



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 21, 2017

The Honorable Debbie Stabenow
United States Senate
731 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Stabenow:

Thank you for your letter requesting information related to the recent Government Accountability Office (GAO) report identifying waste, fraud, and abuse in the Lifeline program.

I share your views on the overall importance of the Lifeline program. It's vital that low-income Americans have access to communications services, including broadband Internet. My focus has been—and will continue to be so long as I have the privilege of serving as Chairman—doing everything within the Commission's power to close the digital divide. I also believe that it is critical to strengthen the Lifeline program's efficacy and integrity by respecting the states' role in the program, ensuring the program is fiscally responsible, and reducing waste, fraud, and abuse. Addressing these issues—especially those identified in the GAO report—would ensure the program is actually advancing the Commission's goal of ensuring low-income Americans have access to affordable communications service.

Below, please find the responses to the specific questions included in your letter.

1. How do FCC and USAC measure the effectiveness of the various compliance and enforcement mechanisms that have been developed to improve oversight of Lifeline providers and sales agents?

Response: To measure the effectiveness of existing compliance and enforcement mechanisms, on a monthly basis, USAC tracks program metrics, including the percentage of Lifeline subscribers enrolled through carrier manual review of eligibility or identity documentation,¹ the ratio of service provider name look-ups in the National Lifeline Accountability Database (NLAD) to actual NLAD enrollments, and the variance between the number of subscribers in NLAD and the number of subscribers for which service providers claim reimbursement on their FCC Forms 497.² USAC provides reports to FCC staff on these metrics on a quarterly basis. USAC, under the oversight of the FCC, then takes steps to address any waste, fraud, or abuse concerns indicated in the metrics and refer issues to the

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FCC's Enforcement Bureau and Office of Inspector General, when appropriate. USAC and the FCC also maintain whistleblower hotlines, and USAC refers any allegations of waste, fraud and abuse in the Lifeline program to the Enforcement Bureau and Office of Inspector General.

The FCC and USAC also use the results of USAC's Payment Quality Assurance (PQA) reviews and Beneficiary and Contributor Audit Program (BCAP) audits to measure the effectiveness of existing compliance and enforcement measures. USAC tracks common audit findings for Lifeline service provider audits, annually analyzes the root cause of each audit finding, and takes steps or makes recommendations to address the root causes. USAC provides FCC staff with a copy of the root cause analysis.

At the Commission's direction, USAC is currently implementing mechanisms by which to monitor and track the activity of individual sales agents to more quickly detect and address potential fraud or abuse.

a. What training and guidance on the Lifeline program is offered to or required for ETCs and sales agents?

Response: USAC, overseen by FCC staff, provides guidance and training materials for service providers and their agents, including summaries of the Lifeline program rules and common audit findings on USAC's website, monthly webinars on Lifeline program rules, a quarterly Lifeline newsletter, and email news briefs.³ Service providers and their agents can subscribe to a Rich Site Summary (RSS) feed to receive the latest news from USAC concerning the Lifeline program, including information on new FCC orders or guidance, program deadlines, and upcoming webinars.⁴ USAC also conducts regular service provider outreach to identify areas where additional guidance or training is needed. In addition, service providers and their agents can directly contact USAC and FCC staff with questions about specific Lifeline program rules or requirements.

The FCC's audit plan for Lifeline service providers that must obtain third party biennial audits requires an examination of the service providers' training for employees and agents concerning the Lifeline eligibility rules.⁵ In addition, when the FCC enters into consent decrees with Lifeline service providers to resolve violations of the Lifeline program rules,

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the consent decrees typically require service providers to develop and distribute Lifeline compliance manuals and establish and implement Lifeline compliance training for employees and third-party employees covered under the consent decree.⁶

b. Has FCC instituted criteria and timelines for evaluating individual ETC compliance plans?

Response: The Wireline Competition Bureau conducts reviews of non-facilities-based providers' proposed compliance plans to participate in the Lifeline program as a way of seeking to prevent improper payments from non-facilities based providers.. These reviews focus on a number of factors, including the service provider's proposed Lifeline offerings, internal procedures, service history, past compliance with Commission rules, and financial and technical ability to provide Lifeline service in compliance with Lifeline program rules.⁸ The FCC has not established a specific timeframe for completing reviews of Lifeline compliance plans.⁹

c. What is the extent of FCC and USAC's oversight of third-party entities contracted by ETCs to determine program eligibility?

