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In the Matter of

Implementation of the Affordable Connectivity Program

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Reply Comments of AARP

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Summary

Initial comments offer many valuable suggestions regarding the design and implementation of the Affordable Connectivity Program ("ACP"). AARP focuses these reply comments on a subset of the diverse topics discussed in initial comments. AARP addresses, among others, these aspects of the ACP:

- **Opt-in/opt-out for consumers:** AARP supports a hybrid opt-in/opt-out process to balance the competing goals of achieving widespread ACP enrollment and minimizing consumer debt. The weekly Emergency Broadband Benefit ("EBB") enrollment data that USAC reports show that as a result of steady and gradual enrollments during the past eight months, approximately 8.5 million households are now enrolled in the EBB Program. The ACP enrollment program should build off that impressive achievement and avoid as much back-sliding as feasible and without creating new consumer debt. Specifically, those EBB households that would not have an out-of-pocket expense if they migrated to the ACP should fall in the “opt-out” category (they would transition smoothly to the new ACP without needing to re-enroll), and those EBB households that, as a result of the reduction in the monthly subsidy, would incur new monthly expenses should fall in the “opt-in” category (they would need to affirmatively choose to incur a new monthly expense). AARP is hopeful that many ACP providers will lower the prices for their EBB-offered services to below $30 so that the vast majority of EBB participants can seamlessly transition to the ACP.

- **Opt-out for providers:** AARP supports an opt-out mechanism for providers combined with robust monitoring and enforcement so that the Federal Communications Commission ("FCC" or "Commission") can identify any providers engaging in unacceptable practices.

- **Service options:** AARP urges the Commission to apply the statutory guidance permitting subscribers to apply their benefit to “any internet service offering of the participating provider at the same terms available to households that are not eligible households” as expansively as possible, given practical constraints, but not to leave judgments about application of this guidance to individual providers’ discretion. Consumers using a grandfathered plan should be able to apply the ACP discount to that plan.

- **Outreach:** Comprehensive outreach with standardized information developed by the Commission with easy-to-understand language and in multiple languages is critically important to the ACP’s success. The FCC should involve and provide grants to vendors and organizations that are anchored in and respected by communities of color and low-income communities. The Commission should partner with the organizations that low-income consumers trust the most, and, should periodically rely on focus groups and consumer feedback to modify outreach efforts if and as needed.

- **Consumer protection:** Robust consumer protection measures combined with monitoring and enforcement by the FCC to detect and remedy any non-complying provider practices are essential for all households, and particularly for older adults, who may be particularly
susceptible to unscrupulous provider practices, especially if they have not previously signed up for high-speed internet access.

- **Complaint process:** A well-publicized, easy-to-use, well-staffed complaint process is important not only to help consumers navigate complaints with providers but also to enhance providers’ accountability to the FCC and to the public. A transparent complaint process, which includes public reporting of providers’ track records, will support consumers’ informed decision-making in broadband markets. It will also inform the Commission’s and community-based organizations’ detection of non-compliance with the ACP rules. It is important that consumers be able to communicate complaints not only through web sites, but also by phone and by mail since some complaints may concern those who have been disconnected from or who are struggling to apply for high-speed internet access.

- **Data gathering, analysis, and reporting:** AARP has long advocated for comprehensive data collection, analysis and reporting at a sufficiently granular level to help communities focus their digital equity programs where adoption levels are lowest. The Commission should expand the data collection and reporting that it established for the EBB Program to inform outreach as well as states’ implementation of their digital equity plans.

- **Devices:** Households that cannot afford monthly broadband prices likely cannot afford the equipment that is essential to use broadband service. AARP supports recommendations to increase providers’ delivery of devices to ACP households.

- **Ongoing evaluation of the ACP:** AARP urges the Commission to seek feedback periodically from all stakeholders to assess ways to improve the ACP, and if necessary, to modify the ACP’s rules. The Commission is designing a complex program in a short period of time, and it would be reasonable for unanticipated issues to surface that may require future deliberation. The Commission should leave the door open for revisiting the ACP rules.

AARP commends the FCC for its comprehensive framing in its Public Notice of the many complex issues relating to the country’s transition from the Emergency Broadband Benefit Program to the Affordable Connectivity Program. Initial comments include many valuable recommendations for the program’s design and implementation. A seamless transition for EBB participants and a streamlined enrollment process for new ACP recipients are important to older adults who are seeking to stay and get connected to high-speed internet access. AARP looks forward to collaborating with the FCC, providers, community-based organizations, and state broadband offices to contribute to the ACP’s success.
Introduction
AARP respectfully submits these Reply Comments regarding proposed rules to govern the Affordable Connectivity Program (“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 affordability program for high-speed internet access. Initial comments show widespread support for a smooth transition,\(^3\) while also recognizing the many challenges of transitioning a complex program within a short time frame.\(^4\) The Federal Communications Commission (“FCC” or “Commission”) has an opportunity to build on the hard-earned progress achieved during the recent eight months, with gradually increasing EBB participation (presently about 8.5 million households), while ensuring that those who could be harmed by the reduction in the $20 monthly subsidy can avoid such harm. A successful seamless transition depends on the coordinated efforts of the FCC, providers, community-based organizations, and local and state agencies, informed by comprehensive tracking of participation data and consumer complaints and ongoing evaluation of outreach efforts.

**To balance the competing goals of maximizing participation and minimizing consumer debt, the Commission should adopt a hybrid opt-in, opt-out approach to ACP enrollment.**

One of the challenges associated with the ACP’s implementation within the compressed timeframe provided by Congress is assessing the merits of the “opt-in” versus “opt-out” approach to enrollment. Stakeholder recommendations diverge on this important question. Comments show concern about the scale of “de-enrollment” that could occur under the FCC’s proposed “opt-in”

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\(^3\) See, e.g., The City of Boston, Massachusetts, Montgomery County Maryland, Washington, DC and the Texas Coalition of Cities For Utility Issues(“Local Governments”) at 2; Public Knowledge and Common Sense (“PK”) at 2; AT&T at 24; Altice USA, Inc. (“Altice”) at 3.

