Before the
Federal Communications
Commission Washington, D.C. 20554

In the Matter of

Implementation of the Affordable Connectivity Program

WC Docket No. 21-450

Comments of AARP

December 8, 2021

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**Introduction**

AARP welcomes the opportunity to submit Comments regarding proposed rules to govern the Affordable Connectivity Program (sometimes referred to as “ACP”),¹ which, pursuant to the Infrastructure Investment and Jobs Act (Infrastructure Act),² modifies and extends the Emergency Broadband Benefit (EBB) program to create a longer-term broadband affordability program. AARP acknowledges the challenges facing the Federal Communications Commission (“FCC” or “Commission”) to complete the adoption of rules relative to this important new program within a highly compressed timeframe. AARP encourages the Commission to implement and administer the ACP in a manner that maximizes the benefits of this important program to all eligible households and minimizes the disruption associated with transitioning from the EBB program.

Affordable, reliable broadband service is essential for the health and safety of older persons and their ability to maintain vital connections with family and friends. While this need may have been highlighted by pandemic conditions, it is not limited to times of crisis. Many older persons (including those aging in place independently as well as those who rely on the help of caretakers) cannot afford the broadband services that would support telehealth and help overcome social isolation. AARP research shows that fifteen percent of people 50-plus do not have access to high-speed internet, and 60 percent say that cost is a problem. The EBB proved to be a program of great interest and importance to older adults, with more than 40 percent of the 8+ million program participants as of today represented by people age 50 or older.

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As it did with respect to the EBB program, which laid the foundation for this longer-term affordability program, AARP offers its ongoing assistance to the FCC to make a meaningful contribution to the success of this important new program. AARP will continue to advocate in support of the program at the federal level and to support its implementation at the state level by lending AARP’s expertise in conducting outreach and education to older adults, including hosting tele-town halls, distributing outreach materials, and partnering with other key stakeholders to maximize program exposure.

**Core principles for a successful Affordable Connectivity Program**

In its reply comments on EBB dated February 16, 2021, AARP noted that it was important for the FCC to learn from the lessons gained through implementation of the new EBB program in order to design and establish more permanent approaches to overcoming the affordability barrier. By mandating and funding the ACP, the Infrastructure Act provides the Commission with the opportunity to apply those lessons learned to a permanent affordability solution. A well-designed, carefully implemented program can advance meaningful progress toward achieving digital equity, ensuring that all consumers – regardless of income, location, age, race, and ability – have affordable, reliable, high-speed internet access.

As the Notice recognizes, certain aspects of the ACP have been specified by Congress, while for some others, the Commission has significant discretion over design and implementation. In crafting rules for the ACP, AARP recommends that the Commission be guided by principles similar to those

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identified by AARP in its reply comments on the EBB program⁴:

1. Streamline the application process for participants; use existing verification programs, where possible; and minimize the burden on participants.

2. Conduct broad outreach, with the collaboration of many stakeholders, including providers; diverse federal, state, and local government agencies; and non-governmental organizations, including community-based organizations that have earned the trust of the intended participants. Analyzing data collected under the EBB program, with an eye to identifying gaps in participation and the reasons for those gaps, will enable the Commission to tailor outreach in order to achieve increased participation.

3. Leverage existing information on eligibility and program participation (e.g., Lifeline, EBB) to streamline the enrollment process, but ensure that households whose participation is continued based on enrollment in the earlier EBB program are fully aware of changes associated with the ACP (particularly where the benefit is dropping from $50 to $30 per month) and expressly consent to continue their participation.

4. Require transparency in the prices that are charged for service and equipment so that consumers can make informed choices. Monitor prices in various geographic markets to detect and address pricing strategies inconsistent with the interests of the program and eligible households.

5. Limit the collection of consumers’ personally identifiable information to that which is necessary for program administration and maintain strong protections on access to any such information.

6. With the EBB data collection requirements as a foundation, refine and expand data
collection, analysis, and reporting to improve program administration and effectiveness.

In addition, consistent with a requirement under the EBB, AARP hopes that every provider
participating in the ACP program commit to offering at least one broadband service option
priced at $30 or less, so that eligible households can obtain high-speed internet access with no
additional out-of-pocket expenditure. AARP encourages FCC to make every effort to ensure
that, in the implementation of the ACP, no current EBB participant sees their monthly
broadband cost rise as a result of their transition to ACP. Moreover, AARP encourages the
FCC to emphasize in its education and outreach to consumers that the ACP program replaces a
temporary funding program, thereby providing significant improvement over the EBB program,
and greater lifetime savings in broadband expenditures.

**The Commission should build on successful elements of the EBB program, but some EBB
decisions should be revisited.**

There are many places in the Notice where the Commission proposes to adopt procedures that have
been successfully applied in the EBB program. Here, AARP comments on several of these
proposals:

- **Controls on database access:** It is important to maintain strict controls over access to
database systems that contain sensitive subscriber information. Thus, AARP agrees with the
Commission’s proposal (para. 20) to continue the requirement that providers’ agents and
other enrollment representatives register with the Representative Accountability Database.