Response: The Commission has made clear that Lifeline service providers are liable for any conduct by their employees, agents, contractors, or representatives (acting within the scope of their employment) that violates the Lifeline program rules.¹⁰ In addition, the Enforcement Bureau has taken action against Lifeline service providers for rule violations committed by sales agents.¹¹ As noted above, at the FCC's direction, USAC is currently implementing mechanisms by which to directly monitor and track the activity of individual sales agents to more quickly detect and address potential fraud or abuse.

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¹¹ See generally *Total Call NAL* 31 FCC Rcd 4191.

d. How many times has FCC determined that an ETC is no longer qualified to provide Lifeline benefits, and what is the process for making this determination?

Response: The Commission has terminated or denied the participation of two service providers that the FCC determined to be unqualified to participate in the Lifeline program. In December 2016, following an Enforcement Bureau investigation of Total Call Mobile, Inc. (Total Call) for violation of Lifeline program rules, Total Call agreed via a consent decree to cease participating in the Lifeline program, relinquish all of its ETC designations, and withdraw its pending ETC designation applications.¹² In October 2015, the Commission prohibited Icon Telecom, Inc. (Icon) from participating in the Lifeline program for a three-year period, after Icon was convicted of making a false statement in violation of federal law in connection with fraudulent claims involving the Lifeline program.¹³

Enforcement Process

The FCC's Enforcement Bureau may open an investigation upon receiving timely information about actionable Lifeline rule violations and gathers additional information through a Letter of Inquiry (LOI).¹⁵ If the Enforcement Bureau determines that violations of applicable statutes and FCC rules have occurred, the Enforcement Bureau may take enforcement actions that include issuing a Notice of Apparent Liability for Forfeiture (NAL), which identifies the apparent violations and proposes penalties, including monetary penalties,¹⁶ or resolving the investigation through a settlement agreement in a consent decree. If an NAL is issued, the service provider has an opportunity to respond to the allegations in the NAL.¹⁷ If the service provider does not pay the penalty or demonstrate that a forfeiture penalty should not be imposed, the Enforcement Bureau issues a forfeiture order.¹⁸ If the violations are instead resolved through a consent decree the service provider may be required to return improperly claimed reimbursements to the Universal Service Fund, make an appropriate financial contribution to the U.S. Treasury, and adhere to a compliance plan to prevent the recurrence of the rule violations.¹⁹

Suspension and Debarment Process

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¹⁵ Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

¹⁶ See *id.* See also 47 U.S.C. § 503(b)(1)(B); 47 CFR § 1.80(a)(1), (f).

¹⁷ See 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f)(3); Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

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The Commission may suspend and debar persons²⁰ from participating in the Lifeline upon a criminal conviction of, or civil judgment for fraud against a USF program, including the Lifeline program.²¹ When cause exists for suspension and debarment, the FCC suspends that person and begins a proceeding to debar the person from future participation in the USF program, including providing thirty (30) days in which to respond to the suspension and proposed debarment.²² Within ninety (90) days of the response date, the Commission may issue a notice of debarment to the service provider.²³ The debarment period is generally three years, but the Commission can set a longer period of debarment if necessary to protect the public interest.²⁴

Compliance Plan Review Process

To promote program integrity, the Wireline Competition Bureau conducts a thorough review of compliance plans submitted by non-facilities-based ETCs. If the ETC fails to provide the required information,²⁵ the Wireline Competition Bureau notifies the ETC and the ETC has an opportunity to submit a revised compliance plan.²⁶ The Wireline Competition Bureau may issue an order denying the compliance plan if the ETC fails to respond to an inquiry to the Wireline Competition Bureau's satisfaction or otherwise fails to demonstrate that it has met the requirements for compliance plan approval established in the *2012 Lifeline Order*.²⁷ In addition to the information required in the compliance plan, information from the FCC's Enforcement Bureau, Office of Inspector General, or state commissions concerning the service provider may also inform the Wireline Competition Bureau's decision on a compliance plan.²⁸ In the event the Wireline Competition Bureau denies a compliance plan, the ETC cannot receive Lifeline support as a non-facilities-based provider.²⁹

2. What steps are being taken to ensure that ETCs and subcontractors are aware of the federal and state databases and other information available to them in order to determine program eligibility?

Response: USAC, under the oversight of the FCC's Wireline Competition Bureau and Office of Managing Director, is developing a comprehensive list of available state and federal eligibility databases that service providers must check while the National Verifier is still being

²⁰ The FCC's debarment rules define a "person" as "[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized." 47 CFR § 54.8(a)(6).