\(^4\) City of Seattle at 6.
approach. Altice recommends that the FCC permit existing EBB households to transition automatically to the ACP program, while receiving notification from providers about the changes in the program. The City of Seattle similarly recommends that for “EBB-enrolled households under continuing eligibility categories, including under an existing approved ‘Alternate Verification Process’, the transition process should assume continued eligibility, and automatically convert the households to ACP support without having to reenroll or recertify.”

However, those eligible households purchasing high-speed internet access service with a price exceeding $30 per month could experience bill shock. As Public Knowledge explains, when managing the transition from the EBB to the ACP, the Commission must balance maintaining enrollment levels while preventing customers from accumulating debt because of the subsidy decrease:

The Commission asks whether it should allow current EBB subscribers to opt-in or opt-out of continuing their service through the ACP. A key factor in making this determination is that the ACP’s reduced subsidy will leave many subscribers with a co-pay. However, many consumers will not respond to requests to opt-in to the program, reducing the ACP’s ability to close the digital divide. The Commission will need to delicately balance the benefits of maintaining enrollment numbers against the harms of unexpected debt for low-income consumers.

AARP supports Public Knowledge’s proposal to balance these competing concerns of encouraging consumers’ participation in the ACP while preventing consumer debt:

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5 Altice at 4.
6 Altice at 2-6.
7 City of Seattle at 4. See also NCC at 11.
8 See City of Seattle at 5-6, which proposes detailed notification requirements regarding this group of customers.
9 Public Knowledge explains the significance of this issue: “At the same time, unexpected debt can be crippling for low-income families. 68 percent of Lifeline and EBB subscribers cannot afford a monthly co-pay of any amount. Others are physically unable to pay a co-pay -- nearly 60 percent are unbanked, and almost half do not have a credit or debit card.” PK at 4-5, cites omitted.
10 PK at 3.
To prevent consumers from incurring debts they cannot pay, we recommended that 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, a list of cheaper plans, and the ability to opt-into (and not out of) the ACP. However, in order to maintain enrollment numbers, we suggest that the Commission could require customers who would not be left with a copay under their current plan to opt-out of the ACP. This would help balance concerns about “bill shock” for consumers with the concerns that consumers may not respond to opt-in notices for continuation of service.12

Regardless of whether the FCC adopts opt-out, opt-in, or the hybrid Public Knowledge proposed approach that AARP supports, it is important that consumers receive a clear notice -- available in multiple languages -- about the transition, such as the subsidy reduction, the opportunity to shop for plans, and consumers’ right to cancel plans without a fee.13

The Commission should adopt an opt-out approach for providers coupled with rigorous spot checks to monitor provider compliance with the Commission’s rules.
It is also important to make the transition as seamless as possible for providers.14 As NCC explains, automatic approval for the ACP would benefit regional and municipal providers, which “often offer some of the fastest and most affordable service offerings in the country but have fewer resources to track and participate in a new eligibility and approval process.”15 AARP supports the FCC’s proposed provider opt-out if the Commission also commits to focusing effort, especially during the early months of the ACP, to identify any providers who may lack the technical, financial, and managerial expertise to participate, and to identify any providers who may knowingly fail to comply with the Commission’s rules. AARP supports recommendations for the

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11 PK at 4, cite omitted.
12 PK at 5.
13 PK at 3-4
14 New York Public Service Commission (“NYPSC”) at 2; Altice at 6-7.
15 NCC at 5.
Commission to “root out fraud, waste and abuse” by providers\textsuperscript{16} and to “set the tone with participating providers that there will be immediate and very serious consequences for activities that jeopardize the ACP.”\textsuperscript{17}

AARP supports NCC’s recommendation that the FCC encourage outreach partners to submit feedback on ACP providers so that the FCC can readily identify any unacceptable provider practices, and also supports NCC’s recommendation that “[d]uring annual compliance review, the Commission should reconsider participation from providers who have repeatedly violated the Program’s rules.”\textsuperscript{18} AARP supports the recommendation of the Michigan Public Service Commission (“MPSC”) that the Wireline Competition Bureau be encouraged to reach out to states for any questions or concerns that the Bureau may have about particular providers\textsuperscript{19} and that the FCC order fines and penalties against providers found to be in violation of the FCC’s rules.\textsuperscript{20}

\textbf{The Commission can reconcile the explicit consumer protections afforded to ACP-eligible households with the requirement that providers offer eligible households access to the full range of services offered to non-eligible households.}

The IIJA requires that ACP subscribers be permitted to apply their benefit to “any internet service offering of the participating provider at the same terms available to households that are not eligible households.” While this language would seem straightforward, the comments point out challenges that arise in reconciling this directive with the various consumer protection provisions also included in the bill.

