

June 30, 2022

No. 279

How Congress and the Federal Communications Commission Can Help Improve Affordable Internet Access to Underserved Populations

Review of the FCC's Universal Service Fund Can Help Reduce Waste and Benefit Consumers

By *Ryan Nabil**

Congress created the Universal Service Fund (USF) in 1996 as part of the Telecommunications Act to help the Federal Communications Commission (FCC) provide affordable broadband and telecommunications services throughout the country.¹ To that end, the USF includes four programs:

1. The high-cost program (also known as the Connect America Fund);
2. The Lifeline program;
3. The rural health care program; and
4. The school and libraries program.²

These programs are not funded through congressional appropriations. Instead, they are paid for by a fee on telecommunications carriers.³ As Congress and the FCC consider the future of USF programs, they have an opportunity to reform existing programs, reduce costs to taxpayers, and improve broadband connectivity throughout the country.⁴ To that end, the USF could benefit from reforms in five areas.

1. The FCC should reevaluate which USF programs are necessary to achieve the Commission's broadband connectivity goals, especially considering the recent authorization of funds through the American Rescue Plan and the Infrastructure Investment and Jobs Act.
2. The FCC should reconsider the need for the high-cost program in light of recent increases in broadband funding from other sources.
3. To the extent that future government assistance is needed, the USF should focus on consumer-focused initiatives, like the Lifeline program, and education-focused programs, such as the E-Rate program.
4. The Commission should review policies implementing the E-Rate program, which, like other USF components, suffers from inefficient allocation of funds, and enact reforms to use taxpayer-provided funds effectively.
5. The Commission should ask Congress to eliminate the Universal Service Fund surcharge and seek congressional appropriations to fund future USF programs. Eliminating the surcharge will increase broadband affordability for all Americans. The USF surcharge's regressive nature means that consumers in rural and remote

* *Ryan Nabil is a research fellow at the Competitive Enterprise Institute.*

areas pay the same percentage irrespective of their income level. That undermines the program’s goal of promoting broadband access for lower-income households. Furthermore, direct appropriations will allow Congress to set a hard limit on the amount of USF assistance, encouraging more efficient use of such funds.

1. Reconsider Which Universal Service Fund Programs Are Necessary. While USF programs have helped improve broadband connectivity and access to the Internet, a comprehensive and programmatic audit now will help ensure that taxpayer funding is used effectively.

To that end, the Commission should reconsider which USF programs are necessary to meet broadband connectivity goals, especially given recent increases in broadband funding from other sources. A 2017 FCC paper on digital infrastructure found that it would cost approximately \$40 billion in capital expenditures to ensure that broadband services reach 98 percent of households and small and medium-sized businesses.⁵ However, the Commission has already spent more than \$43 billion in funding since 2017.⁶ Most recently, the American Rescue Plan provided \$350 billion to “state, local, territorial, and Tribal governments” to improve infrastructure, including broadband.⁷ Likewise, the Infrastructure Investment and Jobs Act provided more than \$60 billion for broadband deployment, including access and deployment programs.⁸

This dramatic increase in federal funding means that the FCC and state and local governments have more than enough resources for the capital expenditures required to ensure universal broadband connectivity. Consequently, the Commission should reconsider the extent to which USF programs serve their original intended purpose.⁹ Congress could ask the FCC to review which USF programs have been effective and provide a rationale for the continuation of any existing programs—such as the E-Rate program, which offers financial assistance for improving broadband access to public schools and libraries.

2. Phase out the High-Cost Program. The FCC should consider phasing out its high-cost program, also known as the Connect America Fund, because of existing resources available for supporting broadband connectivity. With a yearly budget of \$4.5 billion, the high-cost program is the USF’s most expensive component. It provides subsidies to Internet service providers (ISPs) for connectivity in rural, sparsely populated areas.¹⁰ However, as per the 2017 estimate from the FCC’s Office of Strategic Planning and Policy Analysis, the Commission has already received more than enough funding to achieve universal service without seeking further support through the high-cost program.¹¹ Furthermore, as private sector investment has expanded broadband investment in rural areas, the lack of affordability—rather than connectivity—is now the more significant barrier to achieving universal Internet access.¹²

The FCC should also work to improve its mapping capabilities to ensure that USF funds are not wasted on areas that already enjoy strong broadband connectivity. Instead, better mapping information can help the FCC make better evidence-based decisions when allocating scarce resources in areas that lack adequate connectivity.¹³ To ensure fiscal

transparency, the Commission should provide a detailed timeline of when and how it will use existing broadband funding to achieve universal Internet access throughout the country.