²¹ See 47 CFR § 54.8(c).

²² See 47 CFR § 54.8(e)(1), (3).

²³ See 47 CFR § 54.8(e)(5).

²⁴ See 47 CFR § 54.8(g).

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²⁷ See *id.*: *Conexions Compliance Plan Order*, 29 FCC Rcd at 14430-32, paras. 8-11.

²⁸ See *2012 Lifeline Reform Order*, 27 FCC Rcd at 6818, para. 388.

²⁹ See *id.* 27 FCC Rcd at 6816, para. 380; *Conexions Compliance Plan Order*, 29 FCC Rcd at 14432, para. 12.

implemented. This list will be posted on USAC's website, and USAC will update this list every six months and regularly email the list to service providers.

As the National Verifier is rolled out, starting with five states in December 2017, eligibility determinations will shift from service providers to the National Verifier.

3. What is your projected timeline for testing and implementing the National Verifier System?

Response: The technical build of the National Verifier is already underway, and the initial system launch in at least five states will occur in December 2017.³⁰ Testing will occur throughout the build process. From December 2017 through February 2018, service providers in the initial states will be able to test the system and transition to the National Verifier.³¹ During this period, USAC will be verifying the eligibility of all existing subscribers in these states as they are migrated to the National Verifier. By March 2018, all enrollments and recertifications in the initial states will be conducted by the National Verifier.³² The National Verifier will be expanded to at least 25 states by the end of 2018, and in all remaining states and territories by December 31, 2019.³³

(a) What are your projected costs?

Response: Through March 2018 (the initial launch), the projected costs associated with implementing National Verifier are \$21 million. This total includes the costs associated with the development of the core system (consumer and service provider application portals), federal and state interface implementation for the initial launch, user support (including training, standup, and operation of a call center), compensation and benefits of all full-time USAC staff dedicated to implementing and managing the National Verifier, and three months of operations of the National Verifier during the soft launch period.

(b) What impediments, if any, have you encountered with state and local jurisdictions in acquiring the information you believe is necessary to implement the National Verifier system?

Response: USAC, overseen by Commission staff, has been coordinating extensively with states to obtain the information necessary to implement the National Verifier. The

³⁰ See Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), http://www.lifelinesupport.org/_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf; Lifeline National Verifier Plan, at 23 (as updated July 31, 2017), http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.

³¹ See Lifeline National Verifier Plan, at 104 (as updated July 31, 2017), http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf; See Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), http://www.lifelinesupport.org/_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf.

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process of reaching a computer matching agreement varies depending on the state. Some states have required legislative changes prior to being able to share data with USAC, while others have complex procurement processes that USAC must navigate. Some state agencies are unable to provide access to their data due to technical challenges, such as a lack of resources necessary to make system modifications.

We note that while the goal is to automate eligibility verifications as much as possible, it may not be cost-effective to build a connection to all state databases, especially if the National Verifier has automated connections to federal databases.³⁴

(c) To what extent will the existing National Lifeline Accountability Database (NLAD) be utilized in the development and implementation of the National Verifier system?

The National Lifeline Accountability Database (NLAD) will be fully integrated into the National Verifier. NLAD will continue to perform identity, address, and duplicate checks for Lifeline subscribers.³⁵ NLAD will also continue to serve as the official record of enrolled Lifeline subscribers, and service providers will still be required to update subscriber information in NLAD (e.g., address changes, service provider changes, de-enrollments).³⁶ The NLAD will produce monthly reports of each service provider's Lifeline subscribers and service providers will certify and request reimbursement based on that list instead of the program's current practice of reimbursing service providers based on their FCC Form 497 submissions.³⁷

4. Chairman Pai's July 11, 2017, letter to USAC regarding the Lifeline program establishes a number of new USAC review and audit requirements.³⁸ GAO's report, however, states that in at least one instance, USAC's routine audit functions have been constrained by "limited audit resources."³⁹ Is USAC adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in the July 11 letter?

Response: USAC is adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in my July 11, 2017 letter to USAC. In addition, FCC staff continues to coordinate with USAC to prioritize and strengthen efficiencies in conducting audits and reviews.

I further note that USAC's routine audit functions for the Lifeline program are not constrained by "limited resources." In fiscal years 2014 through 2016, USAC and external

³⁴ See *id.* at 31.

³⁵ See *id.* at 12, 20.

³⁶ See *id.* at 19, 20.

³⁷ See *id.* at 19, 20, 49-50.