AARP is profoundly troubled by Verizon’s attempt to limit the scope of “inappropriate” practices to practices uniquely applied to services sold to ACP-eligible households. Verizon argues as

\textsuperscript{16} Local Governments at 7.
\textsuperscript{17} The National Consumer Law Center (NCLC) and the United Church of Christ Media Justice Ministry (UCC MJ) at 14. See also NCC at 5.
\textsuperscript{18} NCC at 6.
\textsuperscript{19} MPSC at 3.
follows:

In particular, the Commission should find that a practice is “inappropriate” only if the provider applies that practice uniquely to consumers participating in the ACP (or seeking to participate in the ACP) and that practice has a substantial negative impact on ACP participants or potential participants. Congress designed the ACP so that the benefit would put eligible households on essentially the same footing as non-ACP households: Eligible households can use their benefit to obtain the same services, at the “same terms” as available to non-ACP households, and must be “subject to the participating providers’ generally applicable terms and conditions as applied to other customers” (with only very limited specified exceptions such as the exemption from early termination fees).21

[and]

Because the ACP framework is based on treating ACP subscribers the same as non-ACP subscribers in almost every respect, the Commission should find that any practices or processes that a provider applies in the same manner to both ACP and non-ACP households are not “inappropriate.”22

The Commission should reject this tortured interpretation, which would essentially make the provider the arbiter of appropriateness. For example, it would mean that if a provider routinely up- or downsold services to all customers, the practice could not be considered “inappropriate” as to ACP-eligible customers. The IIJA bolsters consumer protections as they apply to eligible households receiving the ACP benefit (which is paid directly to providers as a reimbursement). Verizon’s proposed interpretation would force the Commission to accept the provider’s standard practices as the benchmark for appropriateness, rather than examining those practices as they are applied to eligible households. The IIJA requirement that generally available services be available to ACP participants “on the same terms and conditions” does not require the Commission to settle for the least common denominator in providers’ selling and marketing practices.

20 MPSC at 11.
AARP acknowledges that various judgment calls will have to be made with respect to the IIJA’s mandate to offer ACP households access to the provider’s full range of services, but in each case, there will have to be a careful balancing of the competing policy objectives. The IIJA clearly seeks to provide eligible households with expanded choices and shield them from being channeled into a limited set of offerings, yet, as providers correctly point out, there are certain services (e.g., contracts with early termination fees (ETFs); bundles that contain video, if the Commission chooses to exclude them) that don’t fit neatly within the “all services” construct. AARP urges the Commission to apply the statutory guidance as expansively as possible, given practical constraints, and not leave judgments about application of this guidance to individual providers’ discretion.

**Eligible services**
The “same terms and conditions” argument also arises in various comments on the scope of “eligible services.” Verizon and AT&T, for example, advocate that providers not be required to offer ACP households access to legacy and grandfathered services, although Verizon indicates that a second-best approach would allow the ACP household to retain a grandfathered or legacy service they currently subscribed to and AT&T proposes to make available a limited subset of “relevant, select” grandfathered services. 23 With respect to giving meaning to the “same terms” provision in the context the treatment of grandfathered and legacy services, AARP believes that the National Consumer Law Center/UCC captures a reasonable balance:

> [If a consumer is using a grandfathered plan, the consumer should be able to apply their ACP discount to the grandfathered plan. If a consumer is a senior citizen, lives in a market where a particular discount be (sic) being offered or is otherwise eligible for a discount or able to purchase a product, the consumer should be able to apply

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21 Verizon at 16.  
22 Verizon at 17  
23 Verizon at 9-10; AT&T at 10-11.
ACP to that product.\(^{24}\) This strikes AARP as creating a reasonable compromise between the provider’s ability to update its service offerings and the ACP household’s ability to apply the discount to any service that they could obtain if they were not ACP-eligible. However, additionally, the Commission should rely on the reporting and complaint processes to identify possible manipulation of service offering availability by providers for the purpose of inappropriately denying access to ACP-eligible households.

AARP opposes the suggestion by CTIA that providers have \textit{unilateral} discretion to withhold from ACP-eligible households any service whose terms and conditions would otherwise conflict with explicit consumer protections contained in the IIJA, such as plans that include long-term contract provisions, with associated early termination fees.\(^{25}\) Nonetheless, AARP agrees that a contract-based service with some of the key contract provisions omitted is no longer the same service. The key here, once again, is to protect the interests of eligible consumers and ensure that they are not inappropriately funneled into a limited range of offerings with inferior capabilities. AARP recommends that providers be required to identify any and all services they propose to exclude from ACP and explain the specific integral terms and conditions that would be unenforceable as to ACP households. The provider should be required to disclose how many offerings it proposes to exclude on this basis, relative to the services without such provisions.

\(^{24}\) NCLC/UCC at 21, cites omitted.  
\(^{25}\) CTIA at 15.
Should the Commission permit ACP-specific offerings that are not available to non-eligible households?
CTIA proposes that the Commission permit providers to offer certain services exclusively to ACP households:

The Commission also should make clear that the requirement that participating providers allow ACP households to apply the benefit to any plan that is available to a non-eligible household does not restrict participating providers’ ability to offer ACP-specific plans if they wish to do so. The law imposes no reciprocal obligation for participating providers to make ACP plans available to ineligible households.26

As with many other topics addressed in the Notice, the question of whether providers should be permitted to design (presumably low-cost) services that will be uniquely available to ACP households requires a careful balancing of interests. On the one hand, low-income households have benefitted from the availability of less expensive broadband service offerings with eligibility restrictions. On the other hand, it has been observed that service under these targeted plans has often been substandard in terms of data speeds and usage allowances. If ACP-only services are permitted, there must be precautions to prevent the development of inferior service options targeted uniquely to ACP households. Regardless, as proposed by NCLC/UCC:

The Commission should pay particular attention to products that are at or below $30 and for consumers who may have the lowest digital literacy or least understanding that they may shop around for the product that best meets their needs. Products that are exclusively or heavily marketed only to consumers who are eligible for ACP discounts might be worthy of careful analysis in comparison with products offered to consumers more generally so that products geared for low-income consumers do not fall behind other products in the marketplace in terms of quality. It is certainly relevant to consider the various kinds of technology, such as mobile or wireless products.27

As in other areas, disclosure requirements, bolstered by reporting and monitoring of ACP subscriptions, must be employed to guard against the harmful manipulation of service offerings to