3. Improve the Lifeline Program. The FCC should reform the Lifeline program to improve Internet affordability. As private broadband investment and past subsidies have helped improve broadband connectivity, the lack of affordability has become a more pressing concern for Internet access in both rural and urban areas.¹⁴

In the long run, there is no alternative to increased competition between different types of providers—including cable, fiber optic, and satellite—to make Internet access more affordable for all Americans.¹⁵ In the short term, existing broadband subsidies should prioritize consumer-focused initiatives, such as the Lifeline program, which provide greater choice and market competition, as payments go to the Internet service providers that consumers choose for broadband connection. Compared to wasteful subsidies to ISPs for delivering service in rural areas, consumer-focused programs like Lifeline are likely to create fewer market-distorting effects.¹⁶

However, both the high-cost and Lifeline programs remain plagued by corruption and misuse of funds, which means that taxpayer dollars often go to those who need help the least at the cost of those who need it the most. For example, in 2010, the Commission learned that a company owner fraudulently obtained \$6.5 million from the high-cost program.¹⁷ However, the FCC did not act for four years, while the company received more than \$27 million in improper USF payments. It was only a public outcry following an indictment of the company's founder that led the FCC to start an investigation. Several companies also fraudulently received Lifeline funds for customers that they did not have—although the FCC was able to recover the money in at least some of the cases.¹⁸

To improve the Lifeline program, the FCC could issue subsidies as vouchers directly to consumers, instead of to ISPs, to offer consumers greater choice in selecting broadband services.¹⁹ That is the model followed in many European countries. For example, the United Kingdom's Gigabit Broadband Voucher Scheme provides vouchers to eligible rural households and businesses to offset broadband connection costs.²⁰ However, if the Commission were to opt for a voucher-based program, it would need to establish adequate verification procedures to ensure that the intended recipients receive the money and that the assistance is used for the intended purpose.

Additionally, the Lifeline program—and any similar USF initiatives—should not discriminate between urban and rural residents. To that end, the FCC could extend the Lifeline program to low-income individuals in urban areas. Currently, only residents in underserved rural areas can benefit from it.²¹ While broadband connectivity remains a challenge in underserved rural areas, the lack of Internet affordability is a problem in rural and urban areas alike.²² By ensuring that allocated taxpayer dollars go to those with the highest needs irrespective of location, the Commission can help bring the Internet to Americans who cannot afford Internet service.²³

4. Reform the E-Rate Program. The Commission should review its current policies implementing the E-Rate program and pursue reforms to allow more effective use of limited taxpayer dollars.²⁴ The E-Rate program, a lesser-known USF component, offers financial assistance to K-12 schools and libraries for broadband connectivity. Depending on each institution's level of need, the E-Rate program provides between 20 and 90 percent of the costs of Internet connectivity for eligible schools and libraries. Many schools in low-income and rural areas lack a large enough tax base to draw on, so the FCC will likely have to continue the E-Rate program in some form.²⁵

Like other USF components, the E-Rate program suffers from misuse and inefficient allocation of resources. To address this challenge, the Commission could introduce means-testing to ensure that funding goes to schools and libraries in genuine need of support. For example, the FCC should consider whether a particular school is located in a low-income or a wealthy district.²⁶ The Commission could also introduce information-sharing mechanisms that allow educational institutions to compare what other institutions pay for broadband connections and help schools negotiate better subscription rates.²⁷

5. Eliminate the Universal Service Fund Surcharge and Propose

Congressional Appropriations. The FCC should request Congress to replace the USF surcharge funding mechanism with a legal framework that provides broadband funding through direct congressional appropriations.²⁸ The Commission imposes this fee on telecommunications companies for service in rural and remote areas, but it is generally passed on to consumers as a line item in the overall broadband bill.²⁹ In 1998, this surcharge was only 3 percent.³⁰ However, as the USF's tax base has dwindled over the years due to declining landline usage, the surcharge has steadily increased to 33.4 percent as of the second quarter of 2021. Meanwhile, average broadband subscription fees declined by 26 percent between 2008 and 2020.³¹

As noted, the USF surcharge is regressive in that consumers pay the same percentage irrespective of their income level. That undermines the program's purpose of promoting broadband access for lower-income households.³² Furthermore, USF programs still suffer from inefficiency and a lack of internal controls, so limited resources often go to those who need help the least.³³

Shifting the Universal Service Fund's funding mechanism from the surcharge to congressional appropriations will:

1. Make broadband subscriptions more affordable at the point of purchase.
2. Help reduce inefficiency and corruption.
3. Help Congress hold the FCC accountable for how funds are used.
4. Allow Congress to set a hard limit on the amount of USF assistance, and thereby encourage more efficient use of such funds.

