

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

In the Matter of

Addressing the Homework Gap through the E-
Rate Program

WC Docket No. 21-31

**COMMENTS OF NORTH AMERICAN CATHOLIC EDUCATIONAL
PROGRAMMING FOUNDATION, INC. AND MOBILE BEACON**

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Table of Contents

I. Introduction and Summary. 3

II. The Commission Should Not Impose Lending Period Limitations That Impede Students’ and Library Patrons’ Ability to Maximize the Benefits of a Loaned Hotspot..... 4

III. Any Non-Usage Period and Non-Usage Notice Requirements Should Build in Adequate Time to Resolve the Underlying Reasons for Non-Usage..... 9

IV. The Commission Should Permit, But Should Not Require, Schools and Libraries to Impose a Waiting Period Triggered by Hotspot Non-Usage..... 12

V. The Commission Should Not Gatekeep Access to the Essential Connectivity or Diminish the Capabilities of Hotspots..... 14

VI. Unnecessarily Prescriptive Program Requirements and Sanctions Threaten to Undermine the E-Rate Program’s Highest Objectives. 17

VII. If the Commission Requires Usage Reports, It Should Ensure That They Protect User Privacy and Minimize Unnecessary Burdens on Service Providers..... 19

VIII. The Commission Should Not Mandate Cybersecurity Standards for Loaned Hotspots... 21

IX. Conclusion. 22

I. Introduction and Summary.

North American Catholic Educational Programming Foundation, Inc. (“NACEPF”) and Mobile Beacon appreciate the opportunity to comment on the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking released on July 29, 2024.¹

NACEPF is a 501(c)(3) nonprofit organization that, through its wholly owned subsidiary, Mobile Beacon, provides educational connectivity services to K-12 schools, public libraries, colleges and universities, nonprofits, museums, healthcare, and other community anchor institutions across the country. Since Mobile Beacon was formed in May 2010, mobile hotspots paired with Mobile Beacon’s unlimited data plans have been the primary offering utilized by Mobile Beacon’s educational and nonprofit customers for nearly 14 years. Today, 787 schools, 1,900 libraries, and 6,900 nonprofits rely on Mobile Beacon’s internet service each day.

NACEPF and Mobile Beacon applaud the Commission’s decision to extend E-Rate Program funding eligibility to Wi-Fi hotspots and associated service for off-premises use. As the record in this proceeding demonstrates, at-home connectivity is critical to extend equitable access to educational opportunity, and the Commission’s decision to fund Wi-Fi hotspots for off-premises use is an essential step toward closing the Homework Gap.

The Commission can best ensure the success of this new initiative by avoiding unnecessarily restrictive requirements and instead relying on educators and library administrators to develop policies that are tailored to their communities’ unique needs and to modify those policies to adapt to their communities’ needs over time. As the Commission knows, the digital

¹ *Addressing the Homework Gap through the E-Rate Program*, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-76, WC Docket No. 21-31 (rel. July 29, 2024) (“*Report and Order*” and “*FNPRM*”).

divide and the Homework Gap are complex, multifactor issues with no “silver bullet” to solve them. Indeed, connectivity in itself—even if there were funding to put a hotspot in the hands of every student and library patron who lacked access to broadband at home—does not address disparities in the quality or availability of service, language barriers, lack of familiarity with how to use computers or other associated technology, or the many personal, non-technological challenges that those on the wrong side of the digital divide may also face. The Commission should ensure that its administration of this new initiative takes account of these complexities.

To that end, the Commission should avoid setting specific lending-period limits or punitive usage requirements, both of which will unnecessarily raise new obstacles to connectivity for the students and library patrons that most need it. The Commission’s *Report and Order* already establishes adequate incentives and guardrails to protect against waste, fraud, and abuse. Given that schools and libraries are already delivering educational services tailored to their constituents’ needs, the Commission should empower these entities to not only set, but also revise and adapt, lending program limits to address specific needs or challenges that arise. Especially at this early juncture, when the Commission has insufficient data on which to rely to set the kinds of limits and additional requirements this *FNPRM* proposes, the Commission should defer to the on-the-ground experience of schools and libraries and the incentives and guardrails already in place to ensure that subsidized accounts and devices are used effectively.