26 CTIA at 14.
27 NCLC/UCC at 22.
ACP households.

**Service bundles**

Some commenters appear to have acceded to the Commission’s proposal to limit bundles to a combination of voice, text/data, and internet access, but not video services, either expressing support or taking no position.\(^{28}\) However, some, including USTelecom, Altice and the Vermont Department of Public Service (“DPS”),\(^ {29}\) propose that bundles that include video also be available to ACP households. The Vermont DPS argues:

> There is nothing in the Infrastructure Act suggesting that broadband-video bundles should be excluded from the ACP, which is reason enough to include such bundles for purposes of the ACP. But further, despite the Bureau’s claims to the contrary, it would in fact frustrate consumer’s choice in broadband service offerings. Many Vermonters continue to have unreliable wireless voice service and therefore depend on Voice over Internet Protocol for their voice needs. Should broadband-video bundles be excluded from the ACP, it will in turn exclude consumers who purchase those bundles for their voice needs from participating in the Program. This is not in the public interest and would frustrate the intent of the ACP to allow customers to apply the affordable connectivity benefit to any Internet service offering.\(^ {30}\)

Should the Commission decide to permit video-inclusive bundles, it should collect data that will help it evaluate how such expansion affects participation and the price levels of the offerings ACP households select.

**Speeds**

Comments underscore the importance of ensuring that ACP participants receive broadband service at reasonable speeds and quality.\(^ {31}\) AARP recommends that the Commission monitor the speeds delivered to ACP participants to inform its evaluation of whether ACP-served households are connected to the internet at qualities and speeds comparable to other similarly situated

\(^{28}\) See, e.g., NCLC at 23; CETF at 24.
\(^{29}\) USTelecom at 27; VT DPS at 3-4; Altice at 13.
\(^{30}\) VT DPS at 4.
households.  

Procedures relative to termination of service for non-payment
Verizon again seeks to apply its misguided argument about the “same” treatment of ACP and non-ACP households as grounds for opposing specific procedures to alert eligible households of their delinquent status before terminating the account for non-payment. Even when they are offered access to services on the same terms and conditions as other customers, the low-income households are clearly not in “the same” position economically as all other households, and they deserve the extra protections against termination of service that the IIJA would permit the Commission to adopt. AARP supports MPSC’s recommendation that providers be required to give adequate and multiple notices to affected customers before their service is terminated.

Sales commissions
In its initial comments, AARP urged the Commission to prohibit the use of sales commissions on ACP sales. Providers, including Verizon and AT&T, oppose the proposal to extend the Lifeline program’s bar on sales commissions to the ACP program. AT&T argues (and CTIA also argues along the same lines) that the Lifeline rule prohibiting sales commissions was adopted before

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31 Benton Institute for Broadband & Society (“Benton”) at 2 and 6.
32 “Faster Home Broadband Should Be Enshrined in Law, “Wired, Chris Stokel-Walker, December 17, 2021. [https://www.wired.com/story/home-broadband-speed-faster-minimum/](https://www.wired.com/story/home-broadband-speed-faster-minimum/) See also MPSC at 5, stating: “The MPSC believes it is important for the FCC to ensure households participating in the ACP have the same quality of service and speed offered to non-ACP customers. It is important that access to affordable and quality high-speed internet is available to all customers, regardless of whether they are participating in the ACP.”
33 Verizon at 14-15: “The Commission should not adopt its proposal “to require participating providers to provide adequate notice to subscribers of their delinquent status before terminating the subscriber’s service for non-payment,” and should not prescribe either “the frequency of notice, timing, and method of communicating the notice” or “a process by which subscribers may dispute their provider’s claim of non-payment.” Those proposals conflict with providers’ statutory obligation to apply to ACP subscribers “the participating provider’s generally applicable terms and conditions as applied to other customers.” Because all providers have an established process for providing multiple notices to customers during a 90-day non-payment period, providers must apply the same delinquency notices and processes to ACP subscribers as to other subscribers (except that they may not disconnect an ACP subscriber until after 90 days of nonpayment).”
34 MPSC at 8-9.
“before National Verifier was mandatory across all states and before representatives that enrolled Lifeline participants were registered in the Representative Accountability Database (“RAD”).” 37

AT&T urges that, if a rule against sales commissions is imposed, “it should be limited to restricting commission-based compensation that is based specifically and solely on the number of successful ACP enrollments as this would be more directly focused on addressing financial incentives for fraudulent enrollments.” 38 Verizon once again claims that sales commissions should be considered appropriate since they are integrated into its existing sales processes and would, thus, treat all customers “the same.” 39 As in other contexts, this reliance on “sameness” should not prevail as the basis for the Commission’s public policy decision.

In contrast, NCLC/UCC and others point out the real dangers associated with allowing commissions for ACP sales. 40 NCLC/UCC references some egregious abuses under the EBB 41 and observes that, absent a ban on sales commissions,

the risk increases that a provider will hire enrollment representatives that will use high pressure, unfair and deceptive tactics to enroll low-income ACP consumers in a particular provider’s service. The incentive commissions system also increases the risk of slamming unsuspecting consumers from one provider’s service to a particular provider’s service as that would also drive up the commissions. Depending on the structure of these incentives, they may increase the risk that consumers who desire to change providers will have a very difficult time extricating themselves from their current provider. 42

Intensified and well-targeted outreach measures are the most effective way to expand participation in the ACP. While the additional protections provided by the National Verifier

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35 AARP at 4-5.
36 Verizon at 27; AT&T at 17-18.
37 AT&T at 17-18.
38 AT&T at 18.
39 Verizon at 27.
40 NCLC at 12-13; CETF at 12-13; Free Press at 10.
42 NCLC/UCC at 12-13.
and RAD will certainly help to deter providers and their agents from engaging in unscrupulous practices, sales incentives would continue the temptation to boost sales through fraudulent means. Without actual information on the structure of providers’ sales incentive programs, the Commission also cannot verify that such incentives would not promote upselling to ACP households. AARP thus urges the Commission to protect the integrity of the ACP by eliminating financial incentives for the sale of services to ACP-eligible households.

