

**Before the
FEDERAL COMMUNICATIONS COMMISSION**

Washington, DC 20554

In the matter of)
)
The Implementation of the)
Affordable Connectivity Program)
)

WC Docket No. 21-450

COMMENTS OF NATIONAL DIGITAL INCLUSION ALLIANCE

December 8, 2021
Angela Siefer, Executive Director
National Digital Inclusion Alliance
3000 E Main St
Columbus, OH 43209
Digitalinclusion.org

Table of Contents

Table of Contents	2
I. Introduction	4
II. Participating Providers	4
A. Providers Eligible to Participate	4
B. Election Notice	6
C. Access to USAC Systems	7
D. Alternative Verification Process Review	8
III. Household Eligibility	8
IV. Covered Services and Devices	11
V. Reimbursement	14
VI. Consumer Protection Provisions	14
VII. Promoting Awareness about and Participation in the Affordable Connectivity Program	17
VIII. Transition to the Affordable Connectivity Program	20

I. Introduction

The National Digital Inclusion Alliance (NDIA) respectfully submits these comments in response to the FCC’s Public Notice regarding the implementation of the Affordable Connectivity Program, released November 18, 2021.

The National Digital Inclusion Alliance (NDIA) is a non-profit, 501(c)(3) organization that supports a community of digital inclusion advocates and practitioners who engage in local and state-level efforts across the US to promote equitable internet access, adoption, and use for low- and moderate-income households and communities, whether urban, rural, or Tribal. NDIA acts on behalf of its affiliates in various policy proceedings relating to digital inclusion and broadband deployment. NDIA currently has 625 affiliate organizations who are located in 46 states.

Congress included the establishment of the Affordable Connectivity Program (ACP) in the Bipartisan Infrastructure Package to extend the Emergency Broadband Benefit (EBB)---which to date has helped more than 7 million low-income households connect to the internet during a time when it has never been more critical. To ensure that this benefit helps even more households connect without overburdening existing EBB subscribers, we urge the Commission’s rulemaking process directly address the following critical aspects of the Affordable Connectivity Program and its implementation:

1. Facilitate a smooth transition from EBB to ACP.
2. Provide ongoing grants to community based organizations for outreach and education regarding the transition and the ACP.
3. Protect Consumers.
4. Minimize barriers to enrollment.

The following comments, aligned with the order provided in the Public Notice, provide detailed recommendations for the Commission as it develops its rules to accomplish NDIA’s primary recommendations.

II. Participating Providers

A. Providers Eligible to Participate

In Paragraph 9 of the Public Notice, the FCC seeks comment on its proposal that “all existing EBB Program providers, even those that lack eligible telecommunications carrier (ETC) designations or are not affiliated with an ETC, would not need to file or resubmit a completely new application to participate in the ACP prior to resubmitting their ACP election notice to

USAC. Only a provider that did not participate in the EBB Program and is not an existing ETC or affiliated with an ETC would need to file an entirely new FCC approval application.”

NDIA agrees with the Commission’s proposal and urges the Commission to adopt it.

In Paragraph 10 of the Public Notice, the FCC seeks comment on its proposal “to retain the process developed for review and approval of automatic applications for such non-ETC providers.” The Commission adopted a “broad interpretation,” finding that “any eligible broadband provider that maintains an existing program that was made available by April 1, 2020 to subscribers meeting at least one of the criteria in the Consolidated Appropriations Act’s definition of an eligible household” meets the requirements of an established program.

NDIA agrees with the Commission’s proposal and encourages the Commission to adopt it.

In Paragraph 11 of the Public Notice, the FCC seeks comment on ‘how the Commission should revise the process for determining whether a provider’s “established program” qualifies it for automatic approval to become a participating provider in the Affordable Connectivity Program.” The FCC also proposes, “that to qualify for automatic approval, providers must demonstrate that they are offering broadband subscribers discounted rates based on criteria such as low income, participation in federal, state, or local assistance programs, or other means-tested eligibility criteria, and must also demonstrate the pre-existing verification process used for this existing program.”

NDIA agrees with this proposal and urges the Commission to adopt it.

In Paragraph 12 of the Public Notice, the FCC seeks comment on the following proposals: “The Commission should delegate to the Bureau the authority to review and approve or deny service provider applications consistent with the authority it possessed for the EBB Program.” The Commission should “require only providers that did not participate in the EBB Program to seek Commission approval prior to submitting to USAC the ACP election notices.” “Applications should be reviewed on a rolling basis throughout the Affordable Connectivity Program.”

