



TELECOMMUNICATIONS

SNAP UPSMdate

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Universal Broadband?

This week the FCC released a lengthy Notice of Proposed Rulemaking (“NPRM”) in which it proposed modernizing and streamlining universal service and intercarrier compensation to promote affordable wired and wireless broadband to all Americans. If adopted, the FCC’s proposals would essentially over time shift the focus of the \$8 billion Universal Service Fund (“USF”) from promoting affordable phone service to promoting affordable broadband service.

Noting that the “current rules actually *disincentivize* . . . the transition from analog circuit-switched networks to IP networks”, the FCC sought comment on the following four “reform” proposals designed to promote better use of Universal Service funds and broadband deployment:

- *Modernize the USF and intercarrier compensation (“ICC”) for Broadband* to make affordable broadband available to all Americans and accelerate the transition from circuit switched to IP networks;
- *Fiscal Responsibility* by controlling the USF size as it transitions to support broadband, including by reducing waste and inefficiency;
- *Accountability* from companies receiving USF support to ensure that public investments are used wisely to deliver intended results; and
- *Market-Driven Policies* that encourage technologies and services that maximize the value of scarce program resources and the benefits to all consumers.

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The FCC also requested comments on many other issues, including simplifying and unifying USF into a single, streamlined Connect America Fund (“CAF”), and gradually eliminating per-minute intercarrier charges. The FCC further proposed reverse auctions to provide broadband in unserved areas, and it is considering metrics for broadband using specific performance characteristics. For example, what should be the appropriate downstream and upstream speeds? Are 3 megabits per second (Mbps) downstream and 768 kilobytes per second (kbps) upstream speeds reasonable? Should such metrics be mandated by regulations and, if so, can such regulations keep pace with fast changing technologies and capabilities?

Significantly, the FCC also seeks comments on the appropriate classification of interconnected voice over Internet protocol (“VoIP”) as a telecommunications service or an information service. The FCC claims that classifying interconnected VoIP as a telecommunications service would enable it to support networks used to provide interconnected VoIP, including broadband networks, but it also acknowledged in the NPRM that it has already extended universal service contribution, Customer Proprietary Network Information protection, Telecommunications Relay Service contribution and other obligations to this service. Given that interconnected VoIP is already subject to universal service contribution obligations, will this proposal impose even more regulations on interconnected VoIP, and ultimately on the Internet?

Will the FCC’s plans to phase down “legacy” high-cost support to zero, and replace USF with CAF achieve its intended goals of modernizing and streamlining Universal Service? Should the FCC mandate specific broadband speeds, and how should interconnected VoIP be classified? We welcome your thoughts. Please feel free to comment at our interactive blog: blog.tlgdc.com.

The deadline for comments and reply comments varies by NPRM Section. For example, comments on Section XV of the NPRM pertaining to Reducing Inefficiencies and Waste are due 30 days after date of publication in the Federal Register, and Reply Comments on NPRM Section XV are due 45 days after date of publication in the Federal Register. For more details, see the FCC’s NOTICE OF PROPOSED RULEMAKING AND FURTHER NOTICE OF PROPOSED RULEMAKING (FCC 11-13;WC Docket No. 10-90, *et. al.*, adopted February 8, 2011, released February 9, 2011.

If you have questions about this issue, or if we may be of assistance to you, please feel free to contact us.

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