**Comprehensive community-based outreach combined with provider-offered education is essential to ensure a seamless transition to the ACP by EBB households and to encourage participation by low-income households that now are digitally unconnected.** Initial comments support engaging community-based organizations to assist with outreach,\(^{43}\) not instead of but in addition to provider-conducted outreach. It is important that these organizations, which often have limited resources, are provided with grants necessary for additional staffing and outreach.\(^{44}\) AARP agrees with Common Cause that “strategic outreach” is “critical in ensuring ACP is successful.”\(^{45}\) Common Cause estimates that approximately 36 million households are eligible for the EBB Program.\(^{46}\) Approximately 8.5 million households now participate in the EBB.\(^{47}\) This means that only approximately one in four eligible households benefit from the EBB, underscoring the need to build upon and improve the EBB outreach efforts so that more low-income households have high-speed internet access and can participate fully in today’s digital society and economy.

\(^{43}\) VTDPS, at 7-8; Benton at 3; NCLC at 33; Local Governments at 17; Public Knowledge at 13; NCC at 9-10.  
\(^{44}\) VTDPS, at 6.  
\(^{45}\) Common Cause at 2.  
\(^{46}\) Common Cause at 3-4.  
\(^{47}\) Emergency Broadband Benefit Program Enrollments and Claims Tracker - Universal Service Administrative Company (usac.org), site visited December 21, 2021.
Even when the cost of broadband service is eliminated, challenges to connecting the unconnected will persist. Based on its first-hand experience enrolling households in the EBB Program, Local Governments state: “Challenges experienced in many of local government digital divide programs reveal the following barriers to rolling out bulk purchases and sponsored services: (1) inaccurate contact information/difficult to reach; and (2) lack of trust for ISPs (another reason that we encourage the Commission to look for local partners that have built up relationships with the population the ACP seeks to serve).” AARP agrees with those supporting the Commission’s enlistment of (and grants to) community partners which have established credibility with relevant populations.

Clarity in service options and consumer protection are essential to a successful ACP. NCLC states that the Commission has an opportunity now to develop the “initial disclosure and messaging now and then evaluate it using the authority Congress gave it; adopting new and improved outreach and standardized language within six months of the programs start.”

Information should be provided so that consumers at all literacy and ability levels can understand key elements of the ACP.

Standard information should be provided to enrollees, and, as with other aspects of the ACP, the Commission should periodically assess the effectiveness of outreach messaging and programs so that they can be modified if and as necessary. AARP supports National Consumer Law Center’s (“NCLC”) recommendation that outreach include the following standard information:

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48 AARP has advocated for many years to address high-speed internet access affordability barriers. See also Benton stating: “Affordability is a key barrier to adoption, and households’ ability to pay for service varies.” Benton, at 6-13. See also Next Century Cities (“NCC”) at 3.
49 Local Governments at 17.
50 PK, at 13; NCLC, at 33.
51 NCLC at 32.
52 NCLC at 32.
ACP is a federal program offering discounts for broadband services offered by commercial providers.
- Contact information for the FCC, USAC, and information on how to apply for the program.
- Explanation that consumers with problems can contact the FCC to file a complaint or obtain assistance (with the FCC’s 800-number).
- Consumers should “shop around” and compare products.
- Consumers can change providers at any time without penalty.
- Consumer protection information.

The FCC should standardize the outreach messaging so that it can be distributed during the March 1st transition for those households currently enrolled in the EBB Program. The FCC should require providers to use the standardized language that the FCC develops. 53 AARP supports NCLC’s recommendation that the FCC subsequently use “program evaluation tools, focus groups and other resources to evaluate the success of the disclosures and determine whether most consumers are receiving the information they need.” 54

The FCC’s use of trusted vendors, hired through the FCC’s grant program, especially those “capable of culturally competent communications” and the purchase of media buys “in media outlets that are owned and run by people of color, women and others who are well-positioned to communicate with potential ACP subscribers” will increase the probability of successful ACP enrollment. 55 Benton observes that “[t]here is significant room for improvement in getting the word out about discount offers” and also states that this “is particularly the case for Latinos and older adults.” 56 AARP agrees with Public Knowledge that:

All outreach should be in plain, culturally relevant language, and available in many languages beyond English. To ensure that materials can actually be read and

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53 NCLC at 33.
54 NCLC at 33.
55 NCLC at 33.
56 Benton at 3. See also Public Knowledge, stating: “Of households making below $50,000 a year, just 23% had heard of the Emergency Broadband Benefit.” Public Knowledge at 10, cite omitted.
understood by speakers of the language, the Commission should hire translators. Outreach materials should also fulfill the requirements of the Americans with Disabilities Act, and use effective communication that ensures people with vision, hearing, and/or speech disabilities can engage with the program.  

AARP urges the Commission to provide outreach grants to community-based organizations which have built up relationships and credibility with the populations they serve in conducting outreach and increasing participation.

AARP agrees with Public Knowledge that the Commission should focus its advertising in areas with low adoption. Effective outreach depends critically on comprehensive data collection, analysis and reporting, which can inform the outreach conducted by the Commission, providers, and community organizations. AARP has long advocated for the tracking, analysis, and reporting not only of broadband availability data but also of broadband adoption data. Effective ACP outreach, guided by demographically-disaggregated adoption information, will contribute to much-needed digital equity.