NDIA agrees with these proposals and urges the Commission to adopt them.

In Paragraph 13 of the Public Notice, the FCC asks whether the Commission should “adopt a formal process providers must follow to relinquish ACP eligibility.” The FCC seeks comment on a process through which ACP providers can cease providing service supported by

the program while also ensuring that their subscribers are provided adequate notice and given the opportunity to transfer their benefit to another service provider.

NDIA urges the Commission to adopt a formal process providers must follow to relinquish ACP eligibility to protect consumers. As part of the process of relinquishing eligibility, providers should be required to notice all subscribers a minimum of a 60 day notice, with multiple notices through multiple mediums (phone calls, emails, text messages, mailings) notifying the customer they will no longer participate in the program. Additionally, should a provider choose to no longer participate, it automatically relinquishes its EBB customers. Any EBB customer it seeks to maintain, it must re-enroll in a new plan. The Commission through USAC should also contact the customers multiple times through multiple mediums providing options and outlining the opportunity to transfer their benefit to another service provider.

B. Election Notice

In Paragraph 14 of the Public Notice, the FCC asks whether it should “require all providers to submit a new election notice for the Affordable Connectivity Program?”

NDIA urges the Commission to require providers who have participated to confirm their ongoing participation in the program and update the service plans they intend to offer to customers so customers can access the most up to date information.

In Paragraph 16 of the Public Notice, the FCC seeks comment on “requiring connected device specifications and the cost of the device in the ACP election notice to help USAC and the Commission determine whether the reimbursement claims for the device are compliant with the Commission’s rules and to help guard against waste, fraud, and abuse.”

NDIA is concerned about the quality of devices offered by some providers under the EBB program and that the retail rate of the devices may have been well under \$100. As such, anything the FCC can do to prohibit the distribution of low-quality devices it should do. To this end, the Commission should require providers to prove the value of the devices for which they seek reimbursement. We recommend requiring providers to demonstrate that the retail value or costs of connected devices match the amount they are claiming from the ACP. This also enables consumers to get a higher quality device

In Paragraph 17 of the Public Notice, the FCC seeks comment on its proposal “that with their election notices providers submit to USAC the lists of ZIP codes where they will offer the supported services to be used to populate the Companies Near Me tool on USAC’s website without delay.” The FCC also seeks comment on any “other information the election notice should collect.”

NDIA urges the Commission to require that providers also submit with their election notices the same information required to be disclosed in broadband nutrition labels as required by Congress in the IJJA. NDIA also urges the Commission to store and make use of such information, and to make such information publicly available.

In Paragraph 18 of the Public Notice, the FCC asks whether the Commission should “adopt a specific timeframe for acting on provider elections?” The FCC also asks whether “USAC can take into account past complaints, enforcement actions, fraud convictions, or audit findings as bases for rejecting a provider’s election for the Affordable Connectivity Program?” The FCC also asks whether the Commission should “require providers to certify that they will respond to consumer complaints filed using the dedicated ACP complaint process within 30 days?”

NDIA urges the FCC to require USAC to accept election notices within 30 days of receiving them so as to ensure as many residents as would like service through the ACP program have access to it. If this timeframe is untenable with the current resources available to USAC, USAC should be adequately resourced. NDIA encourages USAC to take into account past complaints, enforcement actions, fraud convictions, or audit findings as bases for rejecting a provider’s election and should a provider have multiple complaints, actions or convictions, they should not be permitted to participate in the program until those failings are rectified. NDIA urges the Commission to require providers to certify that they will respond to consumer complaints filed using the dedicated ACP complaint process within 30 days.

C. Access to USAC Systems

In Paragraph 20 of the Public Notice, the FCC asks what other actions the Commission should consider “to protect the Affordable Connectivity Program and enrolling households from waste, fraud and abuse caused by rogue agents of providers?”

NDIA urges the FCC to consider prohibiting participating ACP providers from offering or providing to their enrollment representatives or their direct supervisors any commission compensation that is based on the number of consumers who apply for or are enrolled in the ACP with that provider. Including this prohibition would not diminish consumer choice and would protect consumers from predatory practices.

In Paragraph 22 of the Public Notice, the FCC seeks comment on its proposal that the “Commission formalize a process for limiting provider access to USAC systems or removing participating providers from the Affordable Connectivity Program in situations where there are concerns of waste, fraud, and abuse.”