II. The Commission Should Not Impose Lending Period Limitations That Impede Students’ and Library Patrons’ Ability to Maximize the Benefits of a Loaned Hotspot.

Educators and library administrators are best situated to adopt lending periods that are tailored to students and library patrons in their communities, and NACEPF and Mobile Beacon encourage the Commission to rely on schools and libraries’ expertise and knowledge of their communities’ unique needs.

The *FNPRM*'s proposal to require schools and libraries to limit lending periods to a “short period”—21 days or less²—is at odds with this tailored approach. The Commission is ill suited to impose a one-size-fits-all lending period across all E-Rate Program participants. The *Report and Order* appears to recognize as much, concluding that “the details of such a hotspot lending program—such as length of lending periods and how to target the appropriate students and library patrons—will be left to the applicant to determine and tailor the hotspot lending program to their local needs.”³ The Commission should heed its own conclusions, and rely on schools and libraries to select lending periods that are tailored to their communities’ needs.⁴

While hotspot lending programs through schools and libraries have been steadily growing over the last decade, during the COVID-19 pandemic the sudden shift to distance-learning and reliance on at-home connectivity for nearly all learning created a steep learning curve that required schools and libraries in every part of our country to gain experience with such programs. That direct experience demonstrates that schools and libraries already take varied approaches to loan periods based on the needs of their communities and why the Commission was right to conclude they are best suited to do so. For example, the Los Angeles County Library offers a hotspot lending program with devices available to borrow for a six-week period, and with up to three checkout renewals available.⁵ The New York Public Library offers a Wi-Fi device lending program which permits the device and service to be borrowed for up to a 30-day period, with renewals subject to

² *FNPRM* ¶ 104 (“Should schools and libraries be required to limit the lending period to a short period (e.g., 21 days or less) in order to redistribute hotspots to other students or library patrons that may have both the need and ability to use the hotspot?”).

³ *Report and Order* ¶ 31.

⁴ *See id.*

⁵ *See Connect & Go*, LA CNTY. LIBR., <https://lacountylibrary.org/hotspot/> (last visited Sept. 20, 2024).

device availability.⁶ The Alexandria, Virginia public library offers a Wi-Fi mobile hotspot lending program with a 14-day checkout period, renewable once if there are no holds on the hotspot,⁷ and the Fairfax, Virginia public library offers a mobile hotspot 14-day loan period with no renewals.⁸ The Arlington, Virginia public library takes yet another approach: it provides mobile hotspots for a 7-day checkout period with no renewals offered.⁹ This diversity of approaches to mobile hotspot lending periods reflects the diversity of library patrons’ needs. The variation is a feature, not a flaw of these mission-critical programs—libraries can and should develop loan periods based on demand and their patrons’ educational needs in order to maximize the benefits offered by such “borrow the internet” programs.

Educators are similarly best situated to adopt lending periods that best serve their students’ needs, and many already have experience in doing so. Schools may adopt longer lending periods than libraries to account for ongoing learning throughout the academic year or for the full calendar year. To provide two of many examples, the D.C. public school system offers summer academic enrichment programming for K-12 students¹⁰ and the Perkiomen Valley, Pennsylvania school

⁶ See *NYPL Wireless*, NEW YORK PUB. LIBR., <https://www.nypl.org/spotlight/nypl-wireless> (last visited Sept. 20, 2024).

⁷ See *Mobile Hotspots*, ALEXANDRIA LIBR., <https://alexlibraryva.org/hotspots> (last visited Sept. 20, 2024).

⁸ See *Chromebook and Wi-Fi Lending — Connect Kits*, FAIRFAX CNTY., <https://research.fairfaxcounty.gov/library-technology/chromebooks> (last updated Aug. 8, 2024).

⁹ See *Wireless Hotspots*, ARLINGTON PUB. LIBR., <https://library.arlingtonva.us/collection/library-of-things/wireless-hotspots/> (last visited Sept. 20, 2024).

¹⁰ See *District-Wide Summer Programs*, DISTRICT OF COLUMBIA PUB. SCHS., <https://dcps.dc.gov/summer> (last visited Sept. 20, 2024).

district similarly offers elementary, middle, and high school summer educational programs.¹¹ Schools with high participation in summer learning programs may choose to loan out mobile hotspots for a one-year period to account for learning throughout the year. In contrast, schools that do not offer summer programming might develop a nine-month lending period to correspond to the school year, with the option to renew for three months for students that register for summer educational programming elsewhere. Again, the principle remains the same: local educators are most familiar with their students' curriculum and individual needs and therefore are best situated to develop lending period terms tailored to those needs.