Based on its eight months of experience conducting outreach for the EBB Program, the City of Seattle offers outreach suggestions, which AARP supports. Among the suggestions are awareness outreach (e.g., media, flyer distribution, information at workshops and public meetings); advising (assisting households assess their internet options and eligibility for internet programs and benefits); and enrollment (helping households enroll with the ACP). Based on its experience and familiarity with the resources needed for community-based outreach, the City of Seattle recommends that the ACP “designate funding for localized, in-language outreach and application

57 Public Knowledge at 12, cites omitted.
58 Public Knowledge explains: “Many who are eligible for the ACP may have trouble learning about, understanding, and applying for the program if information about it is overly complicated, exclusively available online or in English, insensitive to cultural differences, or not tailored to differences in communication ability.” Public Knowledge at 11.
59 Public Knowledge at 12.
support so that communities of all sizes can support their diverse populations, and those with low
digital literacy skills, to participate in the program” and that the Commission “provide direct grants,
and allow subgrants, and encourage and track providers issuing grants to facilitate ACP awareness,
eligibility determination, and enrollment.” AARP supports these recommendations as well as the
City of Seattle’s recommendation that “[e]ligible expenses should be broad and flexible to allow
local and culturally appropriate delivery of outreach and the inclusion of black, indigenous, and
people of color (BIPOC) community-based organizations.”

AARP agrees with the many recommendations for culturally relevant outreach conducted in part by
trusted community-based organizations, which should be provided with grants, as well as
recommendations that the FCC assess the effectiveness of outreach programs on an ongoing basis
so that they can improve if and as needed. AARP also agrees with Common Cause that “[t]he
Commission should avoid awarding grants to organizations affiliated with particular broadband
providers” because “[t]hese entities push consumers toward the affiliated provider’s products and
would only serve to confuse consumers and negatively impact competition.”

**Consumer protection mechanisms should include standardized program language with
approved language translations.**

Based on our review of initial comments, which propose various consumer protection measures,
AARP recommends the following.

1. The Commission should adopt measures to protect consumers from inappropriate:

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60 City of Seattle at 9-10. See also, Common Cause at 5-6 recommending that the Commission “develop culturally
competent materials that are available in as many languages as possible,” “conduct diverse focus groups to help
determine the effectiveness of outreach materials and identify points where households are dropping from the
enrollment process,” and “provide grants to trusted community-based organizations to assist in outreach efforts.”
61 NCC at 4.
62 NCC at 14.
63 Common Cause at 7.
64 See, e.g., NCLC at 29-30; City of Seattle at 6-7; Free Press at 19-20.
• Upselling or downselling by a participating provider;
• Requirements that a consumer opt-in to an extended service contract as a condition of participating in the ACP;
• Restrictions on the ability of a consumer to switch internet service offerings or provider (other than requiring a customer to return a provider’s customer premises equipment);
• Use of credit checks for either the service or equipment; and
• Restrictions that thwart the ACP’s integrity and purposes.

2. The Commission should adopt and implement:
• Standard program language across all participating providers, with approved language translations, and subject to consumer representative testing and FCC review;
• Clear explanation of ACP’s benefits and limitations on benefits;
• FCC-approved shopping tool that provides easy-to-understand information about the options for high-speed internet access speeds and prices;
• Posting on the FCC and USAC sites of participating ISP information to include company name, eligible services offered, download/upload speeds of service options, service cost without ACP subsidy, provider’s email, web site and phone number for ACP related information and questions;
• Posting of privacy and complaint resolution information clearly visible on the FCC, USAC and providers’ ACP sites;
• For any ACP-enrolled customers in arrears, requirement for providers to provide a series of notices to the customer with clarification of options for changing service
level and payments, and a phone number to reach customer service for assistance;

and

- Elimination or increase of data caps for low-income services.

The Commission cannot anticipate all the possible unscrupulous practices that providers may pursue, and therefore AARP supports Free Press’s recommendation that “the Commission [] adopt in its rules a general prohibition against unjust and unreasonable practices that undermine the purpose, intent, or integrity of the ACP, and use its authority to adjudicate any allegations of violations on a case-by-case basis.”65

Moreover, AARP agrees with those recommending that the Commission monitor and enforce providers’ compliance with the ACP rules.66 The FCC should stand ready to impose severe consequences for any providers engaging in unacceptable behavior and failing to abide by the FCC’s rules.67 The financial consequences of failing to comply with the FCC’s rules should exceed providers’ potential profits from such non-compliance.68 Without such oversight and enforcement, the FCC cannot be assured that consumers will be protected adequately from providers’ inappropriate sales and marketing practices. Older adults are particularly susceptible to misleading and deceptive sales, and this is especially of concern given that older adults may be purchasing the relevant product – high-speed internet access – for the first time.

AARP opposes any requirement for consumers to install apps on their devices to monitor usage.

AARP agrees with Free Press’s analysis:

We believe that barring agent commissions, issuing a strong pre-participation notice to carriers that any and all of their abuses of the program will come with severe consequences, and placing the primary burden for ensuring adherence to the non-

65 Free Press at 23.
66 NCLC at 30.
67 Free Press at 8-9.
68 Free Press at 9.
usage policy on carriers, will collectively mitigate non-usage program abuses. Carriers are more than capable of identifying non-usage on their systems without resorting to the installation of what essentially amounts to spyware, something that could result in unintended privacy consequences.

The complaint process should be well-publicized, complaint hot-lines adequately staffed and complaints analyzed regularly to detect and address patterns of non-compliance or other problems.

AARP fully supports a well-publicized and easy-to-use complaint process, including non-web-based ways for those who have been disconnected from or have not yet been connected to the internet to submit complaints (i.e., by phone and mail). This is important not only to help consumers navigate the resolution of ACP-related complaints but also to inform the FCC and community organizations about providers that are potentially ill-suited to achieving the ACP’s goals. Complaints should be tracked, tallied, categorized, analyzed and reported. Accountability by the providers to the public and to consumers will improve the ACP’s functioning. AARP supports NCLC’s recommendation that the Commission consider a publication, such as that prepared by the Better Business Bureau, so that consumers can learn readily whether any particular providers are associated with multiple complaints, which, in turn, will lead to more effectively functioning markets.

