



April 17, 2020

Hon. Ajit Pai, Chairman
 Hon. Jessica Rosenworcel, Commissioner
 Hon. Geoffrey Starks, Commissioner
 Hon. Michael O’Rielly, Commissioner
 Hon. Brendan Carr, Commissioner
 Federal Communications Commission
 445 12th Street, SW
 Washington, DC 20554

RE: *In the Matter of Restoring Internet Freedom, WC Docket No. 17-108*
In the Matter of Lifeline and Link Up Reform and Modernization, WCB Docket No. 11-42

Dear Chairman Pai and Commissioners:

The Multicultural Media, Telecom and Internet Council (MMTC), along with the 27 undersigned national public interest, civil rights, and business advocacy organizations, respectfully submit this letter in regard to the FCC’s authority to regulate the Lifeline program. Together, our organizations represent millions of stakeholders from across the country, and we strongly support the Lifeline Program.

On remand in Mozilla Corp. v. Federal Communications Commission, a panel of the D.C. Circuit Court of the U.S. Court of Appeals ordered the Commission to seek further comment and develop a more complete record

on the issue of where FCC authority lies to support Lifeline broadband after the court upheld the FCC's 2018 Restoring Internet Freedom Order.¹

Prior to the 2015 Open Internet Order, when broadband was classified as a Title I service, the FCC determined that it had authority to support Lifeline broadband service under Section 254(e).² The Commission has since correctly concluded that Lifeline may support “broadband service over facilities-based broadband-capable networks that support voice service” and that “[t]his legal authority does not depend on the regulatory classification of broadband Internet access service.”³ The Tenth Circuit Court of Appeals also has affirmed that the FCC's mandate to promote broadband through universal service funding does not depend on broadband's regulatory classification.⁴ Clearly, the restored Title I classification of broadband does not change the fact that the FCC still has jurisdiction under Section 254(e), and further under its grant of ancillary jurisdiction, to support broadband service through the Lifeline program. To the extent that the Mozilla court raised questions about whether Lifeline support may extend to broadband-only providers, which are the exception and not the rule, the Commission can clarify that it has authority or rely on ancillary authority to provide Lifeline support to those providers as well.

The clarification requested by the court on remand cannot serve as a basis to abandon, or curtail, the provisioning of vital Lifeline services to America's most vulnerable communities. Now more than ever, millions of indefinitely quarantined Americans desperately need and rely on Lifeline. It is the tool that will allow them to video conference with their health care provider, search for employment opportunities now that libraries are closed, have their children participate in online learning by their children now that schools are closed, stay informed with potentially lifesaving news and information, and satisfy the most basic human need of all – the need to connect with their families and loved ones during a time of protracted isolation, fear, sorrow, and uncertainty.

After the pandemic, the need will only be greater. Lifeline will be instrumental in successfully navigating the new changes and challenges of an evolving post-pandemic world. The workplace of the future is **now**, and the internet will be the gateway to opportunities for all, but especially for those who will have to be trained for new jobs because of positions lost in the COVID-19 hardest-hit industries where a disproportionate number of people of color are employed.

It is a moral imperative of the Commission to use the authority granted by Title I, Section 254(e) and ancillary jurisdiction to not only continue, but to expand the Lifeline program. We commend the Commission for waiving certain Lifeline requirements, such as recertification and reverification requirements, for 60 days, and we also commend the media and telecom companies that have taken steps to ensure that **all** Americans can stay connected during the worst pandemic we have witnessed in our lifetimes.⁵ These efforts by government and private companies provide a lifeline for the disconnected and underserved. However, more can and must be

¹ See Mozilla Corp. v. Fed. Comm'n's Comm'n, 940 F.3d 1 (D.C. Cir. 2019), remanding part of the 2018 Restoring Internet Freedom Order to the FCC on three discrete issues, the third of which is that “the [FCC] did not adequately address Petitioners' concerns about the effects of broadband reclassification on the Lifeline Program” (*id* at 13). Available at [https://www.cadc.uscourts.gov/internet/opinions.nsf/FA43C305E2B9A35485258486004F6D0F/\\$file/18-1051-1808766.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/FA43C305E2B9A35485258486004F6D0F/$file/18-1051-1808766.pdf) (last visited April 3, 2020).

² FCC 12-11, Report and Order, 2/6/2012, ¶ 315.

³ See FCC 17-155, Fourth Report and Order, 12/01/2017, ¶ 77.

⁴ See *In re FCC 11-161*, 753 F.3d 1015, 1046-48 (10th Cir. 2014).

⁵ See FCC Press Statement “FCC Waives Lifeline Program Rules to Help Low-Income Consumers During Coronavirus Pandemic” (March 17, 2020). Available at <https://docs.fcc.gov/public/attachments/DOC-363104A1.pdf> (last visited April 3, 2020). See also “MMTC COVID-19 Portal” available at <https://www.mmtconline.org/mmtc-covid-19-portal/> (last visited April 3, 2020)

done. Lifeline is significantly underutilized. Only 10.7 million people were enrolled in the program in 2019 – just 28 percent of those who are eligible.⁶ We encourage the FCC to develop and implement a plan that will inform 31 million Americans that they too have a right to be connected. Under Lifeline, they will be able to exercise that right.

The undersigned are willing and look forward to working with the Commission in expanding Lifeline by developing an outreach program and any other measures necessary for the continuation, improvement, and expansion of Lifeline.

Respectfully,

A. Philip Randolph Institute
ALLvanza
Asian Americans Advancing Justice | AAJC
ASPIRA
Blacks in Government
Black Women's Roundtable
Consumer Policy Solutions
Dialogue on Diversity
Hispanic Technology and Telecommunications Partnership
Japanese American Citizens League
LGBT Technology Partnership & Institute
MANA - A National Latina Organization
Multicultural Media, Telecom and Internet Council (MMTC)
National Association of Hispanic Journalists
National Association of Neighborhoods
National Black Caucus of State Legislators
National Coalition on Black Civic Participation
National Congress of Black Women
National Diversity Coalition
National Federation of Filipino American Associations
National Hispanic Caucus of State Legislators
National Organization of Black County Officials
National Organization of Black Elected Legislative (NOBEL) Women
National Puerto Rican Chamber of Commerce
National Urban League
OCA National
Rainbow PUSH Coalition
@techLatino: The National Association of Latinos in Information Sciences and Technology

⁶ See “Death by a Thousand Cuts” by Amir Nasr, *New America* (January 31, 2019). Available at <https://www.newamerica.org/weekly/death-by-a-thousand-cutsthe-lifeline-edition/> (last visited April 8, 2020).