Moreover, the E-Rate Program already builds in incentives and guardrails for participating schools and libraries to avoid waste, fraud and abuse and ensure that loaned hotspots are being effectively and efficiently used. Participating schools and libraries must pay the non-discounted share of the hotspot device and service costs, which will give them an incentive to avoid wasteful purchases and to maximize use.¹² The practical result of the *Report and Order's* per-applicant budget caps¹³ is that participating schools and libraries may not be able to provide a hotspot to every student and library patron who needs one. There is likely to be significant demand for available hotspots, giving schools and libraries an incentive to identify which community members are most at need and would put the hotspots to the best use and to discourage ongoing or repeated loans to students and library patrons who have a record of using the device minimally or not at all.

¹¹ See *Lift — Summer Programming*, PERKIOMEN VALLEY SCH. DIST., <https://www.pvsd.org/lift-summer-programming/> (last visited Sept. 20, 2024).

¹² See *Report and Order* ¶ 31 (“In combination with the applicant’s requirement to pay its non-discounted share of costs, schools and libraries will be incented to right-size their Wi-Fi hotspot and service requests.”).

¹³ *Id.* ¶¶ 36–40.

And as to students, educators again have a built-in incentive to ensure that loaned hotspots are being used for their intended purpose: to enable the student to complete homework and other school projects and participate in online educational programming. Students do not learn in a vacuum—they are educated under parent, guardian, and educator supervision. If a student is provided a hotspot because they do not have adequate connectivity at home, but then have a pattern of failing to complete homework assignments or attend virtual classes, parents and educators will inquire as to the reasons why. There is no need for the Commission to step into the shoes of parents, guardians, and educators in this regard.

Additionally, educators will be aided by the mobile hotspot usage data the Commission has already ensured will be provided to them to flag non-usage and low usage. The existing, common-sense parameters the Commission already enacted in its *Report and Order* have armed schools with a means to monitor usage so as to quickly address the root cause of any issues causing low usage or non-usage—whether those root causes are technical, environmental, or some combination of these and other factors.

Finally, the *FNPRM* proposes *both* a prescribed lending period *and* a specific period of non-usage after which the program participant must seek the hotspot's return. Any attempt to force a "one-size-fits-all" loan period, or to impose mandatory penalties that consider only one variable in isolation (data usage) and ignore all other variables, will risk leading to fewer students and library patrons benefiting from this mission-critical expansion of the E-Rate Program. Schools and libraries already tailor their programming to meet the varied needs of the populations they serve. It is sensible to permit schools and libraries the same flexibility as to lending period and responses to non-usage. Similarly, imposing mandatory penalties for non-usage without regard to extenuating or unique circumstances threatens to undermine the goals underlying the E-Rate

Program. As further explained in Section III below, data usage is an important governance and compliance tool but it should not be used as a single variable in isolation.

NACEPF and Mobile Beacon urge the Commission not to adopt either of these measures, but in any event, certainly not *both* of these measures, which would undermine the core objective of this initiative: “to ensure the [E-Rate P]rogram is equipped to support the ongoing remote learning needs of today’s students, school staff, and library patrons” and “to ensure the millions who have benefitted from ECF program support do not fall back onto the wrong side of the digital divide once the program ends.”¹⁴

Instead, the Commission should permit schools and libraries to set (and revise, as needed) lending periods that serve their constituents’ needs and, as discussed below, maintain the 90-day non-usage period it established in the *Report and Order*, which provides a reasonable amount of time for schools and libraries to engage with and cure the underlying reasons for a lack of usage.

III. Any Non-Usage Period and Non-Usage Notice Requirements Should Build in Adequate Time to Resolve the Underlying Reasons for Non-Usage.

The *Report and Order* prohibits E-Rate support for lines of service that remain unused for three consecutive months and have gone through the required notice process.¹⁵ This 90-day non-usage period appropriately balances the goal of ensuring efficient use of loaned devices while providing an opportunity to cure non-usage, the reasons for which can vary significantly. Any shorter non-usage period runs the risk of hampering service providers, program participants, students, and library patrons in their ability to work together to identify and resolve the underlying reasons for non-usage.