AARP recommends that the Commission consider the consumer protection suggestions of the Vermont DPS, which relate to consumer complaints and to providers’ quality of service. Among other things, the Vermont DPS recommends that the Commission monitor:

- the speed at which ACP consumer complaints are resolved by a provider;
- how quickly the provider processes the benefit;

69 Free Press at 17-18.
70 NCC at 20.
71 NCLC/UCC MJ at 27.
72 NCLC/UCC MJ at 27.
• reliability of service for customers enrolled in the Program; and
• customer outreach metrics.\textsuperscript{73}

The Vermont DPS indicates that the primary complaint it received from consumers attempting to enroll in the EBB Program was whether their provider was participating: “They either had not heard from their provider about the program or couldn’t find the relevant information on their provider’s website.” Vermont DPS recommends that “as soon as the 60-day transition period begins, providers should be required to individually notify customers of their potential eligibility to enroll in the ACP and conspicuously explain the Program and process on their websites” and “also recommends that for providers who don’t already have it, they be required to implement a dedicated ACP hotline for consumers to call when they have questions.”

AARP supports these recommendations of Vermont DPS, as well as its recommendation that the Commission communicate regularly about ACP complaints with its outreach partners and with providers.\textsuperscript{74} Consumer complaints are resolved more expeditiously when consumers can contact regulators to assist them with their interactions with providers.\textsuperscript{75} The timely resolution of complaints is important because high-speed internet access is an essential service.\textsuperscript{76} AARP supports a well-staffed FCC hotline and is also hopeful that state agencies will assist consumers with resolving ACP-related complaints.

**Affordable devices are integral to affordable high-speed internet access.** The monthly ACP subsidy is important but not necessarily sufficient to enable households to connect and stay connected to the internet.\textsuperscript{77} As Public Knowledge states, “Although devices are

\textsuperscript{73} Vermont Department of Public Service at 4-6.
\textsuperscript{74} VT DPS at 6.
\textsuperscript{75} VT DPS at 6.
\textsuperscript{76} MPSC at 10.
\textsuperscript{77} Benton at 3; NCLC at 23; Public Knowledge at 5.
necessary to connect, low income, elderly and people of color are unlikely to have one.”

According to Public Knowledge, as of November 2021, only 985,600 devices have been distributed through the EBB (in comparison with the more than 8 million participants). AARP urges the Commission to explore ways to encourage providers to offer a device discount. AARP agrees with NCLC that “[p]roducts that are exclusively or heavily marketed only to consumers who are eligible for ACP discounts might be worthy of careful analysis in comparison with products offered to consumers more generally so that products geared for low-income consumers do not fall behind other products in the marketplace in terms of quality.” AARP also supports the Commission encouraging providers to purchase devices in bulk so they can offer devices with their high-speed internet access services. AARP supports Public Knowledge’s recommendation that the FCC require providers to demonstrate that the retail value of connected devices match or exceed the amount they are claiming from the ACP, so as to reduce the incentive for providers to “seek a windfall by offering cheap, low-quality devices.”

Data-driven, well-informed program design and implementation will contribute to the ACP’s success.

In initial comments, AARP emphasized that comprehensive and granular data tracking and analysis should be integral to the FCC’s implementation of the ACP. The data tracking occurring now with the EBB is an excellent foundation for the ACP. Data collected through the ACP should be

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78 Public Knowledge at 5.
79 Public Knowledge at 6–7.
80 Benton at 18.
81 NCLC at 22.
82 NCLC at 24.
83 Public Knowledge at 7.
84 AARP at 11.
85 NCLC at 34. Free Press at 24.
shared with community organizations to assist them with tailoring effective outreach to those lacking high-speed internet access. 86

USAC provides valuable EBB data including, among other things, enrollment disaggregated by age brackets, separately for Tribal and non-Tribal households, by state, by method of eligibility verification, and service type. However, USAC does not overlay these distinct categories (for example, USAC does not show age brackets by state, or age brackets separately for Tribal and non-Tribal areas, or service types within age brackets). 87 AARP urges the Commission to collect, analyze, and report this type of granular disaggregation so that community-based organizations can address digital gaps more effectively. By way of example, having state-specific disaggregation by age bracket, and state-specific and age-specific data by verification method and by service type could inform AARP’s state-specific outreach and education efforts.

AARP also supports Local Government’s recommendations to expand USAC’s data tracking to:

- provide zip code level tracking on a weekly basis to inform and improve outreach (this happens now only at the national level).

- provide verification method at zip code level to “help ensure that programs that are not identifying and assisting in registering households are aware of the EBB/ACP.”

- track new households (those newly on-line with broadband as opposed to existing subscribers), which helps to assess whether the digital gap is closing (this is not tracked now at all).

86 Local Governments at 20.
87 Additional EBB Program Data - Universal Service Administrative Company (usac.org); Emergency Broadband Benefit Program Enrollments and Claims Tracker - Universal Service Administrative Company (usac.org)
• Provide, at the county level, enrollment by mobile versus fixed broadband versus satellites (this now occurs only at the national level).  

NCLC also identifies useful areas for data tracking, such as racial and ethnic demographic information (voluntarily provided by applicants), data on the different language applications, information about what services low-income households are choosing, whether certain product choices are associated more frequently with being disconnected for non-payment, as well as the numbers of households that have been disconnected for non-payment.  

It is particularly important to know how many households have been disconnected for non-payment, as that may signal a need to revisit the consumer protection and notice rules, and to assist consumers to shop for a more affordable service.

