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Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6

Dear Ms. Dortch:

On April 3, 2013, I had an online meeting with Anne Levine, Policy Analyst in the Office of Strategic Planning and Policy Analysis. Ms. Levine had requested the meeting to discuss the data in my firm's proposal to address the E-rate funding crisis, a proposal that I had shared recently with Commissioner Rosenworcel and, thereafter, submitted as part of an *ex parte* notice.

Joining us online from the Commission were: James Bachtel, Michael Byrne, Jonathan Chambers, Soumitra Das, Sherille Ismail, Mark Nadel, Anita Patankar-Stoll, and David Strickland.

Catherine Cruzan, President of Funds For Learning, LLC, and Orin Heend, our firm's outside counsel, also attended the meeting online.

During our meeting, I shared and discussed the attached presentation. It dives deeply into E-rate funding data and analysis, and it supports the proposal that I mentioned above. A tremendous amount of time, energy, thought and experience went into its formulation. In preparing it, we assumed that the Commission's goal continues to be cost-effective broadband connectivity for all schools and libraries that reaches all the way to classrooms and throughout every library building. We assumed further that the Commission does not want to see the E-rate Program turn into a telephone and broadband subsidy program serving only a small subset of our nation's schools and libraries.

Based on those assumptions, we concluded that there are many fixes that could and probably should be made, but that only one of them addressed the fundamental problem that will eventually undermine the entire program – namely, the ability of applicants to write “blank checks” for E-rate funding. Thus, like the 2003 Task Force on Waste, Fraud and Abuse before us, we concluded that the future viability of the program depends on every school and library having an annual E-rate budget – in other words, there must be a cap on how much funding per year any given applicant may receive.

A funding cap solution is not a blunt instrument. It will not create winners and losers. Everyone will win because it will:

1. Make funding for internal connections available to every school and library that needs it.

Priority Two funding is needed to stop expensive, high-speed connectivity from being wasted. Priority One funding only gets broadband to the door; Priority Two funding for local area wired and wireless networks and maintenance of those networks is what enables students and library patrons to actually use it.

2. Help to ensure that, *no matter how many E-rate dollars* the Commission may have to distribute in any given funding year, that those highly sought after dollars will be distributed in the most equitable and sensible manner possible.

The only way to accomplish this is by putting an end to the highly unusual and unsound policy of allowing applicants to apply, year after year, for as much funding as they want. This kind of policy is becoming increasingly problematic as demand for broadband Internet access swells. Putting applicants on a “budget” will encourage them to drive harder bargains with their service providers and to use their E-rate discounts much more wisely.

3. Restore one of the most important hallmarks of the E-rate Program: a regulatory framework that encourages applicants to make local technology decisions on the basis of local needs, as opposed to whether a particular service is Priority One or Two or what the discount rate threshold for the following year might be.

The regulatory framework that has evolved since 1997 has a tendency to encourage applicants to submit the biggest funding applications that they can while limiting their ability to seek more cost-effective solutions to deliver broadband to students and library patrons. Placing a limit on each applicant’s annual funding commitment will restore the technology planning, local decision-making and flexibility that the program’s authors had envisioned.

Sincerely,

/s/ John D. Harrington

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