NDIA urges the Commission to formalize a process for removing participating providers from the Affordable Connectivity Program in situations where there are concerns of waste, fraud, and abuse. The Commission should put into place a process to regularly review complaints to identify trends that suggest the provider is not offering eligible households broadband service or connected devices, is failing to properly enroll subscribers pursuant to ACP rules, is not passing through the discounts to subscribers, is providing devices that do not provide the connectivity that was promised or that consumers require, or is otherwise acting in a way that suggests failures to comply with the Affordable Connectivity Program rules. USAC should leverage the program's operating funds to invest in a big data analytical platform to collect and analyze the complaints for trends. If trends are identified that indicate a participating provider has engaged in waste, fraud and abuse, they should be removed from the program. Their existing ACP and EBB customers should be immediately notified and provided with the options they have for transferring their benefit.

D. Alternative Verification Process Review

In Paragraph 28 of the Public Notice, the FCC seeks comment on the proposal to “limit the use of alternative verification processes to providers that maintain an existing verification process used for its own low-income program or other purpose unrelated to the EBB Program, Affordable Connectivity Program, or similar federal assistance program.

NDIA agrees with the Commission's assessment in Paragraph 28 and urges the commission to limit approvals of alternative verification processes. In addition to the reasons the Commission outlines in Paragraph 28, limiting the verification process to existing systems or those that meet certain qualifications simplifies the process for consumers and limits confusion.

III. Household Eligibility

In Paragraph 34, of the Public Notice, the FCC seeks comment on whether “there any modifications that we should consider to guard against potential, waste, fraud and abuse where households seek to enroll through the National Verifier based on participation in the CEP? For example, should the household be required to provide documentation that the benefit qualifying person attends the school that participates in the CEP?”

To streamline the enrollment process for participants, NDIA encourages the commission to establish and maintain as many avenues of enrollment with as few barriers to enrollment as possible. Leveraging CEP as a means to verify eligibility is one means to reduce enrollment barriers. As such, NDIA recommends the CEP provision still apply with ACP. The CEP program identifies high-poverty schools for free lunch and breakfast for all students, reducing the barriers posed by reliance on parents and guardians filling out applications for the program. This eligibility provision should still continue in the ACP.

In Paragraph 41 of the Public Notice, the FCC seeks “feedback on the practice of allowing eligible consumers to verify their identity by submitting documentation rather than providing the last four digits of their social security number” and asks whether there are any other sources, systems or databases it could rely upon to “more quickly qualify households providing alternative documentation?”

Because low income consumers simultaneously work, learn, and raise families, NDIA urges the Commission to ensure the enrollment process is as seamless as possible, minimizing the number of steps within the enrollment process. Each additional step for enrolling in the program makes it more difficult for consumers to complete the enrollment process and become a program participant. NDIA affiliates that have assisted households in enrolling in the program reported to NDIA on numerous occasions that the multi-step process is a barrier for the households they work with and has resulted in a number of households not making it through the full process and becoming a program participant. To reduce these burdens the Commission should make it easy for consumers to verify their eligibility and allow consumers to use a variety of forms of identification to do so. To facilitate enrollment and prevent drop-off, consumers should be able to have their eligibility automatically verified without the need to track down and upload documentation of eligibility.

The Commission should facilitate data matching between relevant agencies to enable automatic verification, a much more seamless process for program applicants. While Congress is better positioned to fix this problem by enacting legislation to require that any agencies that have data share it with USAC in a timely manner, and to clarify that data sharing for verification purposes is legal, the Commission can nevertheless continue to proactively reach out to relevant agencies.

The Commission should also allow consumers to submit notices of eligibility for verification similar to the process used for Pell grant recipients applying for the EBB.

In Paragraph 42 of the Public Notice, the FCC seeks comment on several proposals regarding enrollment in ACP through the National Verifier.

NDIA agrees with the Commission that once the National Verifier is connected to all the relevant data sources through stronger data matching agreements, leveraging the National Verifier tool as the primary source of verification of enrollment would reduce confusion amongst potential participants on how to enroll in the program. However, NDIA advises the Commission to recall that a large portion of the potential program applicants lack access to the internet, a device, and/or the digital skills necessary to complete the application. As such, personalized enrollment assistance from Community Based Organizations (CBOs) is necessary for many

potential applicants and NDIA urges the Commission to keep this in mind as it promulgates rules and ensures a seamless process for those assisting households in the process to do so. In addition, NDIA urges the Commission to retain the use of the paper application for those who have no digital skills and do not know how to use a computer at all.