To achieve the fourth goal, Congress should consider annual reviews of the extent to which different USF programs have been effective in meeting their intended targets. Such review mechanisms can enable the FCC to make better evidence-based decisions about which

programs to continue to fund and how much to allocate to them. The increased oversight and accountability can help address existing USF shortcomings like inefficient allocation of resources and misuse of funds.

Conclusion. With growing private investment and recent increases in broadband funding, the Federal Communications Commission can help ensure universal broadband access for Americans without significant future assistance. To do so, the Commission needs to ensure that it uses existing funding prudently and effectively. Reforming the Lifeline and E-Rate programs and phasing out the high-cost program should help the FCC move in that direction.

In the long run, there is no alternative to market competition to expand broadband access. To that end, Congress and the FCC should seek to reduce regulatory barriers to private broadband investment and promote competition between different types of Internet providers. Creating a market-friendly regulatory environment for the private sector is crucial to achieving the goals of reducing broadband subscription prices and ensuring universal Internet access while lowering costs to taxpayers.

Notes

¹ This report is based on the comments submitted by the author to the Federal Communications in response to the FCC's request for comments on the future of the Universal Service Fund. Ryan Nabil, "Comments before the Federal Communications Commission In the Matter of FCC Notice of Inquiry: Report on the Future of the Universal Service Fund," FCC -21-127, Docket Number 21-476, Competitive Enterprise Institute, March 17, 2022, https://cei.org/wp-content/uploads/2022/03/Ryan_Nabil_CEI_Comments_FCC_21-476.pdf. Federal Communications Commission, "Measures to Safeguard the Universal Service Fund from Waste, Fraud, and Abuse as Well as Measures to Improve the Management, Administration, and Oversight of the Universal Service Fund," *Federal Register*, Vol 72, No. 184 (September 24, 2007), <https://www.federalregister.gov/documents/2007/09/24/E7-18711/measures-to-safeguard-the-universal-service-fund-from-waste-fraud-and-abuse-as-well-as-measures-to>.

² Congressional Research Service, *Overview of the Universal Service Fund and Selected Federal Broadband Programs*, CRS Report R46780, June 2021, p. 2, <https://sgp.fas.org/crs/misc/R46780.pdf>.

³ Ibid.

⁴ Federal Communications Commission, "Notice of Inquiry: In the Matter of Report on the Future of the Universal Service Fund," FCC 21-127, Docket Number 21-476, December 15, 2021, <https://www.fcc.gov/document/fcc-initiates-proceeding-future-universal-service>.

⁵ Joe Kane and Jessica Dine, "Comments to the FCC on the Future of the Universal Service Fund," Information Technology and Innovation Foundation, February 17, 2022, p. 2, <https://itif.org/publications/2022/02/17/comments-fcc-future-universal-service-fund>.

Paul de Sa, "Improving the Nation's Digital Infrastructure," Federal Communications Commission, 2017, p.2, <https://docs.fcc.gov/public/attachments/DOC-343135A1.pdf>.

⁶ Kane and Dine, p. 2.

⁷ Department of the Treasury, "Coronavirus State and Local Recovery Funds: The American Rescue Plan will deliver \$350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs," PowerPoint presentation, accessed May 31, 2020,

<https://home.treasury.gov/system/files/136/SLFRP-Quick-Reference-Guide-FINAL-508a.pdf>. Jeffrey Westling, "Comments on the 'Report on the Future of the Universal Service Fund,'" American Action Forum, February 17, 2022, p. 5, <https://www.americanactionforum.org/comments-for-record/comments-on-the-report-on-the-future-of-the-universal-service-fund/>.

⁸ Kane and Dine, pp. 2–3. Westling, p. 5.