AARP also supports Benton’s recommendation that the Commission ask providers to report the characteristics of the plans for which ACP beneficiaries are signing up. This information will assist the Commission and stakeholders in assessing whether ACP participants are receiving service of reasonable comparability to those broadband subscribers who do not participate in the ACP.

Among the characteristics that the FCC should track and report include: the type of service (wireless, wireline, satellite); monthly data allowance, if any; advertised and actual download and upload speeds; pre-subsidy price; and whether the subscribers receive any other subsidies such as from a state program. This information can guide the FCC’s policies and programs. The goal of the ACP is to close the digital divide, and in so doing, the ACP should not create a system consisting of two-tiered high-speed internet access where ACP participants receive a distinctly

88 Local Government at 21-22.  
89 NCLC at 34.  
90 Benton, at 14.  
91 “Comcast delays new data caps for at least another year, which is weird because it should be forever,” The Verge, Sean Hollister, December 16, 2021.
inferior broadband service from other households.

**Clearly articulated goals and performance measures will assist the Commission in modifying the ACP if and as needed.**

In response to the Commission’s request for comments on appropriate goals for the ACP, NCLC and UCC MJ recommend the following: (1) ensuring the availability of broadband service for low-income consumers; (2) ensuring the affordability of broadband service for low-income consumers; and (3) ensuring ACP subscribers have continuous access to broadband service.\(^{92}\) NCLC and UCC MJ recommend that ACP *performance measures* include (1) continuous subscriber enrollment in broadband service (e.g., limiting the incidence of disconnections for non-payment); (2) robust ACP providers and services in the ACP program; and (3) robust participation in ACP in all regions of the country.\(^{93}\) AARP supports these goals and performance measures, and also recommends that the Commission monitor various metrics to assess the ACP’s success such as:

- Number of newly connected households;
- Number of households continuing service;
- Numbers and locations of participating providers;
- Progress in narrowing adopting gap in low-income communities, communities of color, older persons, Tribal areas and rural areas;
- Numbers of and issues raised in consumer complaints;
- Numbers and locations of disconnections;
- Protection of consumers’ privacy;
- Prices and speeds of services offered and subscribed to; and

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\(^{92}\) NCLC at 34.

\(^{93}\) NCLC at 34.
• Service platforms.

Also, AARP urges the Commission to seek input from providers, consumer representatives, community-based organizations, and local and state governments through roundtables or other means as to ways in which the ACP could be improved.

The FCC should incorporate flexibility and “check-in” points for assessing the ACP’s success and the need, if any, for improvements. AARP supports the request of the City of Seattle that the Commission focus on “listening to local comments, ideas, and concerns from those that are working daily to meet the challenges of getting individuals connectivity support, including both suitable internet service and devices.”

It is important for FCC and stakeholders to acknowledge that despite the best efforts of all, the ACP is a complex program that raises many nuanced public policy issues, the resolution of which directly affect consumers and their connection to a digital society and economy. While it is important to get the program up and running quickly, it is certainly possible that unanticipated wrinkles will surface. Accordingly, the FCC should build in various “check-in” points in the upcoming months and years ahead to assess whether the program is working as intended and whether any modification to the ACP is needed. The FCC should seek input on an ongoing basis from consumers and community-based organizations (and be informed by consumer complaints) so that the FCC can communicate best practices, lessons learned, and possibly modify the program if and as needed.95

94 City of Seattle, at 3.
95 See Common Cause at 6 regarding outreach: “Speaking with individuals from these communities directly would allow the FCC to draw on the lived experiences of people who have engaged with EBB and collect both qualitative and quantitative data that can be shared with public interest groups, researchers, and providers.”
The ACP is a cornerstone of the FCC’s efforts to achieve digital equity throughout the country.
Affordable high-speed internet access services, including devices, are essential to achieve digital equity, as is digital literacy. AARP urges a cohesive, coherent broadband policy, which entails the involvement of community-based groups and careful analysis of community-based data to assess progress in broadband adoption. Using the ACP to connect communities of color, lower-income areas, and rural areas will significantly contribute to progress toward digital equity, especially if it is integrated into digital literacy programs.
Information and experiences gained with the ACP can inform states’ digital equity plans and community-based organizations’ implementation of digital equity plans. The EBB data gathering is an excellent foundation, but more frequent and more granular data will improve outreach and help all stakeholders identify and close digital gaps. Achieving digital equity depends on having available, affordable, reliable high-speed internet access; access to affordable devices; and the digital skills necessary to navigate the internet-based applications that such access provides. The FCC’s well-considered design and implantation of the ACP, informed by the many comments submitted in response to its Public Notice, is an important element of achieving digital equity throughout the United States.

Conclusion
AARP commends the FCC for framing comprehensively and clearly in its Public Notice the many policy and process issues associated with the ACP. The Public Notice has led to many analyses and suggestions by stakeholders. AARP commends the FCC for its efforts to

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96 Benton at 4.
97 National League of Cities at 7.
98 See, City of Seattle, at 1, which “greatly appreciate[s] the heroic efforts of the Commission and its staff to launch both the Emergency Broadband Benefit Program and the Affordable Connectivity Program,” and its “responsiveness to questions and recommendations along the way.”
transition smoothly the temporary EBB Program to the longer-lasting ACP, building on the EBB’s successes and learning from the EBB’s weaknesses. AARP urges that, after it establishes the ACP, the FCC will continue to solicit suggestions from consumers, providers, community-based organizations, and state broadband offices based on their experiences with the ACP so that the FCC can remedy any unanticipated glitches, share best practices among providers and community organizations throughout the country, and support states’ upcoming design and implementation of their IIJA-funded digital equity plans. AARP also reiterates its offer to assist the FCC and to collaborate with community-based organizations as well as with broadband providers to conduct effective consumer education and outreach, particularly for the nation’s older adults.