund the self-construction of networks by schools and libraries only where broadband is currently unavailable and where service providers lack sufficient incentives to construct it; (2) require schools and libraries to solicit bids for both purchasing services and self-construction and to demonstrate that self-construction is the more cost effective option; and (3) establish a cap on the amount of funding that will be devoted to self-construction projects.<sup>21</sup> By adopting these safeguards, the Commission will promote deployment in areas where it is needed most while still honoring its “fiduciary responsibility” to the consumers whose contributions fund the E-rate program.<sup>22</sup>

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<sup>21</sup> NCTA Reply Comments at 5-6, *citing Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678 (2012).

<sup>22</sup> Wheeler Remarks at 4.

**CONCLUSION**

To best advance the Commission’s objectives for the E-rate program, it should increase the amount of funding that is allocated to Wi-Fi and other essential services, phase down the amount of support for voice services, and establish safeguards to ensure that consortia do not inappropriately rely on single-source contracts and excessive funding is not inefficiently devoted to construction of new fiber networks by schools and municipalities.

Respectfully submitted,

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