¹⁴ *Addressing the Homework Gap through the E-Rate Program*, Notice of Proposed Rulemaking, 38 FCC Rcd. 10726, ¶¶ 1, 5 (2023).

¹⁵ *See Report and Order* ¶ 61.

As commenters observed in this proceeding, there may be many reasons why loaned hotspots might show low or no usage, particularly in the first year of a new “borrow the internet” program. For example, the Oakland Undivided School District (“OUSD”) observed that “[s]tudents and families with internet needs are often not tech-savvy and may not initially know how to connect their hotspots to their computing devices.”¹⁶ Many students and library patrons may need time to work with educators and library staff to understand how to use the device. Students and library patrons may also experience language barriers that affect their ability to effectively use the device—as OUSD noted in this proceeding, “[l]ow usage may signal that students and families face a language barrier that is preventing them from using their devices, and that they need assistance with setting up their devices and understanding how to use them.”¹⁷ And, service providers may take time to provide essential troubleshooting for faulty devices.

The *FNPRM* asks whether service providers should be required to terminate service after 30 days of unused services associated with a particular Wi-Fi hotspot service line.¹⁸ Service providers should *not* be required to do so—the individual circumstances described above could easily swallow a 30-day non-usage period and fail to provide the user with any real opportunity to cure the non-usage. The Commission must remain mindful that schools and libraries provide educational services to children and adults who face all kinds of individual challenges and that they tailor their services to continue to make essential education services and resources accessible to them. The Commission should not mandate that a school or library take back what may be a

¹⁶ Comments of #OaklandUndivided and the Oakland Unified School District at 15, WC Docket No. 21-31 (filed Jan. 16, 2024) (“OUSD Comments”).

¹⁷ *Id.*; see also Reply Comments of North American Catholic Educational Programming Foundation, Inc. and Mobile Beacon at 8, WC Docket No. 21-31 (filed Jan 29, 2024).

¹⁸ See *FNPRM* ¶ 105.

student's sole means of off-premises internet access where the reason for non-usage is attributable to any number of valid, extenuating circumstances that students and library patrons of all walks of life contend with while they also continue their academic pursuits.

A 30-day non-usage period also fails to align with the cadence of the *Report and Order*'s usage report requirements. The *Report and Order* requires service providers to provide applicants with data usage reports at least once per billing period (which is likely to occur monthly in many instances), and to identify unused lines of hotspot service at least once every 31 days.¹⁹ A requirement to end service to an unused hotspot line after 30 days of non-usage entirely swallows these reporting periods—service providers could be required to shut off service to an unused line *before* they provide their first usage report to the school or library. Under this scenario, the program participant's first notice of non-usage would be when service is abruptly shut down on the unused line; and students and library patrons would similarly have no notice and opportunity to cure non-usage before losing access to essential connectivity.

A 60-day non-usage period offers additional, but still insufficient, flexibility. Coupled with a 30-day notice of non-usage, a 60-day non-usage period builds in enough time for only one usage report and thus provides program participants with only 30 days or less to identify and resolve the reasons for the non-usage. But 30 days may be unlikely in many instances to provide sufficient time to resolve these issues. For example, assuming usage reports are generated at the end of each month, for a hotspot checked out on October 10, the first full-month usage report would not be generated until November 30. Even if the service provider sends a notice of non-usage the next day (and in reality, service providers may take more time to generate and send notices of non-usage, and schools and libraries will need some time to identify who needs to be contacted and

¹⁹ See *Report and Order* ¶¶ 57, 61.

begin outreach), the cure period would expire on December 31. In this example, a 60-day non-usage period would require service to be terminated on an unused line on December 10, just ten days after the first opportunity to send a non-usage notice. Thus, a 60-day non-usage period fails to provide sufficient time for a provider to generate and send non-usage reports and notices and allow a meaningful opportunity to take corrective action before service is terminated.

The Commission should maintain its originally-proposed 90-day non-usage period with notice provided after 30 days of non-usage. This approach provides notice to the program participant after one full usage report has been generated, and provides 30–60 days (depending on when service begins relative to the reporting period) for the program participant to work with the student or library patron to identify the reasons for, and cure, the non-usage—and thereby appropriately balances the opportunity to cure non-usage with the need for efficient hotspot use.