In Paragraph 43 of the Public Notice, the FCC seeks comment on “any other suggestions for readying the relevant systems to accept (ACP) enrollments starting on December 31, 2021.”

The Commission should provide program participants with their full record and participation in all USAC programs including Lifeline. For households with Lifeline lapsed accounts, the fact their account is lapsed has prevented them from proceeding with enrollment in the EBB program. The Commission should require USAC to provide a more seamless and user-friendly process for program participants to determine whether they have an account.

In Paragraph 47 of the Public Notice, the FCC asks whether the Commission should “mandate a third-party app on subscriber devices that confirms the subscriber is accessing its ACP-supported service so that records substantiating subscriber usage no longer need to be reviewed.”

NDIA urges against any requirement that an app be installed on subscriber devices in order to confirm that a subscriber is accessing its ACP-supported service. This measure would be invasive to the privacy of ACP subscribers.

In Paragraph 49 of the Public Notice, the FCC seeks comment on the implementation of a “subscriber recertification requirement for the Affordable Connectivity Program to ensure enrolled subscribers continue to meet the ACP eligibility criteria from year to year.”

NDIA recognizes that recertification is an important safeguard to ensure the continued eligibility of enrolled subscribers. NDIA encourages the Commission to establish a recertification process that is as least burdensome on the consumer as possible. One mechanism for doing so would be to utilize the Lifeline program’s annual recertification for any ACP participant that also participates in the Lifeline program. Similarly, the Commission should automatically recertify as many participants as possible through the method they verified for the program initially using an automatic process.

In Paragraph 50 of the Public Notice, the FCC asks whether additional consumer outreach or notification should be required for ACP households that did not pass or did not timely respond to a Lifeline recertification attempt?

NDIA urges the Commission to require that USAC provides additional consumer outreach or notification to ACP households that did not pass or did not timely respond to a Lifeline recertification attempt.

IV. Covered Services and Devices

In Paragraph 55 of the Public Notice, the FCC seeks comment on “rules that would enhance the opportunity that low-income households participating in the Affordable Connectivity Program would receive a competitive internet service offering that meets the needs of the household.”

NDIA urges the Commission to prohibit participating providers from offering internet service plans to ACP subscribers that provide a lower quality of service than that of other plans of the same price offered to non-ACP subscribers.

In Paragraph 57, the FCC explains that it made the EBB program available to eligible households that live at a single address (such as senior and student living, mobile home parks, apartment buildings, and federal units), that receive service as part of a bulk billing arrangement where the households are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord, should be permitted to participate in the EBB Program. The FCC asks whether it should adopt this flexibility in the Affordable Connectivity Program and asks what else the Commission should consider about such arrangements?

NDIA urges the FCC to, just as it did with the EBB program, make the ACP available to eligible households that live at a single address (such as senior and student living, mobile home parks, apartment buildings, and federal units), that receive service as part of a bulk billing arrangement where the households are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord. Such a measure is critical to ensuring that many seniors and low-income folks are able to take advantage of the ACP program.

The Commission should continue to develop this flexibility in further proceedings in collaboration with HUD and low-income housing providers, along with low-income resident and/or resident serving representatives. The Commission should consider the following process: enable the submission of interest from a landlord with FCC directly or with ISP with documentation of status as an eligible low income housing provider by federal, state or local government, addresses and sign-off from current residents would be required, then the landlord would submit a list of units to be provided with service.

In Paragraph 59, the FCC seeks comment on “whether monthly rental costs for equipment such as modems, routers, hot spot devices, antennas, and any other equipment that is necessary for the transmission functions of internet service offerings should be eligible for the affordable connectivity benefit.”

NDIA urges the FCC to designate “monthly rental costs for equipment such as modems, routers, hotspot devices, antennas, and any other equipment that is necessary for the transmission functions of internet service offerings” as eligible for the affordable connectivity benefit.

In Paragraph 61 of the Public Notice, the FCC asks whether it should provide “additional guidance or flexibility with respect to the characteristics or features that would make a laptop, desktop, or tablet eligible under the program?”

NDIA urges the Commission to ensure that cellular phones are not eligible devices under the Affordable Connectivity Program. NDIA also urges the Commission to allow registered refurbishers or low-income equipment programs to provide any customer, who shows proof of enrollment in an ACP service, with a device—to which customers can apply their ACP device benefit. NDIA recommends the FCC require that customers in this arrangement also receive a minimum warranty of one year and batteries for their device.