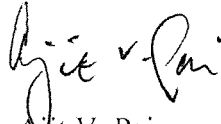
³⁸ Letter from Ajit V. Pai, Chairman, Federal Communications Commission, to Vickie Robinson, Acting CEO and General Counsel, Universal Service Administrative Company (July 11, 2017).

³⁹ Government Accountability Office. *supra* at p. 28.

auditors overseen by USAC completed 94 Beneficiary and Contributor Audit Program (BCAP) audits of Lifeline service providers, and in fiscal years 2015 and 2016 USAC completed 600 Payment Quality Assurance (PQA) reviews of Lifeline service providers.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai



OFFICE OF
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¹⁵ Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

¹⁶ See *id.* See also 47 U.S.C. § 503(b)(1)(B); 47 CFR § 1.80(a)(1), (f).

¹⁷ See 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f)(3); Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

¹⁸ See 47 CFR § 1.80(f)(4); Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

¹⁹ See Enforcement Primer, <https://www.fcc.gov/general/enforcement-primer> (last visited July 31, 2017).

The Commission may suspend and debar persons²⁰ from participating in the Lifeline upon a criminal conviction of, or civil judgment for fraud against a USF program, including the Lifeline program.²¹ When cause exists for suspension and debarment, the FCC suspends that person and begins a proceeding to debar the person from future participation in the USF program, including providing thirty (30) days in which to respond to the suspension and proposed debarment.²² Within ninety (90) days of the response date, the Commission may issue a notice of debarment to the service provider.²³ The debarment period is generally three years, but the Commission can set a longer period of debarment if necessary to protect the public interest.²⁴

Compliance Plan Review Process

To promote program integrity, the Wireline Competition Bureau conducts a thorough review of compliance plans submitted by non-facilities-based ETCs. If the ETC fails to provide the required information,²⁵ the Wireline Competition Bureau notifies the ETC and the ETC has an opportunity to submit a revised compliance plan.²⁶ The Wireline Competition Bureau may issue an order denying the compliance plan if the ETC fails to respond to an inquiry to the Wireline Competition Bureau's satisfaction or otherwise fails to demonstrate that it has met the requirements for compliance plan approval established in the *2012 Lifeline Order*.²⁷ In addition to the information required in the compliance plan, information from the FCC's Enforcement Bureau, Office of Inspector General, or state commissions concerning the service provider may also inform the Wireline Competition Bureau's decision on a compliance plan.²⁸ In the event the Wireline Competition Bureau denies a compliance plan, the ETC cannot receive Lifeline support as a non-facilities-based provider.²⁹

2. What steps are being taken to ensure that ETCs and subcontractors are aware of the federal and state databases and other information available to them in order to determine program eligibility?

Response: USAC, under the oversight of the FCC's Wireline Competition Bureau and Office of Managing Director, is developing a comprehensive list of available state and federal eligibility databases that service providers must check while the National Verifier is still being

²⁰ The FCC's debarment rules define a "person" as "[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized." 47 CFR § 54.8(a)(6).

²¹ See 47 CFR § 54.8(c).

²² See 47 CFR § 54.8(e)(1), (3).

²³ See 47 CFR § 54.8(e)(5).

²⁴ See 47 CFR § 54.8(g).

²⁵ See *2012 Lifeline Reform Order*, 27 FCC Rcd at 6816-17, paras. 379-81; *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, Public Notice, 27 FCC Rcd at 2188 (WCB 2012).

²⁶ See *2012 Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 380, n.1000.

²⁷ See *id.*; *Conexions Compliance Plan Order*, 29 FCC Rcd at 14430-32, paras. 8-11.

²⁸ See *2012 Lifeline Reform Order*, 27 FCC Rcd at 6818, para. 388.

²⁹ See *id.* 27 FCC Rcd at 6816, para. 380; *Conexions Compliance Plan Order*, 29 FCC Rcd at 14432, para. 12.

implemented. This list will be posted on USAC's website, and USAC will update this list every six months and regularly email the list to service providers.

As the National Verifier is rolled out, starting with five states in December 2017, eligibility determinations will shift from service providers to the National Verifier.

3. What is your projected timeline for testing and implementing the National Verifier System?

Response: The technical build of the National Verifier is already underway, and the initial system launch in at least five states will occur in December 2017.³⁰ Testing will occur throughout the build process. From December 2017 through February 2018, service providers in the initial states will be able to test the system and transition to the National Verifier.³¹ During this period, USAC will be verifying the eligibility of all existing subscribers in these states as they are migrated to the National Verifier. By March 2018, all enrollments and recertifications in the initial states will be conducted by the National Verifier.³² The National Verifier will be expanded to at least 25 states by the end of 2018, and in all remaining states and territories by December 31, 2019.³³

(a) What are your projected costs?