- **Prohibition on commissions:** AARP also strongly supports the proposal (para. 20) to
maintain the prohibition on offering or providing commission compensation to anyone
involved in the enrollment process. The longer-term nature of the ACP does nothing to remove the adverse incentives introduced by commission compensation, and overly aggressive sales tactics are likely to reinforce skepticism and mistrust among the intended beneficiaries.

- **Eligible devices**: The EBB provided limited financial support to offset the cost of acquiring desktop and laptop computers, along with tablets, and excluded smartphones. AARP agrees with the proposal to maintain the exclusion of smartphones and “phablets.” According to the Notice (para. 67) “the vast majority of connected devices supported were tablets, with far fewer households receiving laptop or desktop computers.” This is perhaps understandable, given the amount of support provided relative to the cost of the devices. However, outreach should include efforts to educate consumers about the additional functionality available on computers relative to tablets.

- **Minimum service standards**: The Commission declined to adopt minimum service standards as part of the EBB, although it did expressly indicate that a qualifying offering must “[permit] households to rely on these connections for the purposes essential to participating in society during the pandemic, such as telework, remote learning, and telehealth.”5 Realistically, access to these functionalities for an entire household cannot be achieved without ensuring a reasonable speed benchmark that is subject to verification – at a minimum, the 25/3 Mbps level that several parties proposed in their EBB comments.

- **Combination of Lifeline and ACP benefits**: In keeping with the approach adopted for the EBB, the Commission proposes “to apply the full Lifeline discount first before determining

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the reimbursement amount” from the ACP program (para. 75). This is reasonable and within the Commission’s prerogative. The Commission also seeks comment, however, on whether the “‘full Lifeline discount’ includes both federal and any state support.” AARP opposes the suggestion that any benefits provided through a state low-income broadband program be deducted in determining the ACP reimbursement amount. States provide these additional benefits with the express intention of supplementing the subsidy to low-income households from federal sources, and the FCC should not discourage states from providing additional benefits to low-income households to improve affordability. If a state concludes that the magnitude of those supplemental benefits is unnecessary given the increase in support from federal sources, it will adjust the supplemental benefits.

The flexibility that eligible households will have in selecting among a provider’s available internet service offerings does not obviate the need for the Commission to take steps to prevent price manipulation. Congress has made provider participation in the ACP voluntary, yet it is in consumers’ interest to maximize the participation of qualifying providers, in order to increase competitive options. The prices of broadband providers are not, at present, regulated by the Commission, with the result that in markets with limited competition, providers have significant leeway in setting rates, terms, and conditions. These two factors create a delicate balance for achieving favorable market conditions, such that a provider’s generally available broadband offerings, adjusted by the $30 subsidy, are affordable to eligible households.

Based on reported experiences from the EBB Program, the Commission has good reason to be

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concerned that at least some providers will look for ways to manipulate prices for their own benefit, at the expense of eligible households and the sustainability of the ACP. In paragraph 15 of the Notice, the Commission identifies the many questions and concerns raised by permitting consumers to choose from among all of a provider’s offerings, including the relevant time period for identifying offered services, the treatment of promotional and contract rates, and the implications of the fact that providers offer different services in the various geographic locations that they serve.

AARP is particularly concerned about the possibility of price discrimination and manipulation by geographic area, particularly given that eligible households are likely to be concentrated in certain geographic areas (e.g., urban poor neighborhoods, rural communities, Tribal lands) and that competitive alternatives in these areas are frequently quite limited or nonexistent. It is important for the Commission to monitor this situation carefully. Providers should be required to submit periodic reports regarding the prices and relevant terms for services to which the ACP benefit is being applied, with sufficient geographic disaggregation to permit the detection of questionable pricing strategies.

The Commission also appropriately expresses concern for the possibility that providers might adopt pricing strategies that harm non-eligible households. As AARP and others have frequently observed, there is not sufficient competition in many broadband markets to ensure cost-based rates, let alone rates that are affordable to many households with incomes only slightly higher than the level required for ACP eligibility.

The Commission also notes (at para. 56) that “[u]nder the EBB Program, providers are required to make available ‘at least one EBB Program-reimbursed service to each of its eligible households sources, including the Washington Post.
within its service area,‘’ and asks whether this policy should apply to the ACP in light of the additional flexibility ACP households have in selecting their broadband service from the provider’s available offerings. The availability of a broadband service option that does not require an out-of-pocket expenditure will make a critical difference to many of the eligible households. AARP recognizes that the lower reimbursement rate under the ACP – $30 relative to the $50 available under the EBB program (excepting high cost and Tribal areas) – will make it more challenging to achieve this objective. Nonetheless, AARP encourages providers to offer a service that eligible households can purchase with no, or at most a nominal, out-of-pocket expenditure.