IV. The Commission Should Permit, But Should Not Require, Schools and Libraries to Impose a Waiting Period Triggered by Hotspot Non-Usage.

As discussed above and demonstrated by the record in this proceeding, educators and library administrators are best positioned to establish terms and conditions for their hotspot loan programs. To that end, the Commission should permit, but should not require, schools and libraries to impose loan waiting periods triggered by hotspot non-usage.

The *FNPRM* asks whether there is an appropriate amount of time that an applicant should be required to wait to restart service on a line terminated for non-usage.²⁰ But as noted above and by other commenters in this proceeding, there may be many reasons why a hotspot remains unused for a certain period of time. To reiterate several examples, a student or library patron may need assistance learning how to use the hotspot or language barriers may affect a user’s ability to

²⁰ See *FNPRM* ¶ 105.

troubleshoot issues with the device. Or, students may visit family for extended time periods over summer and other academic holidays, in areas where the hotspot's service provider does not offer sufficiently robust service. Or, the student could have needed to take time off from school for medical reasons. It is evident that non-usage can be attributed to any number of valid, extenuating situations that are independent of a student or library patron's need for at-home connectivity.

As to applicants, if the Commission were to impose a mandatory waiting period before restarting service on a line terminated for non-usage, it risks penalizing students and library patrons who worked in good faith to cure non-usage but were unable to do so or whose circumstances could not be resolved in 90-days despite best efforts to do so. Consider the scenario of a student taking time off from school for medical reasons. If this student was unable to continue their academics at home using an E-Rate Program-funded mobile hotspot, then the Commission may understandably require that the associated line of service be terminated after 90 days of non-usage. However, it would inequitable if the school could not readily restore service to this device because of a mandatory waiting period. Such a requirement would penalize other students and library patrons in that applicant's community who seek to check out the now-available hotspot but are forced to wait to do so until service is restarted on the device.

If the Commission were to enact any rules around a waiting period, it should only be to make clear that the Commission *permits*, but does not require, applicants to impose a waiting period before restarting service. This would allow schools and libraries to consider individual circumstances and impose certain sanctions like a waiting period if warranted, but without mandating an outcome that could produce inequitable and unjust results for certain program participants.

In contrast, consider a scenario in which (1) a school loans a hotspot to a student who does not use it for the first 30 days, (2) the school realizes that the non-usage is attributable to a language barrier issue and works with the student to address that issue and train the student how to use the device, (3) usage levels do not improve, and (4) the school then determines that the student does not have sufficient in-home network service in their neighborhood for the device to be useable. NACEPF and Mobile Beacon believe the school should be able to redistribute the unused hotspot to another student with verified coverage without a mandatory waiting period, and the school should be able to give the original student a new hotspot served by a different service provider without waiting for a mandatory waiting period to elapse. As NACEPF and Mobile Beacon observed in this proceeding, “[f]unding Wi-Fi hotspots will necessarily be an iterative process—a student, school staff member, or library patron may borrow a funded device, take it home, and then learn that the hotspot will not work or cannot offer adequate connectivity in their home with the school or library’s selected service provider. The Commission’s rules should build in sufficient flexibility to address this possibility.”²¹

V. The Commission Should Not Gatekeep Access to the Essential Connectivity or Diminish the Capabilities of Hotspots.

The FNRPM proposes to limit user access solely to the student or library patron who checked out the device. But the critical question is not whether a loaned hotspot is being used by more than one user; it is whether the hotspot is served by sufficient data to meet the student or library patron’s educational needs. As NACEPF and Mobile Beacon explained in this proceeding, “[c]ertain providers offer mobile hotspot devices with an accompanying Wi-Fi service plan with a

²¹ Comments of North American Catholic Educational Programming Foundation, Inc. and Mobile Beacon at 20, WC Docket No. 21-31 (filed Jan 16, 2024) (“NACEPF Comments”).

data cap, while others, like Mobile Beacon, offer unlimited data plans.”²² There is no reason to restrict hotspot access to a single user “if the hotspot is served by an unlimited data plan or otherwise provides sufficient data for multi-user functionality.”²³ More specifically:

Where a device is served by an unlimited data plan, if any incidental use of the service occurs by a member of the household, there is no risk that the service will not remain primarily available for the educational needs of the student or library patron in the household . . . schools and libraries [should] permit their communities to use E-Rate Program-funded hotspots and services for incidental and legitimate purposes—such as telehealth appointments—provided that students, school staff, and library patrons have first priority of use. As long as such incidental use does not inhibit or preclude the service from being used primarily for its educational purpose, the Commission should not be overly restrictive in excluding the ability of others to benefit from the service, especially when such incidental use is also for an educational purpose—for example, to help parents and guardians communicate with teachers, assist with homework, apply for financial aid, earn their General Educational Development (“GED”) degree, or enroll in additional online courses.

NACEPF Comments at 22–23 (footnote omitted). The Electronic Privacy Information Center’s reply comments in this proceeding acknowledge this threshold issue: “[i]f other family members use a hotspot in addition to students, the Commission should view that as an ancillary benefit, not a misuse of E-Rate funds and equipment. . . . There is no conflict between a student using an E-Rate program hotspot for their homework and a parent using it to apply for jobs, to seek government benefits, or stay in touch with other family members.”²⁴

As NACEPF and Mobile Beacon have observed in this proceeding, “standard commercially available hotspots are, in NACEPF and Mobile Beacon’s experience, all capable of connecting multiple users—NACEPF and Mobile Beacon are not aware of any that are restricted

²² *Id.* at 9.

²³ *Id.* at 9–10.

²⁴ Reply Comments of The Electronic Privacy Information Center at 5–6, WC Docket No 21-31 (filed Jan. 29, 2024).

to single-user use.”²⁵ There may be sound educational reasons to permit such default multi-user connectivity—for example, students working on a group project may meet at one student’s home and rely on a single hotspot device for connectivity while they collaborate, or student athletes may complete homework together on lengthy travel to and from competitions.

The *FNPRM*’s restrictive proposal also fails to account for the role of parental involvement in students’ school performance. NACEPF and Mobile Beacon have explained that “[p]arents and guardians require connectivity to support students’ learning objectives. In the Bridging the Gap survey, [a 2017 survey conducted by Mobile Beacon,] 94% of parents reported that Mobile Beacon’s internet service helped them better support their child’s academics, and 95% of respondents with school-age children reported that they can communicate with their child’s teachers more often since enrolling in the Bridging the Gap Program.”²⁶ Lower Yukon School District’s reply comments in this proceeding provide several examples of parental involvement in students’ progress, noting that “[a] majority of Lower Yukon’s curriculum is now available online. Students *and parents* can track grades, attendance, progress reports, and report cards through an online platform, 24 hours a day.”²⁷

Against this backdrop, there is no reason for the Commission to adopt user access restrictions or other technical limitations on which devices may connect to E-Rate Program-funded hotspots.²⁸ Where a device is served by an unlimited data plan or by sufficient data to meet a student’s educational needs, user access restrictions unnecessarily exclude household access to a

²⁵ NACEPF Comments at 10.

²⁶ *Id.*

²⁷ Reply Comments of Lower Yukon (Alaska) School District at 3, WC Docket No. 21-31 (filed Jan. 29, 2024) (emphasis added).

²⁸ *See FNPRM* ¶ 108.

device that is capable of meeting all of a student or library patron’s educational needs while *also* supporting parents’ and guardians’ connectivity for educational purposes and providing sufficient bandwidth for other community members’ connectivity needs, at no additional cost.

VI. Unnecessarily Prescriptive Program Requirements and Sanctions Threaten to Undermine the E-Rate Program’s Highest Objectives.

NACEPF and Mobile Beacon urge the Commission to avoid unnecessarily restrictive requirements that run the risk of being counterproductive to the very objectives the Commission seeks to obtain in funding off-premises connectivity to support learning. The *FNPRM* poses questions worth asking, but the work to close the digital divide has shown that imposing “one-size” requirements will surely not “fit all.” Similarly, imposing program restrictions based on a single variable in isolation (non-usage) without regard to any of the reasons for non-usage risks creating inequitable outcomes for some program participants by reducing their access to connectivity.