NDIA urges the Commission to require that devices meet minimum standards in order to be eligible for the Affordable Connectivity Program. These standards should ensure that devices offered through the Affordable Connectivity Program are sufficient for distance learning, telehealth, remote work, and other modern uses.

In Paragraph 62 of the Public Notice, the FCC explains that it “found that there was no legal basis to allow households to receive more than one connected device through the EBB Program” and thus proposes to “adopt the same approach for the Affordable Connectivity Program.”

NDIA urges the Commission to allow households to receive a device through the ACP that may have received a device through the EBB program. Today, households with multiple members need more than one device to participate in work, school, the economy, the healthcare system, etc. Yet, many low income families don’t have enough devices for all family members to connect simultaneously. For example, according to an EveryoneOn’s survey of households with incomes below \$50,000 a year, households with 2 children average just 1.9 computers.¹ This not only leaves some schoolchildren without a means to connect, but it disregards the need for parents to connect as well. The Commission should do whatever is in its purview to ensure

¹ EveryoneOn, *Affordability and the Digital Divide* at 19 (Dec. 2021).

low-income households have sufficient access to computers-- including counting the ACP device discount as a separate benefit from the device discount under the EBB.

In Paragraph 64 of the Public Notice, the FCC seeks comment on “how the Commission can ensure that providers are not claiming amounts beyond what it cost them to provide the device.” The FCC describes a cost-based model that would limit “providers to claiming a reimbursement amount that reflects the cost to them of acquiring and providing the device to the household” and asks that if this model were adopted, “what sort of incentive would providers need (e.g., cost-plus) in order to find offering a device worthwhile?” The FCC also asks how the Commission can be sure that “any such incentive is reasonable and does not lead to offers of inferior devices and/or overcharge to the Affordable Connectivity Fund or consumers?”

NDIA urges the Commission to encourage providers to participate in the device discount program within the ACP. The device discount program within the EBB was underused. If providers were encouraged to partner with device manufacturers, refurbishers or retail outlets, they may feel more comfortable offering the device discount. As such, we urge the Commission to explore ways to encourage partnerships between these entities, so that more providers participate in this portion of the program.

In addition, NDIA reiterates it’s comments above and urges the Commission to do anything it can to prohibit the distribution of low-quality devices. To this end, the Commission should require providers to prove the value of the devices for which they seek reimbursement. We recommend requiring providers to demonstrate that the retail value or costs of connected devices match the amount they are claiming from the ACP. This also enables consumers to get a higher quality device

In Paragraph 67 of the Public Notice, the FCC seeks comment on “EBB household experiences choosing qualifying connected devices for the EBB Program to determine if there are any other improvements the Commission can make to the Affordable Connectivity Program.”

To better understand the household experience in choosing qualifying connected devices for the EBB and ACP programs, NDIA urges the FCC to conduct consumer surveys and focus groups to ascertain the consumers’ experience in obtaining devices through the program. Data gathered from this process would provide the FCC with a better understanding of this aspect of the program’s gaps and how it can be improved.

V. Reimbursement

In Paragraph 75 of the Public Notice, the FCC seeks comment on whether “the Commission would have the authority to require that any benefit provided by a state low-income

broadband program be applied before a provider calculates the amount to claim from the Affordable Connectivity Program.”

NDIA recommends the Commission not require states to apply their low-income broadband programs before the ACP be applied. Most states do not have such a program and those that do are structured to supplement the federal benefits, not the reverse. In addition, while states will receive funding under the IIJA’s DEA to establish digital equity programs and work, the programs will not be implemented until at least the end of 2022 and perhaps not until 2023.

VI. Consumer Protection Provisions

In Paragraph 81 of the Public Notice, the FCC proposes “to prohibit providers from inquiring, requesting or otherwise causing a consumer to submit to a credit check, or from accessing a consumer’s credit information, before enrolling the consumer in the Affordable Connectivity Program.”

NDIA agrees with the Commission’s proposal and urges the Commission to adopt and fully enforce it. NDIA urges the Commission to require that providers self-certify under penalty of perjury that the households they are claiming were not subject to credit checks as a condition of enrolling with the provider for the ACP with each reimbursement filing. NDIA also urges the Commission to prohibit participating providers from requesting deposits of ACP households as a condition of service.

In Paragraph 82 of the Public Notice, the FCC asks whether “permitting a provider to use the results of a credit check to determine which plans are made available to a household” would be inconsistent with the statutory provision that “prohibits a participating provider from requiring an eligible household to submit to a credit check as a condition for applying the ACP benefit to that provider’s internet service offerings.”