Response: Through March 2018 (the initial launch), the projected costs associated with implementing National Verifier are \$21 million. This total includes the costs associated with the development of the core system (consumer and service provider application portals), federal and state interface implementation for the initial launch, user support (including training, standup, and operation of a call center), compensation and benefits of all full-time USAC staff dedicated to implementing and managing the National Verifier, and three months of operations of the National Verifier during the soft launch period.

(b) What impediments, if any, have you encountered with state and local jurisdictions in acquiring the information you believe is necessary to implement the National Verifier system?

Response: USAC, overseen by Commission staff, has been coordinating extensively with states to obtain the information necessary to implement the National Verifier. The

³⁰ See Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), http://www.lifelinesupport.org/_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf; Lifeline National Verifier Plan, at 23 (as updated July 31, 2017), http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.

³¹ See Lifeline National Verifier Plan, at 104 (as updated July 31, 2017), http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf; See Lifeline Program Update, National Verifier Updates at 11 (May 27, 2017), http://www.lifelinesupport.org/_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf.

³² See Lifeline Program Update, National Verifier Updates at 12 (May 27, 2017), http://www.lifelinesupport.org/_res/documents/li/training/2017/May-Lifeline-Program-Update-Webinar.pdf.

³³ See Lifeline National Verifier Plan, at 23 (as updated July 31, 2017), http://usac.org/_res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf.

process of reaching a computer matching agreement varies depending on the state. Some states have required legislative changes prior to being able to share data with USAC, while others have complex procurement processes that USAC must navigate. Some state agencies are unable to provide access to their data due to technical challenges, such as a lack of resources necessary to make system modifications.

We note that while the goal is to automate eligibility verifications as much as possible, it may not be cost-effective to build a connection to all state databases, especially if the National Verifier has automated connections to federal databases.³⁴

(c) To what extent will the existing National Lifeline Accountability Database (NLAD) be utilized in the development and implementation of the National Verifier system?

The National Lifeline Accountability Database (NLAD) will be fully integrated into the National Verifier. NLAD will continue to perform identity, address, and duplicate checks for Lifeline subscribers.³⁵ NLAD will also continue to serve as the official record of enrolled Lifeline subscribers, and service providers will still be required to update subscriber information in NLAD (e.g., address changes, service provider changes, de-enrollments).³⁶ The NLAD will produce monthly reports of each service provider's Lifeline subscribers and service providers will certify and request reimbursement based on that list instead of the program's current practice of reimbursing service providers based on their FCC Form 497 submissions.³⁷

4. Chairman Pai's July 11, 2017, letter to USAC regarding the Lifeline program establishes a number of new USAC review and audit requirements.³⁸ GAO's report, however, states that in at least one instance, USAC's routine audit functions have been constrained by "limited audit resources."³⁹ Is USAC adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in the July 11 letter?

Response: USAC is adequately resourced and staffed to conduct the reviews and audits of ETC and subscriber data outlined in my July 11, 2017 letter to USAC. In addition, FCC staff continues to coordinate with USAC to prioritize and strengthen efficiencies in conducting audits and reviews.

I further note that USAC's routine audit functions for the Lifeline program are not constrained by "limited resources." In fiscal years 2014 through 2016, USAC and external

³⁴ See *id.* at 31.

³⁵ See *id.* at 12, 20.

³⁶ See *id.* at 19, 20.

³⁷ See *id.* at 19, 20, 49-50.

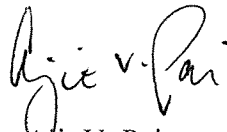
³⁸ Letter from Ajit V. Pai, Chairman, Federal Communications Commission, to Vickie Robinson, Acting CEO and General Counsel, Universal Service Administrative Company (July 11, 2017).

³⁹ Government Accountability Office, *supra* at p. 28.

auditors overseen by USAC completed 94 Beneficiary and Contributor Audit Program (BCAP) audits of Lifeline service providers, and in fiscal years 2015 and 2016 USAC completed 600 Payment Quality Assurance (PQA) reviews of Lifeline service providers.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,



Ajit V. Pai

T.S. Senator, good to hear from you. Please feel free to get in touch about any FCC-related matters of interest to you and/or Michiganders — or to talk Harleys in the U.P.