The *Report and Order* already requires service providers to provide schools and libraries with data usage reports,²⁹ and the *FNPRM* contemplates additional requirements around data usage reporting and report formatting. Yet the Commission’s other subsidy programs do not subject data usage to such close scrutiny: for example, the Lifeline Program requires usage monitoring only where the service provider is not billing the support recipient each month.³⁰ Here, the E-Rate Program contemplates that schools and libraries *will* be billed for, and pay, their non-discounted

²⁹ See *Report and Order* ¶ 66.

³⁰ See UNIVERSAL SERV. ADMIN. CO., *Lifeline July 2024 Monthly Webinar 26* (2024), https://www.usac.org/wp-content/uploads/lifeline/documents/training/2024/July-2024-Webinar_Common-Audit-Findings-.pdf (“Lifeline service providers are required to: . . . Have an effective process for identifying subscribers that have not completed valid usage defined 47 C.F.R. § 54.407(c) within 30 consecutive days, if the ETC does not assess and collect a monthly fee from the subscriber.”).

share of costs. There is little reason for the Commission to impose onerous usage reporting obligations in these circumstances.

To provide another example, the *FNRPM* asks whether schools and libraries should be required to have technical support available to teach users how to use the hotspot devices and troubleshoot issues that may arise.³¹ Such granular requirements raise a host of other questions that the Commission is ill suited to answer—for example, what standard of technical service must be available, and what languages must it be available in? Schools and libraries are best situated to understand and meet the needs of their communities—including technical needs—and in fact, many hotspot lending programs already build in technical support from the library or service provider.³² The Commission should leave such unnecessarily prescriptive decisions to the educators and library administrators that are best situated to weigh them.

NACEPF and Mobile Beacon believe the Commission struck the right balance in the *Report and Order* by creating a framework for schools and libraries to identify non-usage among program participants, and a reasonable timeframe to try to cure the non-usage. The requirement to terminate service after 90 days of consecutive non-usage appropriately balances the Commission’s responsibility to avoid waste, fraud, and abuse while also recognizing that the root causes of non-use can and will vary in complexity and time needed to resolve. As noted above, if the Commission were to take any additional action beyond what is already provided in the *Report and Order*,

³¹ See *FNRPM* ¶ 104.

³² See *Connect & Go*, *supra* note 5 (“A basic instruction sheet will be provided explaining how to turn on and use the device. If you have further questions, please call your local library location.”); *NYPL Wireless*, *supra* note 6 (“There will be technical support available for the devices and service. More information about who to contact for help is included in the device set-up instructions.”); *Mobile Hotspots*, *supra* note 7 (linking to “Jetpack Tutorial”); *Chromebook and Wi-Fi Lending — Connect Kits*, *supra* note 8 (linking to hotspot instructions).

NACEPF and Mobile Beacon urge the Commission only to clarify that schools and libraries are permitted, but not required, to impose a waiting period on program participants who do not cure non-usage within the 90-day period. Good governance requires accountability, but also good judgment. The Commission should support schools and libraries on the front lines working with students and library patrons who are already on the wrong side of the digital divide and who may be facing complex, challenging circumstances. The Commission should avoid impeding this important work by limiting educators' ability to use good judgment to respond to individual circumstances and to revise policies and practices to meet their communities' diverse and evolving needs.

VII. If the Commission Requires Usage Reports, It Should Ensure That They Protect User Privacy and Minimize Unnecessary Burdens on Service Providers.

If the Commission chooses to require service providers to submit usage reports to USAC during the invoicing process, it should ensure that this reporting requirement meets a concrete need, is not unduly burdensome, and protects user privacy. The Commission observes that these reports “may also be important to preventing waste and improving program integrity.”³³ However, it does not explain how it would use usage reports to achieve this goal, except that it could use usage reports to identify and reduce reimbursement for unused lines.³⁴

As noted above, NACEPF and Mobile Beacon disagree that service providers, schools, libraries, or users should be penalized if a device is unused for a period of time. This can occur for any number of case-specific reasons that would not necessarily indicate waste or misuse of the

³³ *FNRPM* ¶ 106.