**Consumer protections during and beyond the transition from the EBB**

The Infrastructure Act contains several important provisions that supplement consumer protections required in the earlier Consolidated Appropriations Act. From the detailed treatment of consumer protections in the Notice, it is clear that the Commission is taking a thorough and thoughtful approach to identifying areas requiring the adoption of consumer protection rules for the ACP.

AARP strongly supports the Commission’s conclusions about the need for full and timely disclosure of relevant information to consumers who will transition from the EBB program to ACP and for obtaining updated consents from participants in a timely manner. AARP intends to comment further on consumer protections in the reply round.

AARP urges the Commission to reflect on the specific first-hand complaints that it has received regarding the EBB as a critical source of information on areas in which the existing consumer protections may warrant strengthening. In implementing the Infrastructure Act’s mandate for a dedicated process for participants to file complaints about the compliance of participating providers with program rules and requirements (including complaints regarding service quality) (see para.
86), the Commission should maintain the staffing in its Consumer Complaint Center at levels sufficient to ensure prompt response times. AARP agrees with the suggestion that providers be required to prominently display and frequently disseminate information about the consumer complaint process. AARP urges the Commission to accept complaints via a toll-free number that is available from anywhere in the country, as it cannot be assumed that the complainant has the internet access and digital literacy skills to communicate his or her complaint through an online portal.

**Efficient program administration does not justify measures that jeopardize the privacy and security of participants.**

Older persons have been disproportionately targeted in scams by individuals who have obtained wrongful access to their personal information. For this reason, AARP stresses that providers should not be permitted to collect unnecessary information, and access to official databases should be limited to authorized individuals, under well-defined circumstances. The protection of user privacy is important in all times during and after enrollment, including at times of recertification.

AARP notes the Commission’s discussion and questions at paragraphs 45 through 48, regarding various approaches to verifying actual usage of ACP service by enrolled households. AARP supports a process that will ensure that providers are not receiving reimbursement for phantom or fraudulent service. However, it is important to protect legitimate subscribers from invasive monitoring of their usage or other measures that would discourage enrollment. Given the broad consensus that broadband has become an essential service, non-use is likely to indicate one of two conditions: either the subscriber lacks the tools and resources (e.g., a device; digital literacy) to use the service or the account has been
subscribed without the knowledge or consent of a person in the eligible household. Where non-usage results from a lack of tools or resources, outreach efforts to cure these deficiencies should be the next step. In the (more likely) event that non-usage results from a phantom or abandoned account, methods for detecting non-usage should avoid intrusive contact or monitoring of the eligible individuals.

**The Commission should evaluate EBB participation to identify ways to improve on outreach and rely heavily on organizations with strong community-based ties to conduct and design outreach**

The Infrastructure Act recognizes the importance of effective outreach, and it gives the Commission considerable latitude in how to conduct outreach, both directly and through outreach partners. Effective outreach will require the use of multiple communication channels and multiple outreach partners. AARP hopes that many organizations with strong, established connections to target populations will come forward to offer their support and apply for grants. As previously mentioned, AARP intends to play an active role in partnering with diverse stakeholders to expand outreach to eligible community members.

Preference in grant awards should be given to organizations with established public interest credentials, preferably non-profit organizations, that have strong ties with key communities, including multi-cultural communities. Grant applicants should be required to provide examples of successful past outreach initiatives. Although administrative considerations may prevent grants from being part of the very earliest outreach, AARP believes that they should be made available as soon as possible and not reserved for utilization as part of longer-term program management (see para. 110).

The Commission should also play a direct role in outreach and should encourage a broad range of
other federal and state agencies that interact with eligible households to disseminate information about the ACP. Some eligible households may be more accepting of information coming from official government channels, rather than private providers.

**The FCC should collect and track data so that it can monitor participation, detect areas where participation is disproportionately low, and implement measures to address gaps in broadband access among those eligible for the ACP benefit.**

The EBB program provided for USAC to develop a tracker to report on disbursements and program enrollments, so that providers and the public could plan and prepare for the exhaustion of funds. In addition, the Commission eventually “released more granular enrollment data that included enrollee demographic information, such as age breakdown, eligibility category, type of broadband service, and enrollment numbers by five-digit ZIP code areas, all of which are updated monthly.”\(^7\) The Commission should continue to collect and analyze this data and make it publicly available.

Similarly, it would be useful for the FCC to collect data regarding households that were unsuccessful at enrolling (and, where feasible, the reason their application was rejected). The FCC should also use its data collection process to monitor changes in the available service offerings at various price points (again, geographically disaggregated) in order to detect and avert pricing strategies that undermine the efficiency of the ACP and harm consumers.

**Conclusion**

By establishing a long-term framework to make broadband affordable to low-income households, the Affordable Connectivity Program will significantly advance the nation’s progress toward the goals of universal broadband and digital equity. The Commission has

identified many of the critical issues that must be addressed to ensure successful implementation of this ambitious program. The Commission’s experience with the EBB Program should help it identify ways to improve on outreach, administration, and oversight of the ACP. AARP looks forward to working with the FCC to successfully implement the ACP, including outreach to the many older adults who meet the program’s eligibility criteria.