NDIA urges the Commission to prohibit participating providers from using the results of a credit check to determine which plans are made available to an ACP household. If participating providers are permitted to conduct credit checks on ACP customers at any point, the complete, detailed credit check policy for all services of the participating provider should be reported to the FCC and posted in clear, explicit language on the FCC and provider websites. In addition, if participating providers are permitted to conduct credit checks on ACP customers at any point, NDIA urges the Commission to mandate that any such credit checks conducted shall not result in delayed service approval or additional costs to the customer.

In Paragraph 84 of the Public Notice, the FCC seeks comment on “how to address situations where the provider fails to apply the ACP benefit to a household’s bill consistent with

the Commission's rules and, as a result, the household does not receive the benefit and is required to pay the full amount for the internet service."

NDIA strongly recommends that in such situations the Commission require the provider to make the customer whole.

In Paragraph 85 of the Public Notice, the FCC proposes to "require participating providers to provide adequate notice to subscribers of their delinquent status before terminating the subscriber's service for non-payment." The FCC seeks comment on this proposal, "specifically on the frequency of notice, timing, and method of communicating the notice."

The Commission should require a series of notices be delivered through multiple mechanisms (email, phone, mail, text) if people are in arrears with clarification of options for changing service level and payments, and a phone number to get assistance. Additionally, the Commission should require providers to provide options for the consumer to convert service to lower cost, and to enroll in a payment plan.

In Paragraph 87 of the Public Notice, the FCC seeks comment on its proposal to add "Affordable Connectivity Program content to the Consumer Complaint Center to educate consumers about the program, a dedicated pathway in the Consumer Complaint Center to file ACP-related complaints, including notification to the providers that the complaint involves the Affordable Connectivity Program, clear direction to consumers on how to correctly file an ACP complaint, and dedicated Commission staff from the Commission's Consumer and Governmental Affairs Bureau (CGB) to review and process the complaints." The FCC also asks if there are "other ways the Commission can provide improvements to its existing informal consumer complaint process to benefit the dedicated complaint process for ACP participants" and "what, if any, additional changes or modifications the Commission should make to the existing informal consumer complaint process to comply with the Infrastructure Act requirement?"

NDIA recommends the Commission design a complaints process that is as simple and easy to use as possible for the consumers. Many of the potential program participants will lack digital skills and navigating complex websites is difficult and will result in consumers not being able to adequately relay their experiences with USAC and the Commission.

In the "Additional Consumer Protections" section of the Public Notice, the FCC seeks comment on how to promote consumer protection under the Affordable Connectivity Program.

NDIA's affiliates have reported to NIDA that requiring households to pay the first month of service up front and reimbursing the subsidy a month later has made people they serve walk

away from signing up for the EBB. NDIA recommends the Commission modify this practice and require ISPs to ensure households are not billed for the services.

The Commission should ensure there be standard language across all providers with approved translations. Standard language for all notices should be provided by the FCC or by the providers concerning the program created by the FCC with diverse consumer representatives and testing.

The Commission should provide clearer privacy info at the head of ACP and provider sites.

The Commission should provide clear posting on FCC and USAC sites of provider info: the company, what their eligible service is, down/up speed of service, cost without subsidy, if they offer a direct enrollment process internet service (like Internet Essentials, PCs for People), email, website and phone number for info, questions.

The Commission should track and report on wait times for the call-in help number for the ACP program.

The Commission should add an Ombuds office and complaint form that could be sent to FCC and cc'd or forwarded to providers.

In Paragraph 96 the Commission asks Should the Commission prohibit providers from seeking to recover any discounts passed through to the household if the provider is unable to claim the household as a result of the transfer? Should an attempt or threat to recover the discount be considered an inappropriate restriction on the consumer's ability to switch providers? What restrictions should the Commission prohibit or permit? Have there been any practices by providers in the Lifeline or EBB Programs that have the effect of restricting a consumer from transferring their benefit to another provider? For example, should the Commission require that a provider offer a way for the customer to de-enroll online and also provide sufficient customer care representatives to respond to customers' requests or calls within a certain time (e.g., 30 minutes)? Should failure to provide reasonable customer care operations be considered a sufficient reason to delist the provider?