⁹ Ibid.

¹⁰ Ibid., pp. 3–4.

-
- ¹¹ Ibid. de Sa, p. 2.
- ¹² Ryan Nabil, “How to Expand Broadband Access without Spending \$100 Billion,” *Real Clear Policy*, April 13, 2021, https://www.realclearpolicy.com/articles/2021/04/13/how_to_expand_broadband_access_without_spending_100_billion_772426.html.
- ¹³ Will Yepez, “The Universal Service Fund Is on the Brink, but it’s Not too Late to Save It,” National Taxpayers Union, April 15, 2021, p. 3, <https://www.ntu.org/publications/detail/the-universal-service-fund-is-on-the-brink-but-its-not-too-late-to-save-it>.
- ¹⁴ Nabil, “How to Expand Broadband Access.”
- ¹⁵ Ibid.
- ¹⁶ Kane and Dine, pp. 3–5.
- ¹⁷ Federal Communications Commission, “FCC Fines Sandwich Isles \$49,598,488 for defrauding Universal Service Fund,” *FCC News*, <https://www.fcc.gov/document/fcc-fines-sandwich-isles-over-49-million-defrauding-usf>.
- ¹⁸ Katie McAuliffe, “Fraud still plague the FCC’s Universal Service Fund,” *The Hill*, February 14, 2017, <https://thehill.com/blogs/pundits-blog/technology/319446-fraud-still-plagues-the-fccs-universal-service-fund>.
- ¹⁹ Kane and Dine, pp. 4–5.
- ²⁰ UK Government, “Who is eligible?” Gigabit Broadband Voucher Scheme, accessed March 8, 2022, <https://gigabitvoucher.culture.gov.uk/home/who-is-eligible/>.
- ²¹ Kane and Dine, pp. 4–5.
- ²² Nabil, “How to Expand Broadband Access.”
- ²³ Kane and Dine, pp. 4–5.
- ²⁴ Ibid., p. 4.
- ²⁵ U.S. Department of Education, “E-Rate Program – Discounted Telecommunications Services,” accessed March 16, 2022, <https://www2.ed.gov/about/inits/ed/non-public-education/other-federal-programs/fcc.html>. FCC, “E-Rate: Universal Service Program for Schools and Libraries,” last updated September 15, 2021, <https://www.fcc.gov/consumers/guides/universal-service-program-schools-and-libraries-e-rate>.
- ²⁶ Ibid.
- ²⁷ Jonathan Sallet, “Four Steps Towards E-Rate Connectivity and Competition,” Benton Institute for Broadband and Society, March 11, 2020, <https://www.benton.org/blog/four-steps-towards-e-rate-connectivity-and-competition>.
- ²⁸ A discussion of whether the USF surcharge fee is constitutional is beyond the scope of the FCC’s notice of inquiry and request for comment. Therefore, this section should not be construed as a support for the constitutionality of the USF surcharge funding mechanism. Congressional Research Service, *Overview of the Universal Service Fund*, p. 2. Daniel Lyons, “A common-sense opportunity to reform the Universal Service Fund,” *AEIdeas*, American Enterprise Institute, January 28, 2021, <https://www.aei.org/technology-and-innovation/a-common-sense-opportunity-to-reform-the-universal-service-fund/>.
- ²⁹ Brian Regan, “Ushering Universal Service Reform: Politically Feasible Legislation Principles,” *CommLaw Conspectus*, Vol. 16 (2008), p. 472, <https://scholarship.law.edu/cgi/viewcontent.cgi?article=1390&context=commlaw>.
- ³⁰ Lyons.
- ³¹ Scott Mackey and Ulrik Boesen, “Wireless Tax Burden Remains High Due to Federal Surcharge Increase,” *Fiscal Fact* No. 732, Tax Foundation, November 2020, p. 1, <https://files.taxfoundation.org/20201116124929/Wireless-Tax-Burden-Remains-High-Due-to-Federal-Surcharge-Increase.pdf>. Lyons, “A common-sense opportunity to reform the USF.” Jamie Davidson, “Universal Service Fund (USF) Quarterly Rates,” Vast Conference, April 2, 2021, <https://www.conferencecalling.com/blog/what-is-the-universal-service-fund-usf-fee>.
- ³² Kane and Dine, p. 4. Yepez, p. 2.
- ³³ Lyons.