³⁴ *See id.*

program. For the same reasons, NACEPF and Mobile Beacon disagree that periodic usage reporting should be used to bar or reduce reimbursement in such circumstances.³⁵

Imposing penalties for *low* usage—by adopting a threshold for nonuse greater than zero bytes—would present additional challenges. The Commission would not have knowledge of the educational purposes for which an end user is using a funded device, and such an approach could risk penalizing students for low-bandwidth activities which may be entirely appropriate for that age-group or the educational services that individual is receiving. For example, younger students may only be expected to be online at home once or twice a week or for short periods of time whereas higher grade levels may be expected to be online for several hours a day outside of school. Consider the possibility that a student *is* completing their online assignments and meeting grade-level expectations, but their school is required to take their device away because program rules presumed that a higher level of data usage would be necessary to demonstrate “sufficient” device use for educational purposes. Setting a low-usage threshold would require the Commission to insert itself into use cases and make determinations about usage based on imperfect information or assumptions. Such an approach would place substantial and unnecessary burdens on schools, libraries and service providers alike.

NACEPF and Mobile Beacon urge the Commission to maintain a grounded, pragmatic approach to this launch of a new E-Rate Program initiative. It will take time for schools and libraries and participating service providers to build and refine processes based on the existing and prudent measures already set forth in the *Report and Order*. In this first year of this new initiative, the Commission should carefully weigh the benefits and burdens of additional, restrictive program requirements and avoid unduly burdening educators and library administrators.

³⁵ *See, e.g., id.*

VIII. The Commission Should Not Mandate Cybersecurity Standards for Loaned Hotspots.

There is no need for the Commission to mandate specific cybersecurity standards for Wi-Fi hotspots and associated accounts funded through the E-Rate program. The Wi-Fi hotspots discussed in this proceeding would generally not connect directly to a school's or library's network. Rather, they will allow a user to use Wi-Fi to connect to the internet via a commercial wireless carrier's network. As such, they would not create cybersecurity vulnerabilities for the school or library.

While it is possible that a school or library could provide a Virtual Private Network or other similar service to allow direct access to the school or library network, this would be a separate service provided "over the top" of the device and service funded through E-Rate. Many will presumably not deploy such a feature. Conversely, an institution could deploy such a feature today, in the absence of Wi-Fi hotspots. Thus, there is no reason to impose special cybersecurity requirements across the board merely because of this theoretical use case. Moreover, to the extent that a school or library does implement a system to allow users to connect to their network, this approach would fall within the scope of any cybersecurity or supply chain risk-management plan that a school or library would otherwise be required to maintain.

Access to a hotspot will provide users with a valuable opportunity to develop cybersecurity skills. In addition, many schools and libraries already offer resources to help users learn how to stay safe online. But the Commission should not mandate that schools and libraries offer such training as a condition for receiving E-Rate funding for hotspots. A requirement to offer cybersecurity training would only raise new obstacles to connectivity, and increase costs on schools and libraries—with no guarantee that E-Rate funded hotspot lending would remain economically attractive once the added compliance costs are factored in.

In addition, it is unclear what sort of training the Commission could mandate. Adopting such a requirement would presumably require the Commission to identify and endorse a specific curriculum and make provisions for trainings targeted at different age groups—users under 15 will have very different needs from users over 65—made available in different languages, and ensure that it evolves as the technological landscape changes. Here again, while schools and libraries are well positioned to determine and respond to the needs of their users, the Commission is ill equipped to adopt a one-size-fits-all cybersecurity training standard.

IX. Conclusion.

NACEPF and Mobile Beacon support the Commission’s work to extend at-home connectivity for students, school staff, and library patrons who remain on the wrong side of the digital divide. The digital divide and the Homework Gap are complex, multifactor issues. The Commission should ensure that its administration of this new initiative takes account of these complexities and does not hinder educators’ and library administrators’ efforts by removing the flexibility the *Report and Order* currently affords them to work through the varied needs or challenges the students or library patrons they serve are facing.

The Commission’s *Report and Order* already establishes incentives and guardrails to protect against waste, fraud, and abuse. The Commission should defer to the on-the-ground experience of schools and libraries and the incentives and guardrails already in place to ensure that subsidized accounts and devices are used effectively. The Commission can best ensure the success of this new initiative by avoiding unnecessarily prescriptive requirements and instead relying on

educators and library administrators to adopt policies that are tailored to their communities' unique needs.

Respectfully submitted,

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