On November 10th, 2021, NDIA and its affiliate, PCs for People submitted an Ex Parte to the Commission summarizing a meeting with FCC staff on October 27th, 2021 raising concerns of potential unscrupulous behavior from some providers participating in the program and the potential that some providers may be engaged in 'slamming' behaviors. The Ex Parte outlines in detail how PC's for People consistently encountered customers who had been transferred from their service with PCs for People without their knowledge. It is possible that these unauthorized transfers occurred when customers are contacted by another provider that promises an attractive deal—such as unlimited mobile data—but the provider does not make clear that accepting the deal would require the household to transfer its EBB benefit to that provider.

NDIA urges the Commission to clearly and directly address and prevent this behavior from continuing to occur in both the EBB and ACP programs. In addition, the Commission should, enhance guidance and requirements for obtaining consent for transfers, improve communication to EBB customers about their rights, monitor transfers and identify providers that are abusing the transfer function, provide customers with more detailed and accessible information and updates about customer transfer activity, including information about the providers to whom a broadband or device benefit has been transferred to and from, and streamline and increase awareness of the dispute process through which customers can report and resolve benefit transfer issues.

VII. Promoting Awareness about and Participation in the Affordable Connectivity Program

In Paragraph 109 of the Public Notice, the FCC explains that the Infrastructure Act also provides that the Commission may conduct outreach efforts to encourage households to enroll in the Affordable Connectivity Program and may “facilitate consumer research, conduct focus groups, engage in paid media campaigns, provide grants to outreach partners, and provide an orderly transition for participating providers and consumers from the EBB Program to the Affordable Connectivity Program.” The FCC asks how the Commission should utilize these statutorily provided tools to inform the public about the program, what topics the Commission should include in consumer research and/or focus groups, and what methods of consumer research are proving effective in the current pandemic environment.

NDIA recommends the Commission first conduct focus groups with CBOs who have successfully enrolled participants in the EBB program to learn which outreach efforts they conducted were the most effective. The Commission could learn successful marketing and communication strategies from CBOs through these focus groups. NDIA’s affiliates have indicated that successful efforts are high-touch, personalized, and meet the household where they are.

In addition, the FCC should continue the marketing and distribution partnership it devised for the EBB program and create and provide shared language for informational and educational materials that simply describes the program and share the language with CBOs and Public Interest organizations working to educate consumers about the ACP.

In Paragraph 110 of the Public Notice, the FCC seeks comment on “considerations applicable to standing up a grant program in support of consumer outreach.”

NDIA urges the FCC to establish a grant program for CBOs in support of consumer outreach and do so in such a way that the grant program’s application process, reporting

requirements, and financial requirements are as unburdensome to subgrantees as possible, [for many of these community subgrantees do not have the capacity to navigate the complexities and costs of a federal grant program.] To date, many of NDIA's affiliates have performed outreach and education about the EBB program in their communities in addition to high-touch, personalized enrollment support. One NDIA affiliate signed up over 600 participants to the program. Others have printed flyers, gone door to door to enroll participants, paid for ads in local news outlets, and advised individuals and households on the best options for their household. NDIA's affiliates and other CBOs like them have done this work with their own resources and without funding support from the Federal government. NDIA urges the Commission to equip these vital organizations with the resources they need to adequately provide awareness, education, outreach, advisement and enrollment support in their communities where they are trusted and valued resources.

NDIA also urges the FCC to require that grantees have a proven track record of effectively serving its community.

In Paragraph 111 of the Public Notice, the FCC seeks strategic advice regarding paid media campaigns for the Affordable Connectivity Program.

NDIA recommends the FCC create radio and commercial advertisements in multiple languages and partner with news, radio and other broadcast outlets to distribute the advertisements in markets with populations most likely to qualify for the program. According to NDIA's affiliates, advertisements in regional markets supported and expanded general awareness of the program and complemented the high-touch, individualized support the CBOs offer to consumers.

The Commission should utilize the EBB and ACP enrollment data and match against eligibility data to identify zip codes with low enrollment but high eligibility and target advertisements in those communities.

Finally, the Commission should consider including renowned or easily recognizable and well-respected public figures in commercials or radio advertisements for the program.

In Paragraph 112 of the Public Notice, the FCC explains that the Infrastructure Act also permits the Commission to provide grants to outreach partners. The FCC seeks comment on any considerations specific to starting a grant program for consumer outreach partners. The FCC acknowledges that "grant application processes and required reporting can be burdensome and may discourage smaller, locally focused organizations from applying" and thus asks how the Commission can "balance the need for grant oversight with the desire to make the grant program within reach for non-profits that are best positioned to serve their local communities."

NDIA reiterates its earlier comments that the FCC should establish a grant program for CBOs in support of consumer outreach in such a way that the grant program's application

process, reporting requirements, and financial requirements are as unburdensome to subgrantees as possible. Wherever possible, the Commission should limit barriers to participation in the grant program for small organizations who are trusted in their communities but have limited capacity to participate in large, federal grant programs.

In addition, NDIA recommends the grants provide funding to the awardees up front, not through a reimbursement process, because a process that requires a small organization to provide resources up front would prohibit many organizations with limited resources from participating. The grant award should be a minimum of \$50,000 as an application and administration of the grant for a smaller award would inhibit small organizations with limited resources from participating due to the outsized administrative cost. The grant term should be a minimum of two years to limit the administrative burden for the CBO.

In Paragraph 113 of the Public Notice, the FCC asks if there are “lessons learned or effective strategies developed or used by stakeholders, partners or providers to promote the EBB Program that should inform the Commission’s ACP outreach.” The FCC also seeks comment on whether and how it should allocate administrative funding to its outreach efforts. The FCC asks, “In the absence of funds appropriated expressly for this outreach, should the Commission allocate some of the administrative funds permitted by the statute to this outreach? How much of the funding should the Commission set aside for outreach?”

NDIA believes the Commission should allocate administrative funds to support a grant program for outreach from CBOs. NDIA’s affiliates have found that the most successful outreach and enrollment strategies are high-touch, time intensive, personalized, and require a lot of staff time to conduct. For example, one NDIA affiliate registered over 600 households for the EBB through street teams. The teams were made up of 12 people, two coordinators and 10 supporting people. While this effort was fruitful, it was time and labor intensive and costly. This is an example type of local outreach effort necessary for reaching and providing enrollment support to eligible households.

As such, NDIA recommends the Commission allocate a minimum of 5% of their administration funds to provide grants to CBOs for outreach and engagement in their communities.

In Paragraph 114 of the Public Notice, the FCC explains that the Infrastructure Act “requires participating providers, in collaboration with state agencies, public interest groups, and non-profit organizations, to carry out public awareness campaigns in their areas of service that highlight the value and benefits of broadband internet access service, and the existence of the Affordable Connectivity Program.” The FCC seeks comment on the “most effective ways providers can collaborate with state agencies, non-profit organizations, and public interest groups to promote the Affordable Connectivity Program.”

NDIA urges the FCC to interpret the statutory requirement that participating providers, in collaboration with state agencies, public interest groups, and non-profit organizations, to carry out public awareness campaigns in their areas of service that highlight the value and benefits of broadband internet access service, and the existence of the Affordable Connectivity Program to further mean that participating providers have an affirmative duty to reach out to the listed groups above (state agencies, public interest groups, and non-profit organizations) in order to collaborate with them in such public awareness campaigns. Additionally, the Commission should require providers to market the Affordable Connectivity Program in the languages spoken in the areas they serve.

VIII. Transition to the Affordable Connectivity Program

In Paragraph 122 of the Public Notice, the FCC seeks comment on its proposal to require “all households seeking to participate in the Affordable Connectivity Program, including EBB-enrolled households that are eligible for the Affordable Connectivity Program, to opt-in or affirmatively request enrollment in the Affordable Connectivity Program.”

NDIA urges the Commission to ensure that all EBB customers receive clear and ample notice of the transition from the Commission and their current ISP. Communication explaining the transition should be through multiple methods--phone, mail, email, text, etc.--and multiple times.

While all EBB customers ought to be notified of the transition, whether each customer should be required to opt-in to the new program is a difficult determination to make given the potential negative repercussions of requiring a blanket opt-in or no requirement at all. Both options have negative repercussions. As such, NDIA recommends the Commission delicately balance the challenge and create a nuanced solution that both protects the EBB customers against both the harms of unexpected debt and unintentional disconnections.

NDIA urges the Commission to allow current EBB subscribers who will not incur an additional expense to opt-out of the program and not be required to opt-in. This would prevent disconnection of services to those households.

For customers who would incur an additional expense, to prevent the consumers from incurring debts, NDIA urges the Commission require providers to give consumers who would be left with a co-pay under their existing plan notice of the change and what it means for their payment and a list of cheaper plans that the ACP would fully cover. The Commission should also require providers to move consumers who have not responded to the notices to a plan that is equal to or less than the ACP benefit so the consumer would not incur any additional out of pocket costs.